

Working Group on the Legal Development of the Hague System for the International Registration of Industrial Designs

Twelfth Session
Geneva, December 4 to 6, 2023

PROPOSAL FOR AMENDMENTS TO THE ADMINISTRATIVE INSTRUCTIONS

Document prepared by the International Bureau

INTRODUCTION

1. As requested by the Working Group on the Legal Development of the Hague System for the International Registration of Industrial Designs (hereinafter referred to as the “Working Group”), at its eleventh session, held from December 12 to 14, 2022, the International Bureau prepared document H/LD/WG/12/3, which proposes a way forward regarding the freeze of the application of the Hague Act (1960), adopted on November 28, 1960, of the Hague Agreement Concerning the International Deposit of Industrial Designs (hereinafter referred to as the “1960 Act”), including January 1, 2025, as a proposed effective date of the freeze.
2. In view of the above, the International Bureau also prepared document H/LD/WG/12/4, which contains the proposal to amend the Common Regulations Under the 1999 Act and the 1960 Act of the Hague Agreement (hereinafter referred to as the “Common Regulations”), in the event of the freeze of the application of the 1960 Act. The proposed amendments to the Common Regulations would also require consequential amendments to the Administrative Instructions for the Application of the Hague Agreement (hereinafter referred to as the “Administrative Instructions”).
3. Pursuant to Rule 34(1) of the Common Regulations, the Director General of the World Intellectual Property Organization (WIPO) may modify the Administrative Instructions after having consulted the Offices of Contracting Parties.
4. This document has been prepared with a view to engaging in the above-mentioned consultation on proposed consequential amendments to the Administrative Instructions, thus inviting the Working Group to comment on the proposal.

PROPOSAL

5. If the Assembly of the Hague Union decides to freeze the application of the 1960 Act, it would no longer be possible to file international applications under the 1960 Act or to make any designation governed by that Act in an international application. All new international applications would be governed exclusively by the Geneva Act (1999), adopted on July 2, 1999, of the Hague Agreement Concerning the International Registration of Industrial Designs (hereinafter referred to as the “1999 Act”). The freeze of the application of the 1960 Act would, however, be without prejudice to the continuation of active international registrations and designations recorded in the International Register before the effective date of the freeze¹.

6. In view of the above, and along with the proposal to amend the Common Regulations contained in document H/LD/WG/12/4, the following changes are proposed:

Section 101

7. Document H/LD/WG/12/4 contains a proposal to change the title of the Common Regulations to “Regulations Under the Geneva Act (1999) of the Hague Agreement Concerning the International Registration of Industrial Designs”.

8. Thus, it is proposed to amend the reference to the title of the Regulations, as reproduced in the Annex to this document.

Sections 408, 701 and 901

9. Document H/LD/WG/12/4 contains a proposal to include a new subparagraph (*iibis*) in Rule 1 which defines the term “Article” of the 1999 Act².

10. In light of Section 101(b), it is proposed to delete the references to the 1999 Act, as reproduced in the Annex to this document, to be aligned with the new Regulations. This would also enhance the readability of the provisions of the Administrative Instructions.

Section 701

11. Document H/LD/WG/12/4 contains a proposal to delete Rule 36³. At the same time, it contains a proposal to include new Rule 37(2)(c), which is a transitional provision prescribing that Rule 36(2), as it currently stands, shall continue to apply to Contracting Parties to the 1960 Act⁴.

12. Rule 23 and therefore Section 701 would continue to apply to international registrations containing a designation under the 1960 Act, even after the freeze of the application of the 1960 Act. It is therefore proposed to amend the reference to the rule in this section, as reproduced in the Annex to this document.

¹ See document H/LD/WG/12/3, paragraph 12.

² See document H/LD/WG/12/4, paragraph 9.

³ Rule 36 provides for declarations made by Contracting Parties to the 1960 Act.

⁴ Rule 36(2) provides for declarations made by Contracting Parties to the 1960 Act regarding the maximum duration of protection provided for by their laws. In this context, it is noted that the national law of any Contracting Party to the 1960 Act may change in respect of the maximum duration of protection which might affect existing designations under the 1960 Act. See document H/LD/WG/12/4, paragraphs 18 and 24.

DATE OF ENTRY INTO FORCE

13. These proposed amendments to the Administrative Instructions should come into force on the date of effect of the freeze of the application of the 1960 Act and of entry into force of the new Regulations. Therefore, if the Assembly of the Hague Union decides to freeze the application of the 1960 Act and adopts the new Regulations, the International Bureau will follow the required procedure so as to ensure that the amended version of the Administrative Instructions come into force on the same date⁵.

14. The Working Group is invited to comment on the proposed amendments to Sections 101, 408, 701 and 901 of the Administrative Instructions, as set out in the Annex to this document.

[Annex follows]

⁵ In accordance with Rule 34(3)(a) of the Common Regulations, any amendments to the Administrative Instructions are to be published on the website of the Organization. Publication is made through an Information Notice issued by the International Bureau.

Administrative Instructions for the Application of the Hague Agreement

(as in force on [XXX])

Part One Definitions

Section 101: Abbreviated Expressions

(a) For the purposes of these Administrative Instructions:

- (i) "Regulations" means the ~~Common~~ Regulations under the [Geneva Act \(1999\) of the](#) Hague Agreement Concerning the International Registration of Industrial Designs;
- (ii) "Rule" means a Rule of the Regulations.

(b) An expression which is used in these Administrative Instructions and is referred to in Rule 1 has the same meaning as in the Regulations.

[...]

Part Four Requirements Concerning Reproductions and Other Elements of the International Application

Section 408: Permitted Matters in the International Application and Permitted Documents Accompanying an International Application

(a) Where the applicant has made a declaration under Rule 7(5)(c) claiming priority of an earlier filing in the international application, that claim may be accompanied by a code allowing to retrieve that filing in a Digital Access Service for Priority Documents (DAS) digital library;

(b) Where the applicant wishes to benefit from a reduction of an individual designation fee as indicated in a declaration made under Article 7(2) ~~of the 1999 Act~~ by a designated Contracting Party, the international application may contain an indication or claim of the economic status entitling the applicant to the reduced fee as indicated in the declaration, as well as the certificate thereof, where applicable.

[...]

Part Seven Renewal

Section 701: Unofficial Notice of Expiry

When, pursuant to Rule 23, the International Bureau sends to the holder and the representative, if any, a notice indicating the date of expiration of an international registration, such notice shall contain also an indication of the Contracting Parties for which, at the date of the notice, and in accordance with the maximum duration of protection notified by each Contracting Party pursuant to Article 17(3)(c) ~~of the 1999 Act~~ and Rule ~~36(2)~~[37\(2\)\(c\)](#), renewal of the international registration is possible.

[...]

Part Nine
Confidential Copies

Section 901: Transmission of Confidential Copies

(a) The confidential copy of an international registration provided for under Article 10(5) ~~of the 1999 Act~~ shall be transmitted to any Office concerned by electronic means in accordance with Section 204(a)(ii).

[...]

[End of Annex and of document]