

Diplomatic Conference to Conclude and Adopt a Design Law Treaty (DLT)

Riyadh, November 11 to 22, 2024

BASIC PROPOSAL FOR THE DESIGN LAW TREATY (DLT)

submitted by the Director General of WIPO

1. The present document contains the basic proposal for the Design Law Treaty (DLT). It includes an Annex listing the proposals presented at the Third Special Session of the World Intellectual Property Organization (WIPO) Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (SCT), held in Geneva from October 2 to 6, 2023, as per the decision of the SCT (see document [SCT/S3/9](#), paragraph 37), as well as, for ease of reference, the proposals made at the Preparatory Committee of the Diplomatic Conference to Conclude and Adopt a Design Law Treaty (DLT) (Preparatory Committee), held from October 9 to 11, 2023 (see document [DLT/2/PM/7](#) paragraph 89). Together with document DLT/DC/4, which contains the basic proposal for the Regulations under that Treaty, this document constitutes the Basic Proposal mentioned in Rule 29(1)(a) of the draft Rules of Procedures of the Diplomatic Conference. Notes on the provisions of the draft Treaty and Regulations are contained in documents DLT/DC/5 and 6.

2. The basic proposal for the Treaty and the basic proposal for the Regulations are the result of the work undertaken by the SCT from 2005 to 2023. The convening of the Diplomatic Conference to Conclude and Adopt a Design Law Treaty (DLT) was approved by the fifty-fifth (30th extraordinary) session of the WIPO General Assembly in July 2022 (see document [WO/GA/55/12](#), paragraph 309).

DESIGN LAW TREATY (DLT)

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Article 1 **Abbreviated Expressions**

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

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

- (xviii) “Assembly” means the Assembly referred to in Article 24;
- (xix) references to an “instrument of ratification” shall be construed as including references to instruments of acceptance and approval;
- (xx) “Organization” means the World Intellectual Property Organization;
- (xxi) “International Bureau” means the International Bureau of the Organization;
- (xxii) “Director General” means the Director General of the Organization;
- (xxiii) references to an “Article” or to a “paragraph”, “subparagraph” or “item” of an Article shall be construed as including references to the corresponding rule(s) under the Regulations.
- [(xxiv) time limits expressed in months in the Treaty and Regulations can be calculated by Contracting Parties in accordance with their national law.]¹

Article 1bis **General Principles**

- (1) *[No Regulation of Substantive Industrial Design Law]* Nothing in this Treaty or the Regulations is intended to be construed as prescribing anything that would limit the freedom of a Contracting Party to prescribe such requirements of the applicable substantive law relating to industrial designs as it desires.
- (2) *[Relation to Other Treaties]* Nothing in this Treaty shall derogate from any obligations that Contracting Parties have to each other under any other treaties.

Article 2 **Applications and Industrial Designs to Which This Treaty Applies**

- (1) *[Applications]* This Treaty shall apply to national and regional applications which are filed with, or for, the Office of a Contracting Party [and to divisional applications thereof].
- (2) *[Industrial Designs]* This Treaty shall apply to industrial designs that can be registered as industrial designs, or for which patents can be granted, under the applicable law.

Article 3 **Application**

- (1) *[Contents of Application; Fee]* (a) A Contracting Party may require that an application contain some, or all, of the following indications or elements:
- (i) a request for registration;
 - (ii) the name and address of the applicant;
 - (iii) where the applicant has a representative, the name and address of that representative;

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

- (iv) where an address for service or an address for correspondence is required under Article 4(3), such address;
- (v) a representation of the industrial design, as prescribed in the Regulations;
- (vi) an indication of the product or products which incorporate the industrial design, or in relation to which the industrial design is to be used;
- (vii) where the applicant wishes to take advantage of the priority of an earlier application, a declaration claiming the priority of that earlier application, together with indications and evidence in support of the declaration that may be required pursuant to Article 4 of the Paris Convention;
- (viii) where the applicant wishes to take advantage of Article 11 of the Paris Convention, evidence that the product or products which incorporate the industrial design or in relation to which the industrial design is to be used have been shown at an official, or officially recognized, international exhibition;

ALTERNATIVE A

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

ALTERNATIVE B²

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

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

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

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

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

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

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

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

Article 4
Representatives; Address for Service or Address for Correspondence

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

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

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

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

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

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

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

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

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

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

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

Article 5 Filing Date

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

- (i) an express or implicit indication to the effect that the elements are intended to be an application;
- (ii) indications allowing the identity of the applicant to be established;
- (iii) a sufficiently clear representation of the industrial design;
- (iv) indications allowing the applicant or the applicant's representative, if any, to be contacted;
- [(v) any further indication or element as prescribed under the applicable law].

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

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

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

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

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

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

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

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

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

Article 6 **Grace Period for Filing in Case of Disclosure**

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

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

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

- (b) The acts that may be notified pursuant to subparagraph (a) are the following:
 - (i) A disclosure of the industrial design made for the first time for the purpose of public interest when a state of emergency or an extraordinary situation occurred in the country;
 - (ii) A disclosure of the industrial design made for the first time at an international exhibition, at prescribed academic or technological activities;
 - (iii) A disclosure of the industrial design by another person without the consent of the applicant.
- (c) Any declaration notified under subparagraph (a) may be withdrawn at any time.]

[Article 6⁵ **Grace Period for Filing in Case of Disclosure**

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

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

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

[Article 6⁶
Grace Period for Filing in Case of Disclosure

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

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

[Article 6⁷
Grace Period for Filing in Case of Disclosure

A public disclosure of the industrial design during a period of 12 months preceding the date of filing of the application or, if priority is claimed, the date of priority, shall be without prejudice to the eligibility for the registration of the industrial design, where the disclosure was made:

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

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

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

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

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

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

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

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

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

(i) amend the initial application to comply with those conditions; or

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

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

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

Article 9
Publication of the Industrial Design

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

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

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

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

[Article 9bis⁸
Term of Protection

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

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

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

**[Article 9bis¹⁰
Term of Protection**

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

**[Article 9ter¹¹
Electronic Industrial Design System**

A Contracting Party shall provide¹²:

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

**[Article 9quater¹³
Electronic Industrial Design System**

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

**[Article 9quinquies¹⁴
Exceptions for Publicly Accessible Design Databases**

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

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

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

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

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

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

Article 10 Communications

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Article 11 Renewal

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

- (i) an indication that renewal is sought;
- (ii) the name and address of the holder;
- (iii) the number(s) of the registration(s) concerned by the renewal;
- (iv) an indication of the term of protection for which renewal is requested;
- (v) where the holder has a representative, the name and address of that representative;
- (vi) where the holder has an address for service or an address for correspondence, such address;
- (vii) where it is permitted that renewal be made for some only of the industrial designs contained in the registration, and such a renewal is requested, an indication of the industrial design number(s) for which the renewal is, or is not, requested;
- (viii) where it is permitted that a request for renewal may be filed by a person other than the holder or its representative, and the request is filed by such a person, the name and address of that person.

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

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

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

Article 12 Relief in Respect of Time Limits

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

- (i) prior to the expiry of the time limit; or
- (ii) after the expiry of the time limit, and within the time limit prescribed in the Regulations.

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

- (i) a request to that effect is made to the Office in accordance with the requirements prescribed in the Regulations;
- (ii) the request is filed, and all of the requirements for the said action, in respect of which the time limit applied, are complied with, within the time limit prescribed in the Regulations.

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

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

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

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

Article 13

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

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

- (i) a request to that effect is made to the Office in accordance with the requirements prescribed in the Regulations;
- (ii) the request is filed, and all of the requirements for the said action, in respect of which the time limit applied, are complied with, within the time limit prescribed in the Regulations;
- (iii) the request states the reasons for the failure to comply with the time limit; and

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

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

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

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

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

Article 14 **Correction or Addition of Priority Claim; Restoration of Priority Right**

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

- (i) a request to that effect is made to the Office in accordance with the requirements prescribed in the Regulations;
- (ii) the request is filed within the time limit prescribed in the Regulations; and
- (iii) the filing date of the subsequent application is not later than the date of the expiration of the priority period calculated from the filing date of the earliest application whose priority is claimed.

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

- (i) a request to that effect is made to the Office in accordance with the requirements prescribed in the Regulations;
 - (ii) the request is filed within the time limit prescribed in the Regulations;
 - (iii) the request states the reasons for the failure to comply with the priority period;
- and

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

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

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

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

[Article 14bis¹⁵
Electronic Priority Document Exchange

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

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

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

- (i) be filed in accordance with the requirements prescribed in the Regulations,
- and
- (ii) be accompanied by the supporting documents prescribed in the Regulations.

(2) *[Fees]* In respect of the recording of a license, the Office may require the payment of a fee.

(3) *[Single Request]* A single request shall be sufficient even where the license relates to more than one registration, provided that the registration numbers of all registrations concerned are indicated in the request, the holder and the licensee are the same for all registrations, and the request indicates the scope of the license with respect to all registrations.

(4) *[Prohibition of Other Requirements]* (a) No requirement other than those referred to in paragraphs (1) to (3) and in Article 10 may be demanded in respect of the recording of a license. In particular, the following may not be required:

- (i) the furnishing of the registration certificate of the industrial design which is the subject of the license;
- (ii) an indication of the financial terms of the license contract.

(b) Subparagraph (a) is without prejudice to any obligations existing under the law of a Contracting Party concerning the disclosure of information for purposes other than the recording of the license.

(5) *[Evidence]* It may be required that evidence be furnished to the Office where the Office may reasonably doubt the veracity of any indication contained in the request, or in any supporting document.

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

(6) *[Requests Relating to Applications]* Paragraphs (1) to (5) shall apply, *mutatis mutandis*, to requests for recording of a license in respect of an application, where the law of a Contracting Party provides for such recording.

(7) *[Request for Recording of a Security Interest]* With the exception of paragraph (4)(a)(ii), paragraphs (1) to (5) shall apply, *mutatis mutandis*, to requests for recording of a security interest in respect of an application or registration.

Article 16 **Request for Amendment or Cancellation of the Recording of a License or a Security Interest**

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

- (i) be filed in accordance with the requirements prescribed in the Regulations,
- and
- (ii) be accompanied by the supporting documents prescribed in the Regulations.

(2) *[Requirements Concerning the Request for Cancellation of the Recording of a Security Interest]* Paragraph (1) shall apply, *mutatis mutandis*, to requests for cancellation of the recording of a security interest.

(3) *[Other Requirements]* Article 15(2) to (7) shall apply, *mutatis mutandis*, to requests for amendment or cancellation of the recording of a license and to requests for cancellation of the recording of a security interest.

Article 17 **Effects of the Non-Recording of a License**

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

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

Article 18 **Indication of the License**

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

Article 19

Request for Recording of a Change in Ownership

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

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

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

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

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

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

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

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

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

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

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

Article 20 **Changes in Names or Addresses**

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

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

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

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

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

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

(4) *[Prohibition of Other Requirements]* No Contracting Party may demand that requirements other than those referred to in paragraphs (1) and (2) and in Article 10 be complied with in respect of the request referred to in this Article. In particular, the furnishing of any certificate concerning the change may not be required.

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

Article 21 **Correction of a Mistake**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Article 23 Regulations

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

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

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

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

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

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

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

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

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

Article 24 Assembly

(1) *[Composition]* (a) The Contracting Parties shall have an Assembly.

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

ALTERNATIVE A

[(c) The expenses of each delegation shall be borne by the Contracting Party that has appointed the delegation. The Assembly may ask the Organization to grant financial assistance to facilitate the participation of delegations of Contracting Parties that are regarded as developing countries in conformity with the established practice of the General Assembly of the United Nations or LDCs or that are countries in transition to a market economy.]

ALTERNATIVE B

[(c) Contracting Parties that are regarded as developing countries or LDCs or that are countries in transition to a market economy shall be granted adequate financial assistance by the Organization to facilitate the participation of at least one delegate of such Contracting Party in all ordinary and extraordinary sessions of the Assembly, and any inter sessional meeting, working group, revision conference or diplomatic conference in relation to the Treaty and the Regulations.]]

(2) *[Tasks]* The Assembly shall

(i) deal with matters concerning the development of this Treaty;

[(ii) establish Model International Forms, referred to in Article 23(1)(b);]

[(iii) amend the Regulations;]¹⁸

(iv) determine the conditions for the date of application of each amendment referred to in item (iii);

(v) monitor, at every ordinary session, the technical assistance provided [under this Treaty] [for implementation of this Treaty];

(vi) perform such other functions as are appropriate to implementing the provisions of this Treaty.

(3) *[Quorum]* (a) One-half of the members of the Assembly which are States shall constitute a quorum.

(b) Notwithstanding subparagraph (a), if, in any session, the number of the members of the Assembly which are States and are represented is less than one-half but equal to or more than one-third of the members of the Assembly which are States, the Assembly may make decisions but, with the exception of decisions concerning its own procedure, all such decisions

¹⁸ Proposal made at the Preparatory Committee by the Delegation of Nigeria. Proposal supported by the Delegations of Togo, Zambia and Zimbabwe. Proposal not supported by the Delegations of Canada, Japan, the United Kingdom and the United States of America.

shall take effect only if the conditions set forth hereinafter are fulfilled. The International Bureau shall communicate the said decisions to the members of the Assembly which are States and were not represented and shall invite them to express in writing their vote or abstention within a period of three months from the date of the communication. If, at the expiration of this period, the number of such members having thus expressed their vote or abstention attains the number of the members which was lacking for attaining the quorum in the session itself, such decisions shall take effect, provided that at the same time the required majority still obtains.

(4) *[Taking Decisions in the Assembly]* (a) The Assembly shall endeavor to take its decisions by consensus.

(b) Where a decision cannot be arrived at by consensus, the matter at issue shall be decided by voting. In such a case,

(i) each Contracting Party that is a State shall have one vote and shall vote only in its own name; and

(ii) any Contracting Party that is an intergovernmental organization may participate in the vote, in place of its Member States, with a number of votes equal to the number of its Member States *[which are party to this Treaty]*¹⁹. No such intergovernmental organization shall participate in the vote if any one of its Member States exercises its right to vote and *vice versa*. In addition, no such intergovernmental organization shall participate in the vote if any one of its Member States party to this Treaty is a Member State of another such intergovernmental organization and that other intergovernmental organization participates in that vote.

(5) *[Majorities]* (a) Subject to Article 23(2) and (3), the decisions of the Assembly shall require two-thirds of the votes cast.

(b) In determining whether the required majority is attained, only votes actually cast shall be taken into consideration. Abstentions shall not be considered as votes.

(6) *[Sessions]* The Assembly shall meet upon convocation by the Director General and, in the absence of exceptional circumstances, during the same period and at the same place as the General Assembly of the Organization.

(7) *[Rules of Procedure]* The Assembly shall establish its own rules of procedure, including rules for the convocation of extraordinary sessions.

Article 25 International Bureau

(1) *[Administrative Tasks]* (a) The International Bureau shall perform the administrative tasks concerning this Treaty.

(b) In particular, the International Bureau shall prepare the meetings and provide the Secretariat of the Assembly and of such committees of experts and working groups as may be established by the Assembly.

(2) *[Meetings Other than Sessions of the Assembly]* The Director General shall convene any committee and working group established by the Assembly.

¹⁹ Proposal made at the Preparatory Committee by the Delegation of the European Union on behalf of its member states. Proposal supported by the Delegation of Germany.

(3) *[Role of the International Bureau in the Assembly and Other Meetings]* (a) The Director General and persons designated by the Director General shall participate, without the right to vote, in all meetings of the Assembly, the committees and working groups established by the Assembly.

(b) The Director General or a staff member designated by the Director General shall be *ex officio* Secretary of the Assembly, and of the committees and working groups referred to in subparagraph (a).

(4) *[Conferences]* (a) The International Bureau shall, in accordance with the directions of the Assembly, make the preparations for any revision conferences.

(b) The International Bureau may consult with Member States of the Organization, intergovernmental organizations and international and national non-governmental organizations concerning the said preparations.

(c) The Director General and persons designated by the Director General shall take part, without the right to vote, in the discussions at revision conferences.

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

Article 26 **Revision**

This Treaty may only be revised by a diplomatic conference. The convocation of any diplomatic conference shall be decided by the Assembly.

Article 27 **Becoming Party to the Treaty**

(1) *[Eligibility]* The following entities may sign and, subject to paragraphs (2) and (3) and Article 28(1) and (3), become party to this Treaty:

(i) any State member of the Organization in respect of which industrial designs may be registered or patented with its own Office;

(ii) any intergovernmental organization which maintains an Office in which industrial designs may be registered with effect in the territory in which the constituting treaty of the intergovernmental organization applies, in all its Member States or in those of its Member States which are designated for such purpose in the relevant application, provided that all the Member States of the intergovernmental organization are members of the Organization;

(iii) any State member of the Organization in respect of which industrial designs may be registered only through the Office of another specified State that is a member of the Organization;

(iv) any State member of the Organization in respect of which industrial designs may be registered only through the Office maintained by an intergovernmental organization of which that State is a member;

(v) any State member of the Organization in respect of which industrial designs may be registered only through an Office common to a group of States members of the Organization.

- (2) *[Ratification or Accession]* Any entity referred to in paragraph (1) may deposit
- (i) an instrument of ratification, if it has signed this Treaty,
 - (ii) an instrument of accession, if it has not signed this Treaty.
- (3) *[Effective Date of Deposit]* The effective date of the deposit of an instrument of ratification or accession shall be,
- (i) in the case of a State referred to in paragraph (1)(i), the date on which the instrument of that State is deposited;
 - (ii) in the case of an intergovernmental organization, the date on which the instrument of that intergovernmental organization is deposited;
 - (iii) in the case of a State referred to in paragraph (1)(iii), the date on which the following condition is fulfilled: the instrument of that State has been deposited and the instrument of the other specified State has been deposited;
 - (iv) in the case of a State referred to in paragraph (1)(iv), the date applicable under item (ii), above;
 - (v) in the case of a State member of a group of States referred to in paragraph (1)(v), the date on which the instruments of all the States members of the group have been deposited.

Article 28
Entry into Force;
Effective Date of Ratifications and Accessions

- (1) *[Instruments to Be Taken into Consideration]* For the purposes of this Article, only instruments of ratification or accession that are deposited by entities referred to in Article 27(1) and that have an effective date according to Article 27(3) shall be taken into consideration.
- (2) *[Entry into Force of the Treaty]* This Treaty shall enter into force three months after [10] [30] States or intergovernmental organizations referred to in Article 27(1)(ii) have deposited their instruments of ratification or accession.
- (3) *[Entry into Force of Ratifications and Accessions Subsequent to the Entry into Force of the Treaty]* Any entity not covered by paragraph (2) shall become bound by this Treaty three months after the date on which it has deposited its instrument of ratification or accession.

Article 29
Reservations

Article 30
Denunciation of the Treaty

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

(2) *[Effective Date]* Denunciation shall take effect one year from the date on which the Director General has received the notification. It shall not affect the application of this Treaty to any application pending or any industrial design registered in respect of the denouncing Contracting Party at the time of the expiration of the said one-year period, provided that the denouncing Contracting Party may, after the expiration of the said one-year period, discontinue applying this Treaty to any registration as from the date on which that registration is due for renewal.

Article 31 **Languages of the Treaty; Signature**

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

(b) An official text in a language not referred to in subparagraph (a) that is an official language of a Contracting Party shall be established by the Director General after consultation with the said Contracting Party and any other interested Contracting Party.

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

Article 32 **Depositary**

The Director General shall be the depositary of this Treaty.

[Annex follows]

PROPOSALS PRESENTED AT THE THIRD SPECIAL SESSION OF THE SCT AND AT THE PREPARATORY COMMITTEE

Article 1 – Abbreviated Expressions

[...]

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

Article 5 – Filing Date

(1) [Permitted Requirements]

[...]

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

[Article 6 – Grace Period for Filing in Case of Disclosure⁵

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

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

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

[Article 6 – Grace Period for Filing in Case of Disclosure⁶

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

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

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

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

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

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

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

[Article 6 – Grace Period for Filing in Case of Disclosure⁷

A public disclosure of the industrial design during a period of 12 months preceding the date of filing of the application or, if priority is claimed, the date of priority, shall be without prejudice to the eligibility for the registration of the industrial design, where it the disclosure was made:

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

[Article 9bis – Term of Protection⁸

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

[Article 9bis – Term of Protection¹⁰

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

[Article 9ter – Electronic Industrial Design¹¹

A Contracting Party shall provide:¹²

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

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

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

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

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

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

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

[Article 9^{quater} – Electronic Industrial Design¹³

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

[Article 9^{quinquies} – Exceptions for Publicly Accessible Design Databases¹⁴

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

[Article 14^{bis}¹⁵ – Electronic Priority Document Exchange

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Article 24 – Assembly

(2) [Tasks] The Assembly shall

[...]

[(iii) amend the Regulations;]¹⁸

[...]

(4) [Taking Decisions in the Assembly]

[...]

(ii) any Contracting Party that is an intergovernmental organization may participate in the vote, in place of its Member States, with a number of votes equal to the number of its Member States [which are party to this Treaty]¹⁹. No such intergovernmental organization shall participate in the vote if any one of its Member States exercises its right to vote and *vice versa*. In addition, no such intergovernmental organization shall participate in the vote if any one of its Member States party to this Treaty is a Member State of another such intergovernmental organization and that other intergovernmental organization participates in that vote.

[End of Annex and of document]

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

¹⁸ Proposal made at the Preparatory Committee by the Delegation of Nigeria. Proposal supported by the Delegations of Togo, Zambia and Zimbabwe. Proposal not supported by the Delegations of Canada, Japan, the United Kingdom and the United States of America.

¹⁹ Proposal made at the Preparatory Committee by the Delegation of the European Union on behalf of its member states. Proposal supported by the Delegation of Germany.