

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

**Ninth Session**  
**Geneva, December 14 to 16, 2020**

### **SUMMARY BY THE CHAIR**

*approved by the Working Group*

1. 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”) met in Geneva, on December 14 and 15, 2020.
2. The following members of the Hague Union were represented at the session: African Intellectual Property Organization (OAPI), Bosnia and Herzegovina, Canada, Denmark, European Union, Finland, France, Germany, Hungary, Israel, Italy, Japan, Kyrgyzstan, Lithuania, Mexico, Mongolia, Norway, Oman, Poland, Republic of Korea, Republic of Moldova, Romania, Russian Federation, Serbia, Slovenia, Spain, Switzerland, Tunisia, Turkey, United Kingdom, United States of America and Viet Nam (32).
3. The following States were represented as observers: Algeria, Australia, Bangladesh, Belarus, Brazil, China, Colombia, Costa Rica, El Salvador, Ethiopia, India, Iraq, Jamaica, Jordan, Kazakhstan, Kuwait, Lesotho, Madagascar, Pakistan, Panama, Philippines, Saudi Arabia, Thailand, Trinidad and Tobago, Uzbekistan, Vanuatu and Zimbabwe (27).
4. Representatives of: (i) Palestine (1); (ii) Asian Patent Attorneys Association (APAA), *Association Romande de Propriété Intellectuelle* (AROPI), Centre for International Intellectual Property Studies (CEIPI), European Community Trademark Association (ECTA), International Association for the Protection of Intellectual Property (AIPPI), International Trademark Association (INTA), Japan Intellectual Property (JIPA), Japan Patent Attorneys Association (JPAA), MARQUES - The Association of European Trademark Owners (9); participated in an observer capacity.
5. The list of participants is contained in document H/LD/WG/9/INF/4 Prov. 2.

### **AGENDA ITEM 1: OPENING OF THE SESSION**

6. Mr. Daren Tang, Director General of the World Intellectual Property Organization (WIPO), opened the ninth session of the Working Group and welcomed the participants.

### **AGENDA ITEM 2: ELECTION OF THE CHAIR AND TWO VICE-CHAIRS**

7. Ms. Angar Oyun (Mongolia) was unanimously elected as Chair of the Working Group, Mr. Siyoung Park (Republic of Korea) and Mr. David R. Gerk (United States of America) were unanimously elected as Vice-Chairs.

8. Mr. Hiroshi Okutomi (WIPO) acted as Secretary to the Working Group.

### **AGENDA ITEM 3: ADOPTION OF THE AGENDA**

9. The Working Group adopted the draft agenda (document H/LD/WG/9/1 Prov.3) without modification.

### **AGENDA ITEM 4: ADOPTION OF THE DRAFT REPORT OF THE EIGHTH SESSION OF THE WORKING GROUP ON THE LEGAL DEVELOPMENT OF THE HAGUE SYSTEM FOR THE INTERNATIONAL REGISTRATION OF INDUSTRIAL DESIGNS**

10. Discussions were based on document H/LD/WG/8/9 Prov.

11. The Working Group adopted the draft report (document H/LD/WG/8/9 Prov.) without modification.

### **AGENDA ITEM 5: PROPOSAL FOR AMENDMENTS TO THE COMMON REGULATIONS**

#### **PROPOSAL FOR AMENDMENTS TO RULE 17 (DOCUMENTS H/LD/WG/9/2 AND H/LD/WG/9/2 CORR.)**

12. Discussions were based on documents H/LD/WG/9/2 and H/LD/WG/9/2 Corr.

13. The Chair concluded that the Working Group considered favorably the submission of a proposal to amend the Common Regulations with respect to Rules 17 and 37, as set out in Annex II to document H/LD/WG/9/2, for adoption, to the Assembly of the Hague Union, with the proposed date of entry into force of January 1, 2022.

#### **PROPOSAL FOR AMENDMENTS TO RULE 5 OF THE COMMON REGULATIONS (DOCUMENTS H/LD/WG/9/3 REV. AND H/LD/WG/9/6)**

14. Discussions were based on documents H/LD/WG/9/3 Rev. and H/LD/WG/9/6.

15. The Chair concluded that the Working Group considered favorably the submission of a proposal to amend the Common Regulations with respect to Rule 5, as revised during the session and as set out in the Annex to the Summary by the Chair, for adoption, to the Assembly of the Hague Union, with the proposed date of entry into force two months following their adoption.

**AGENDA ITEM 6: OTHER MATTERS**

16. Discussions were based on document H/LD/WG/9/INF/1.

17. The Chair concluded that the Working Group took note of the content of the document.

**AGENDA ITEM 7: SUMMARY BY THE CHAIR**

18. The Working Group approved the Summary by the Chair, as amended to take into account the intervention of one delegation in respect of the Spanish version.

**AGENDA ITEM 8: CLOSING OF THE SESSION**

19. The Chair closed the ninth session on December 15, 2020.

[Annex follows]

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

(as in force on.....)

[...]

**CHAPTER 1  
GENERAL PROVISIONS**

[...]

*Rule 5*

*Excuse of Delay in Meeting Time Limits*

(1) *[Excuse of Delay in Meeting Time Limits due to Force Majeure Reasons]* Failure by an interested party to meet a time limit specified in the Regulations to perform an action before the International Bureau shall be excused if the interested party submits evidence showing, to the satisfaction of the International Bureau, that such failure was due to war, revolution, civil disorder, strike, natural calamity, epidemic, irregularities in postal, delivery or electronic communication services owing to circumstances beyond the control of the interested party or other *force majeure* reason.

~~*[Communications Sent Through a Postal Service]*~~ Failure by an interested party to meet a time limit for a communication addressed to the International Bureau and mailed through a postal service shall be excused if the interested party submits evidence showing, to the satisfaction of the International Bureau,

~~(i) that the communication was mailed at least five days prior to the expiry of the time limit, or, where the postal service was, on any of the ten days preceding the day of expiry of the time limit, interrupted on account of war, revolution, civil disorder, strike, natural calamity, or other like reason, that the communication was mailed not later than five days after postal service was resumed,~~

~~(ii) that the mailing of the communication was registered, or details of the mailing were recorded, by the postal service at the time of mailing, and~~

~~(iii) in cases where not all classes of mail normally reach the International Bureau within two days of mailing, that the communication was mailed by a class of mail which normally reaches the International Bureau within two days of mailing or by airmail.~~

~~(2) — *[Communications Sent Through a Delivery Service]*~~ Failure by an interested party to meet a time limit for a communication addressed to the International Bureau and sent through a delivery service shall be excused if the interested party submits evidence showing, to the satisfaction of the International Bureau,

~~(i) that the communication was sent at least five days prior to the expiry of the time limit, or, where the delivery service was, on any of the ten days preceding the day of expiry of the time limit, interrupted on account of war, revolution, civil disorder, natural calamity, or other like reason, that the communication was sent not later than five days after the delivery service was resumed, and~~

~~(ii) that details of the sending of the communication were recorded by the delivery service at the time of sending.~~

~~(3) [Communication Sent Electronically] Failure by an interested party to meet a time limit for a communication addressed to the International Bureau and submitted by electronic means shall be excused if the interested party submits evidence showing, to the satisfaction of the International Bureau, that the time limit was not met because of failure in the electronic communication with the International Bureau, or which affects the locality of the interested party owing to extraordinary circumstances beyond the control of the interested party, and that the communication was effected not later than five days after the electronic communication service was resumed.~~

(2) [Waiver of Evidence; Statement in Lieu of Evidence] The International Bureau may waive the requirement under paragraph (1) concerning the submission of evidence. In such a case, the interested party must submit a statement that the failure to meet the time limit was due to the reason for which the International Bureau waived the requirement concerning the submission of evidence.

(4) [Limitation on Excuse] Failure to meet a time limit shall be excused under this Rule only if the evidence referred to in paragraph (1), ~~or the statement referred to in paragraph (2) or (3) and the communication or, where applicable, a duplicate thereof are~~ is received by, and the corresponding action is performed before the International Bureau as soon as reasonably possible and not later than six months after the expiry of the time limit concerned.

~~(5) [Exception] This rule shall not apply to the payment of the second part of the individual designation fee through the International Bureau as referred to in Rule 12(3)(c).~~

[...]

[End of Annex and of document]