



## WORLD INTELLECTUAL PROPERTY ORGANIZATION

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### **HAGUE AGREEMENT CONCERNING THE INTERNATIONAL REGISTRATION OF INDUSTRIAL DESIGNS**

#### **Amendment to the Common Regulations and to the Schedule of Fees**

#### **Fee Structure under the Hague Agreement**

1. At its twenty-fourth (16<sup>th</sup> ordinary) session, which took place in Geneva from September 24 to October 3, 2007, the Assembly of the Hague Union approved amendments to Rule 12 of the Common Regulations under the 1999 Act, the 1960 Act and the 1934 Act of the Hague Agreement along with a number of amendments to the Schedule of Fees annexed to the Common Regulations.
2. The amendments will come into effect on January 1, 2008.

#### *Simplification of the Fee Structure*

#### Publication Fee – Rule 12(1)(a)(iv) of the Common Regulations and Item I.2 of the Schedule of Fees

3. Rule 12(1)(a)(iv) of the Common Regulations specifies that the international registration shall be subject to the payment of a publication fee<sup>1</sup>. As set out under item I.2 of the Schedule of Fees, this fee consists of three non-mutually exclusive elements:
  - 12 Swiss francs for each reproduction to be published in black and white;
  - 75 Swiss francs for each reproduction to be published in color; and,
  - 150 Swiss francs for each page, in addition to the first, on which one or more reproductions are shown (where the reproductions are submitted on paper).
4. With a view to simplification, the Hague Assembly has approved an amendment of Item I.2 of the Schedule of Fees aimed at eliminating the distinction between reproductions to be published in black and white and reproductions to be published in color and introducing a single fee per reproduction. As from January 1, 2008, the single fee will be fixed at 17 Swiss francs per reproduction. The fee per page (where the reproductions are submitted on paper) will remain unchanged.

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<sup>1</sup> This fee does not apply to an application governed exclusively by the 1934 Act (Rule 30(2)(f) of the Common Regulations).

5. The amended text of item I.2 of the Schedule of Fees is reproduced in the Annex hereto.

Introduction of Different Levels of the Standard Designation Fee Concerning the International Application – Rule 12(1) of the Common Regulations and Item I.4 of the Schedule of Fees

6. Under Rule 12(1)(a)(ii) and (iii) of the Common Regulations, an international application shall be subject to the payment of a standard designation fee in respect of each designated Contracting Party that has not made an individual fee declaration<sup>2</sup>, or of an individual fee in respect of each designated Contracting Party that has made such a declaration.

7. Leaving aside the case of an intergovernmental organization, the possibility of making an individual fee declaration is open only to States whose Office is “an Examining Office”. According to Article 1 of the 1999 Act and Article 2 of the 1960 Act, this expression refers to the carrying out of an *ex officio* novelty examination<sup>3</sup>. Between minimal formality examination (which the Office of a designated Contracting Party is spared in the international procedure under the Hague Agreement) and *ex officio* novelty examination, a range of levels of substantive examination exists amongst the various national and regional design right systems.

8. In order to better reflect these nuances, the Hague Assembly has approved an amendment of Rule 12(1)(a)(ii) and (b), along with a consequential amendment of item 4 of the Schedule of Fees, for the purpose of introducing three different levels of the standard designation fee, as follows:

– level one, for Contracting Parties whose Office does not carry out examination on substantive grounds;

– level two, for Contracting Parties whose Office carries out examination on substantive grounds other than novelty (for example, on issues such as the definition of a “design”, public order and morality, or the protection of State emblems);

– level three, for Contracting Parties whose Office carries out examination on substantive grounds, including a limited examination as to novelty (for example, an examination as to local novelty only, when the criterion for the validity of the design right is worldwide novelty), or examination as to novelty following opposition by third parties.

9. Furthermore, in accordance with new Rule 12(1)(c)(i), the application of levels two or three will be dependent on the making of a declaration by Contracting Parties, indicating the level of examination carried out by their Office and entering into force three months after its deposit with the Director General. In the absence of a declaration, level one will apply by default. This requirement of a declaration will ensure that users are aware of the precise level of standard designation fee applicable in respect of any given Contracting Party.

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<sup>2</sup> This fee, however, does not apply with respect to Contracting Parties designated under the 1934 Act.

<sup>3</sup> Of the 44 States bound by the 1960 or the 1999 Act at the time of issuing the present information notice, only five had made the relevant declarations, namely: Bulgaria, Hungary, Kyrgyzstan, Moldova and Romania.

10. It should be noted that a Member State may opt for a standard fee instead of an individual fee, or may opt for a lower level of standard fee although entitled to receive a higher level of such fee.

11. From January 1, 2008, the following will be the amounts of the fees at each of the three levels:

		<i>Swiss francs</i>
– level one	– for one design	42
	– for each additional design included in the same application	2
– level two	– for one design	60
	– for each additional design included in the same application	20
– level three	– for one design	90
	– for each additional design included in the same application	50

12. Level one in amended item I.4 of the Schedule of fees corresponds to what is currently applied as the standard designation fee. The application of levels two and three to any State will be the subject of a further information notice and the application form and fee calculator will be updated accordingly.

13. The amended text of Rule 12 of the Common Regulations and of the consequential amendment to item I.4 of the Schedule of Fees is reproduced in the Annex hereto.

#### Reduction of Fees for Applicants from Least Developed Countries (LDCs)<sup>4</sup>

14. Several programs of WIPO, including the Madrid system and the PCT, currently focus, through various means, on strengthening the capacity of LDCs to take advantage of intellectual property as a tool for development. In order, therefore, to improve the ability of design creators from LDCs to benefit from the Hague system, the Hague Assembly has approved an amendment to the Schedule of Fees under the Common Regulations, reducing the costs for applicants from LDCs of filing applications under the Hague Agreement. At present, the list of LDCs comprises 50 States, of which four are party to the Hague system, namely, Benin, Mali, Niger and Senegal.

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<sup>4</sup> The listing of countries as “least developed” is established by the General Assembly of the United Nations on the recommendation of the Economic and Social Council (ECOSOC) and on the advice of the Committee for Development Policy (CDP). The list is reviewed every three years. Listing as an LDC is done in consultation with the government of the country concerned and takes place only with the government’s consent. The list may be consulted on the UN website and on the WIPO website ([www.un.org/special-rep/ohrlls/ldc/list.htm](http://www.un.org/special-rep/ohrlls/ldc/list.htm) and [www.wipo.int/ldcs/en/country](http://www.wipo.int/ldcs/en/country)).

15. The amendment will consist of a reduction to 10% of the regular amounts of all the fees prescribed in the Schedule of Fees, rounded to the nearest full figure, for ease of administration. Accordingly, as of January 1, 2008, the Schedule of Fees has been amended through the inclusion of a note under items 1, 2, 3, 4 and 6 thereof<sup>5</sup>.

16. The reduction will be offered to all applicants – whether natural persons or legal entities – whose sole entitlement to file an international application for industrial design protection under the Hague Agreement is a connection with an LDC, in accordance with the list established by the United Nations. If there are several applicants, each will be required to fulfill such criterion.

17. In the case of international applications governed exclusively or partly by the 1999 Act and/or the 1960 Act, it follows that, from January 1, 2008, for applicants from LDCs, the amounts of the fees payable will become:

*Swiss francs*

– Basic fee	
– for one design	40
– for each additional design	2
– Publication fee (taking into account the amendment referred to in paragraphs 3 to 5, above)	
– for each reproduction	2
– for each page, in addition to the first	15
– Description	
where the description exceeds 100 words, per group of five words exceeding 100	1
– Standard Fees:	

With respect to Contracting Parties designated under the 1960 Act or the 1999 Act:

*Swiss francs*

– level one	– for one design	4
	– for each additional design included in the same application	1
– level two	– for one design	6
	– for each additional design included in the same application	2
– level three	– for one design	9
	– for each additional design included in the same application	5

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<sup>5</sup> The introduction of reduced fees for applicants from LDCs in the Madrid system in 2005 was implemented by the adoption of a similar note in the Schedule of Fees established under the Common Regulations under the Madrid Agreement and Protocol.

In the case of international applications governed exclusively by the 1934 Act:

*Swiss francs*

–	Basic fee	
–	– for one design	22
–	– for two to 50 designs	43
–	– for 51 to 100 designs	64

18. The amended text of the Schedule of Fees is reproduced in the Annex hereto.

19. With respect to the payment of individual fees by design applicants from LDCs, the Assembly of the Hague Union also approved at its twenty-fourth session the following text of a recommendation:

“Contracting Parties that make, or have made, a declaration under Article 7(2) of the 1999 Act or under Rule 36(1) of the Common Regulations are encouraged to indicate, in that declaration or in a new declaration, that for international applications filed by applicants whose sole entitlement is a connection with a Least Developed Country, in accordance with the list established by the United Nations, the individual fee payable with respect to their designation is reduced to 10% of the fixed amount (rounded, where appropriate, to the nearest full figure).”

November 19, 2007

**Common Regulations Under  
the 1999 Act, the 1960 Act and the 1934 Act  
of the Hague Agreement**

(as in force on January 1, 2008)

[...]

*Rule 12*

*Fees Concerning the International Application*

(1) [Prescribed Fees] (a) The international application shall be subject to the payment of the following fees:

[...]

(ii) a standard designation fee in respect of each designated Contracting Party that has not made a declaration under Article 7(2) of the 1999 Act or under Rule 36(1), the level of which will depend on a declaration made under subparagraph (c);

[...]

(b) The level of the standard designation fee referred to in subparagraph (a)(ii) shall be as follows:

(i) for Contracting Parties whose office does not carry out any examination on substantive grounds: .....level one

(ii) for Contracting Parties whose office carries out examination on substantive grounds, other than as to novelty:.....level two

(iii) for Contracting Parties whose office carries out examination on substantive grounds, including examination as to novelty either *ex officio* or following opposition by third parties:.....level three

(c) (i) Any Contracting Party whose legislation entitles it to the application of level two or three under subparagraph (b) may, in a declaration, notify the Director General accordingly. A Contracting Party may also, in its declaration, specify that it opts for the application of level two, even if its legislation entitles it to the application of level three.

(ii) Any declaration made under item (i) shall take effect three months after its receipt by the Director General or at any later date indicated in the declaration. It may also be withdrawn at any time by notification addressed to the Director General, in which case such withdrawal shall take effect one month after its receipt by the Director General or at any later date indicated in the notification. In the absence of such a declaration, or where a declaration has been withdrawn, level one will be deemed to be the level applicable to the standard designation fee in respect of that Contracting Party.

[...]

**SCHEDULE OF FEES**  
(as in force on January 1, 2008)

I.	<i>International Applications Governed Exclusively or Partly by the 1960 Act or by the 1999 Act</i>	
		<i>Swiss francs</i>
1.	Basic fee*	
	1.1 For one design	397
	1.2 For each additional design included in the same international application	19
2.	Publication fee*	
	2.1 For each reproduction to be published	17
	2.2 For each page, in addition to the first, on which one or more reproductions are shown (where the reproductions are submitted on paper)	150
3.	Additional fee where the description exceeds 100 words per word exceeding 100 words*	2

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\* For international applications filed by applicants whose sole entitlement is a connection with a Least Developed Country, in accordance with the list established by the United Nations, the fees intended for the International Bureau are reduced to 10% of the prescribed amounts (rounded to the nearest full figure). If there are several applicants, each must fulfill the said criterion. Where such fee reduction applies, the basic fee is fixed at 40 Swiss francs (for one design) and 2 Swiss francs (for each additional design included in the same international application), the publication fee is fixed at 2 Swiss francs for each reproduction and 15 Swiss francs for each page, in addition to the first, on which one or more reproductions are shown, and the additional fee where the description exceeds 100 words is fixed at 1 Swiss franc per group of five words exceeding 100 words.

4.	Standard designation fee**	
4.1	Where level one applies:	
4.1.1	For one design	42
4.1.2	For each additional design included in the same international application	2
4.2	Where level two applies:	
4.2.1	For one design	60
4.2.2	For each additional design included in the same international application	20
4.3	Where level three applies:	
4.3.1	For one design	90
4.3.2	For each additional design included in the same international application	50

[...]

## II. *International Applications Governed Exclusively by the 1934 Act*

6.	Basic fee***	
6.1	For one design	216
6.2	For two to 50 designs included in the same international application	432
6.3	For 51 to 100 designs included in the same international application	638

[...]

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\*\* For international applications filed by applicants whose sole entitlement is a connection with a Least Developed Country, in accordance with the list established by the United Nations, the standard fees are reduced to 10% of the prescribed amounts (rounded to the nearest full figure). If there are several applicants, each must fulfill the said criterion.

Where such reduction applies, the standard designation fee is fixed at 4 Swiss francs (for one design) and 1 Swiss franc (for each additional design included in the same international application) under level one, 6 Swiss francs (for one design) and 2 Swiss francs (for each additional design included in the same international application) under level two, and 9 Swiss francs (for one design) and 5 Swiss francs (for each additional design included in the same international application) under level three.

\*\*\* For international applications filed by applicants whose sole entitlement is a connection with a Least Developed Country, in accordance with the list established by the United Nations, the fees intended for the International Bureau are reduced to 10% of the prescribed amounts (rounded to the nearest full figure). If there are several applicants, each must fulfill the said criterion.

Where such fee reduction applies, the basic fee is fixed at 22 Swiss francs (for one design), 43 Swiss francs (for two to 50 designs included in the same international application) and 64 Swiss francs (for 51 to 100 designs included in the same international application).