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CONFERENCE DIPLOMATIQUE DE LA HAYE DU 14-28 NOVEMBRE 1960  
POUR LA REVISION DE L'ARRANGEMENT DE LA HAYE  
CONCERNANT LE DEPOT INTERNATIONAL DES DESSINS OU MODELES.

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[Documents de la Conférence. Textes anglais]

- III -

BUREAUX INTERNATIONAUX RÉUNIS  
POUR LA PROTECTION DE LA  
PROPRIÉTÉ INTELLECTUELLE  
BIBLIOTHÈQUE

Les documents nos 1, 4, 6 à 10, 14, Annexes I à III du no 15, 18, 34, 35, 41 à 43, 45, 51, 57, 61, 75, 81, 92 et 111 n'ont pas été distribués ou traduits en anglais.

Le no 80 se trouve annexé au no 82 français.

Doc. The Hague  
No. 2 / E.  
14-11-1960

REVISED ARTICLE 9 OF DRAFT REGULATIONS

In plenary session :

- in first instance, voting will deal with any contingent amendments to the proposals as a whole, put forward by the Commissions;
- next, voting will deal with the text as a whole of the Arrangement and the Regulations.

The Bureau may, in case of need, refer an amendment to the General Commission for further consideration.

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Doc. The Hague

No. 3 / E.

Date: 14-11-1960

Draft regulations for the Diplomatic Conference for the revision of the Arrangement of The Hague of November 6th, 1925 concerning the International Deposit of Industrial Designs or Models.

Article 1

The proposals with explanatory statements, prepared by a Committee of Experts in collaboration with the International Bureau for the Protection of Industrial Property on the invitation of the Netherlands Government, as well as the proposals of the Governments of the countries of the Union, collated and coordinated by the International Bureau for the Protection of Industrial Property, form the basis for the discussions of the Conference.

Article 2

The Conference shall appoint a Chairman and, on the proposal of the Chairman:

- (a) The Chairman and the members of the Credentials Commission;
- (b) The Chairman and the other members of the Bureau of the General Commission;
- (c) The Chairman and the other members of the Bureau of the Commission on Regulations;
- (d) The Chairman and the other members of the Bureau and the members of the Drafting Committee;
- (e) The Rapporteur-Général
- (f) Four Vice-Chairmen;

The Chairmen of the Commissions, referred to in a, b, c and d and the Rapporteur-Général are all, by right, Vice-Chairmen of the Conference.

The Bureau of the Conference will be constituted by:

the chairmen and Vice-Chairmen, the Director and Vice-Director of the International Bureau for the Protection of Industrial Property.

The Vice-Director of the International Bureau for the Protection of Industrial Property is, by right, Secretary General of the Conference.

On proposal of the Secretary General, an Assistant Secretary General and a Secretary can be appointed.

Article 3

The Chairman of the Conference directs the discussions and regulates the working schedule of the Conference. He may delegate all or part of his powers.

Article 4

The Conference will constitute itself into a General Commission for the examination of the proposals submitted relating to the revision of the Arrangement of The Hague.

Article 5

The Conference will furthermore constitute itself into a Commission on regulations for the purpose of examining the proposals submitted relating to the revision of the regulations for implementing the Arrangement of The Hague.

Article 6

The texts, adopted by the two Commissions referred to in the Articles 4 & 5, will be submitted to the Drafting Committee. After approval by the two Commissions of the texts of the Drafting Committee, these texts will be submitted as a whole by the Rapporteur général to the Plenary Conference.

Article 7

The members of the delegations of the countries invited to the Conference may take part in the debates and submit proposals. The members of the delegations of Inter-governmental Organisations may take part in the debates and submit observations. The representatives of Non-Governmental Organisations have the status of observers. Upon the invitation of the Chairman of the Conference or the Chairmen of the Commissions, they may voice their opinions. Any new text, proposed for discussion, must be handed to the secretariat in writing and distributed before being discussed.

Article 8

The members of the delegations of the countries invited to the Conference may take part in the votings, each country having not more than one vote. The decisions of the Commissions as well as those in Plenary session are taken by a majority of the votes. However, in the Plenary session the unanimity of the countries-members of the Arrangement of The Hague is required.

Article 9

In Plenary session :

- in first instance, voting will deal with amendments, if any, to the proposals as a whole, put forward by the Commissions;
- next, voting will deal with the text as a whole of the Arrangement and the Regulations.

The Bureau may, in case of need, refer an amendment to the General Commission or to the Commission on Regulations for further consideration.

Article 10

Before the closing of the Conference the Rapporteur-Général presents his report on the whole of the proceedings of the Conference.

Article 11

Minutes, giving a summary of the debates on the propositions formulated in the course of the sessions, the arguments presented and the results of the voting will be made of the Plenary sessions and those of the Commissions referred to in Articles 4 & 5.

The minutes are submitted to the Conference.

The collection of minutes and the Acts of the Conference will be published by the International Bureau for the Protection of Industrial Property after the closing of the Conference.

Article 12

The debates of the Conference shall take place either in French or in English. The statements in French will be translated into English and the statements in English will be translated into French.

Any delegation is allowed to express itself in another language, subject to providing an interpreter.

The working documents of the Conference will be drafted in both French and English.

Doc. The Hague

No. 5 / E.

Date: 15-11-1960

DIPLOMATIC CONFERENCE OF THE HAGUE

MINUTES OF THE PREPARATORY MEETING

on Monday, November 14th, 1960

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In the absence of His Excellency, Dr G.M.J.Veldkamp, President of the Dutch Delegation, unable to attend, Dr C.J.de Haan, Vice-President of this Delegation, opens the meeting at 10.30 A.M. in the Rolzaal, Binnenhof.

On behalf of the President of the Dutch Delegation, he welcomes all delegates and informs them of a painful event: the death of Mr Arthur Fisher, Register of Copyrights, Copyright Office, Library of Congress (US), which occurred last Saturday. Mr.A.Fisher took an active part in the works of the Conference of Experts which had drawn up the draft Arrangement submitted to the Conference. His personal share in these works was of considerable importance. He applied himself particularly to the task of drawing up such texts as may be found satisfactory by the majority of nations.

Dr de Haan requests delegates to observe a one minute silence in memory of Mr.A.Fisher. He suggests that a telegram of condolence be sent to Mrs. Fisher on behalf of all Delegates attending the Conference. This suggestion is unanimously carried.

Next, Dr.de Haan submits to the approval of Delegates different proposals with regard to the formation of the Credentials Commission, subject to ratification by the Plenary Meeting. This Commission will be composed as follows :

Chairman : His Excellency, Ambassador Giuseppe Talamo Atenolfi  
Brancaccio, Marquess of Castelnuovo.

Members : Mr Labry, France  
Mr Ibrahim, United Arab Republic  
Mr Bennani, Deputy Delegate of Morocco (at the  
request of Mr.Harkett, Delegate, unable to  
attend himself)  
Mr. van Gorkom, Netherlands.

The Draft Regulations of the Conference were then examined. This draft was distributed in both the French and English versions.

Mr. C.J.de Haan proceeds to the reading of the draft after having invited Delegates to inform the Meeting of any remarks and proposed modifications they may wish to put forward.

Article 1 is passed provisionnally.

Article 2 is the subject of an intervention by Mr. Federico (US) who has noted the deletion of the last three paragraphs in the English version. This omission will be rectified. Article 2 is then carried provisionnally.

Articles 3, 4 & 5 are passed provisionnally.

Article 6. An objection is raised against this article by Mr. Federico, who deems it preferable that the text drawn up by the Drafting Committee be approved by the respective Commissions prior to being carried by voting at the Plenary Meeting. He therefore suggests that the text of Article 6 be amended, and Mr. de Haan then reads out the following new wordings:

Article 6 : "The texts carried by both the Commissions referred to in the Articles 4 & 5 shall be submitted to the Drafting Committee. After having been approved by the two Commissions, the texts drawn up by the Drafting Committee shall be presented as a whole, by the Rapporteur-Général, to the Plenary Conference."

The new text of Article 6 is passed provisionnally.

Articles 7 & 8 are passed provisionnally.

Article 9, according to Mr. Lorenz (Austria) contains, with regard to the two following items, provisions which are too restrictive :

Discussion and voting, article by article, of the draft drawn up by the Committee of Experts, implies that all Delegates agree with the principles of the draft, whereas these may either be at issue or other principles may be proposed. The basic principles of the draft should, therefore, be discussed previously.

It would appear that voting of the draft as a whole in Plenary Session precludes any amendment whatsoever in Plenary session should the need arise.

Mr. Labry (France) approves of the second part of this remark and points to the danger of a veto on one single Article. Slightly increased adaptiveness appears to be necessary.

Invited to do so by Mr. C. J. de Haan, Mr. W. M. J. C. Phaf, member of the Dutch Delegation, explains that the basic principle of Article 9 implies that the rejection of one single Article of the draft in Plenary Session would create a difficult situation, the draft being entirely different from the former text and forming a coherent whole. If an Article should be rejected, a void would occur since no earlier text covers the same item. Hence the need for either carrying or rejecting the draft as a whole. But if, on the other hand, objections are raised against an Article, the possibility remains to refer it back to the Commission.

Whilst understanding the meaning of Mr. Phaf's intervention, Mr. Labry nevertheless wishes that it should be made possible to submit proposals for an amendment on some particular item even in Plenary Session.

Mr. Ch. L. Magnin, Vice-Director of the International Bureau, suggests that Mr. Phaf's proposal be passed. If objections should be raised in Plenary Session against an Article, it should be referred back to the General Commission.



The proposal submitted by Mr. Phaf and supported by Mr. Magnin is the subject of remarks made by Professor Ulmer (Federal Republic of Germany).

Mr. de Haan suggests to proceed with the discussion of the other Articles and, during a break, to entrust Messrs. Labry, Lorenz, Magnin and Phaf with the drafting of a new text.

Mr. Lorenz (Austria) requests that this opportunity be also used with a view to considering an amendment to the first sentence of Article 9.

Yet, Mr. Magnin wonders whether Mr. Lorenz's proposal should not be accepted, as it does not appear advisable to restrict, by virtue of the Regulations, the Commission's and the Chairman's freedom of action.

Mr. A. Bogsch (USA) considers that it would not be possible for him to declare himself either for or against the principles without these being submitted as a list.

Mr. Haertel (Federal Republic of Germany) points out that every Delegate who proposes a special text, is entitled to request the discussion of a principle.

A Commission, the formation of which is suggested by Mr. de Haan and including Messrs. Bogsch, Haertel, Labry, Lorenz, Magnin and Phaf, is entrusted with the task of finding a different wording for Article 9.

Article 10 is carried provisionally.

Article 11 is the subject of an intervention by Mr. Bogsch, who considers that it would be difficult to have all minutes approved by the Conference, resulting in an overburdening during the last days. He suggests that the minutes, should the occasion arise, be submitted to the Delegations for approval after the closing of the Conference.

In this connection, Mr. Labry points out that after the Conference, Delegations will have split up; hence, the minutes would have to be submitted to the Governments.

Mr. Bogsch points out that the Governments would be unable to approve these minutes which, therefore, would have to be submitted "to participants".

Commenting on a proposal put forward by Mr. Ljungman, member of the Swedish Delegation, Mr. de Haan notes that Delegates agree to finally deleting the words "for approval" in the text of Article 11, para. 2 :

"The minutes will be submitted to the Conference".

Any Delegates wishing that amendments be made to the minutes will apply to the Secretariat.

Article 11, amended accordingly, is carried provisionally.

Article 12 is passed provisionally.

The Session is broken up at 12.00 noon with a view to enabling a meeting of the Drafting Committee for Article 9, and is resumed at 12.30 P.M.

Mr. de Haan calls upon Mr. van Gorkom to address the Meeting; Mr. van Gorkom points out that the following nations did not, as yet, hand in their credentials:

Belgium, The Holy See, United Arab Republic, Spain, Hungary, Austria, Denmark, Finland, Ireland, Italy, Luxemburg, Turkey, United Kingdom and United States of America, and he invites the Delegates of these nations to hand him the relevant documents.

The new text of Article 9 was distributed in French version, whilst the English version followed as the sitting progressed.

This text, as Mr. Magnin explains, was drawn up also in co-operation with Mr. Mathely (IAPIP). It implies the deletion of the two initial lines of Article 9, as full freedom of action must be left to the Chairman of the Commission and to the Commission itself.

The new text makes provision for the case of amendments being proposed in Plenary Session, these proposed amendments may, should the occasion arise, be referred back to the General Commission.

After adding at the end of this text the words "or to the Commission on Regulations" with a view to making allowance for a proposal put forward by Mr. de Haan, the new text is carried provisionally:

"In Plenary Session :

- " - voting will deal in first instance with any amendments to the proposal made by the Commissions as a whole.
- " - voting will deal next with the text of the Arrangement and the Regulations as a whole.
- " the Bureau can, should the occasion arise, refer the examination of an amendment back to the General Commission or to the Commission on Regulations."

Mr. de Haan thanks both the Drafting Committee, and Mr. Mathely.

The Agenda having been fully dealt with and no Delegate raising any further questions, the Chairman notes that nobody wishes to take the floor any further, and he commits the Delegates to the Opening Session of the Conference, which will be held on Tuesday, November 15th, 1960 at 11.00 A.M.

The Session is adjourned at 1.00 P.M.

Doc. The Hague  
No. 11 / E  
Date: 15-11-1960

Proposal submitted by the Delegations of Austria,  
Germany and Switzerland

ARTICLE 1

(1) The Contracting States constitute a Separate Union for the International Deposit of Industrial Designs.

(2) Only States members of the International Union for the Protection of Industrial Property may become party to this Arrangement.

Doc. The Hague  
No.12 / E  
Date: 15-11-1960

Proposal submitted by the Delegation of Austria

ARTICLE 1BIS

(Agreement)

Each Contracting State undertakes to provide for  
the protection of industrial designs.

Doc. The Hague

No. 13 / E

Date: 15-11-1960

Proposal submitted by the Delegations of France,  
The Netherlands, and the United States of America

ARTICLE 2

Agreement

Nationals of a Contracting State and persons who, without being nationals of a Contracting State, are domiciled or have a real and effective industrial or commercial establishment in a Contracting State, may deposit designs in the International Bureau for the Protection of Industrial Property.

Doc. The Hague  
No. 15 / E  
and Appendixes I-II-III  
Date: 15-11-1960

DIPLOMATIC CONFERENCE OF THE HAGUE

MINUTES OF THE OPENING SESSION ON TUESDAY, NOVEMBER 15th, 1960

His Excellency Dr. J.W.de Pous, Minister of Economic Affairs of the Netherlands, opens the Session at 11.00 A.M. and welcomes all Delegates. He delivers an address which is received with loud applause. The text of this speech is attached to these minutes (Appendix I). His Excellency stresses in particular the importance of Industrial Property to the World and to international trade. The real arms of competition are being forged in the field of industrial designs and models, and an adequate Regulation will provide manufacturers with such guarantees as will enable them to collect the full benefits of their labours. His Excellency gives expression to his wish and hope that the work achieved by this Conference may bear fruits, and that the revision of the Arrangement of The Hague, of 1925, may promote the development of international co-operation.

His Excellency Mr.de Pous, Minister of Economic Affairs of the Netherlands, then declares the Conference opened, and he enquires whether the Chairmanship is the subject of any proposals.

The Belgian Delegate suggests that His Excellency Dr.G.M.J.Veldkamp, Secretary of State and President of the Delegation representing the country providing accomodation and facilities to the Conference, be entrusted with the Chairmanship.

This proposal is received with unanimous applause by the Assembly.

His Excellency the Minister of Economic Affairs of the Netherlands thanks the Belgian Delegate and congratulates Dr.G.M.J.Veldkamp.

Dr.G.M.J.Veldkamp thanks His Excellency Dr.de Pous, Minister of Economic Affairs of the Netherlands; he also thanks both the Belgian Delegate and all Delegates attending for this appointment, which he gratefully accepts. He delivers an address to the Meeting, the text of this speech is attached to these minutes (Appendix II). Recalling the old saying "thoughts ignore borders", he pays tribute to all those who have assisted in preparing and drawing up the Arrangement of The Hague, of 1925. During the Conference held at Lisbon in October, 1958, proposals for the revision proved inadequate and were unable to remove the objections raised by a number of countries; in view of this, decision was made to convene a Conference to deal with this matter in the city where, in the same hall, the Arrangement of The Hague was signed in 1925.

In conjunction with the International Bureau, the Dutch Government convened, last year at The Hague, a meeting of experts who have prepared the proposals which will now be submitted to the Conference.

- 2 -

These proposals were the subject of remarks put forward by many Governments, and together these remarks form the three documents sent to the Delegates.

The proposed texts are fundamentally different from the former texts. The international deposit continues to have the effect of a direct deposit in each of the affiliated countries; the lines, however, on which this deposit is effected, were subjected to important modifications with regard to the following items :

- publication of the deposit;
- supersession of secret deposit by adjournment;
- the introduction of territorial limitation, although not included in the text of the proposals, nevertheless appears from the replies made by the Governments and by the I.A.P.I.P.

The Chairman hopes that the co-operation between Delegates may result in the achievement of the widest possible international deposit.

The Chairman then reads the telegram of condolences sent to Mrs. Arthur Fisher on behalf of all Delegates attending.

The Chairman thanks His Excellency Dr. de Pous, Minister of Economic Affairs of the Netherlands, for the words with which he opened this Conference, which the Minister finds himself constrained to leave, bound by the obligations of his Governmental office.

Dr. Veldkamp, Chairman, then calls upon the Vice-President of the International Bureau to address the Meeting.

Mr. Ch.L.Magnin, Vice-President of the International Bureau, delivers the address laid down in Appendix III.

The Chairman thanks Mr. Ch.L.Magnin and suggests that the Credentials Commission be formed as follows :

- |          |   |                                                                                                                   |
|----------|---|-------------------------------------------------------------------------------------------------------------------|
| Chairman | : | His Excellency Ambassador Giuseppe Talamo Atenolfi<br>Brancaccio, Marquess of Castelnuovo.                        |
| Members  | : | Mr. Labry (France)<br>Mr. Ibrahim (United Arab Republic)<br>Mr. Bennani (Morocco)<br>Mr. van Gorkom (Netherlands) |

This proposal is approved by unanimous applause.

The Chairman invites this Commission to meet forthwith, then leaves the chair.

The next Session will be held this afternoon at 15.00 P.M.

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Note: The English versions of the addresses will be available at a later date.

PROPOSALS COMMUNICATED BY THE UNITED ARAB GOVERNMENT  
COVERING THE REVISION OF THE ARRANGEMENT OF THE HAGUE  
FOR THE INTERNATIONAL DEPOSIT OF INDUSTRIAL DESIGNS  
OR MODELS OF 6<sup>th</sup> NOVEMBER 1925, AND REVISED AT LONDON  
ON 2nd JUNE 1934.

- I.-
- 1). The Delegation observes that there is an evident disproportion between the local industrial designs and models which benefits from the effects of International Registration and that the Industrial Designs and Models for which the International Registration secures protection in the Egyptian Region.  
  
The second amounts to 11.000 for the period beginning the adhesion of Egypt to the Convention up to the end of 1959 while the first amount to no more than eight.
  - 2). Egypt gets no fees for a protection of such a huge number.
  - 3). Industrial Designs and Models are protected automatically by mere deposit in the International Bureau for the protection of industrial property in Switzerland. This automatic protection would benefit even Industrial Designs and Models which are not all used in Egypt.
  - 4). In order to avoid such effects and anomalies, no Industrial Design or Industrial Model should be registered in Egypt as an International registration unless, the interested depositors would ask for it and unless he pays a fixed fee.

In other words, Egypt asks the adoption of the principle of "La limitation territoriale facultative", which means that the protection resulting from International Registration would only incumb on a country when the interested person asks for it, it will be necessary if such system is adopted that an additional fee would be collected from the depositor and divided among the countries which adopt such a system according to the agreement between such countries.

Egypt has already presented a proposal of this nature on the occasion of the revision of the Madrid Arrangement on International Registration of industrial and trade marks. The proposal had been accepted in the Conference held in Nice on 15 June 1957.

It is natural that such a useful regime already in force as regards the International Registration of trade and industrial trade marks should be equally adopted as regards registration of industrial designs and industrial models.



- II.- There is a necessary and compulsory need for coordination between the general rules relating to protection of industrial property and the special rules relating to the International deposit of International Designs or Models which renders necessary that parties to the special Convention should be also parties to the general one.
- III.- The number of twenty which has been limited by rule 2 of the draft regulations should be amplified and extended to a much bigger number to cover as much as fifty. Our national regulations on this subject for the execution of this convention limits the maximum to fifty.
- IV.- The draft Arrangement contains no rule relating to the right of the depositors to renounce at any time their deposit in whole or in part. While the actual arrangement of The Hague recognizes such right in its Article 13, we believe this rule is a necessary one and is in the interest of depositors. Therefore we consider that introduction in the draft Arrangement of a provision similar to Art. 13 is necessary.
- V.-
- 1). Section 4 of Article 4 of the draft which provides keeping secret the publication of Industrial Designs and Models for a period of six months so required by the depositor is a useful rule.
  - 2). Section 4 of Article 4 of the draft which authorizes the depositor to withdraw his deposit during a period of secrecy should entail that in this case, the inscription should be cancelled.
- VI.-
- 1). The word "Models" which figures both in the title as well as in the draft makes no reference to the nature of these models which can only be industrial. We suggest the addition of this word both in the title as well as wherever this word "Model" appears in the text of the draft for two reasons :  
First: The Paris Convention uses the word "Model" accompanied by Industrial. In this matter the situation has always been the same even when the Paris Convention was revised in the Lisbon Conference of 1958.  
Also the case as regards Arrangement of The Hague.  
Second: Confusion should be avoided between Industrial Models and utility models which have not\*provided for in the draft Arrangement. \* been
- VII.- It is necessary as regards Article 7 and 10 of the draft Arrangement that Article 10 of the Arrangement of The Hague should be reproduced in the draft. This provision prescribes the obligation of the International Bureau, for the protection of industrial property, to send a semi-official communication to the depositor, indicating the expiration of the period.  
This provision would be useful so far as it allows the interested person to ask for the renewal of the registration.

Doc. The Hague  
No. 17 / E  
Date: 15-11-1960

Proposal submitted by the Delegations of Switzerland  
and the United States of America

ARTICLE 3

(1) International deposit may be made in the International Bureau: (a) directly, or (b) through the intermediary of the national office of a Contracting State if the rules applicable in that State so permit.

(2) Any Contracting State may provide that international deposits, when made by national persons who are its nationals and are domiciled on its territory, or when made by legal entities incorporated in that State, shall have effect in its territory only if they have been made through the intermediary of its national Administration.

(3) International deposit shall consist of the application accompanied by one or more photographs or other graphic representations of the design and the fee prescribed by the Regulations. Within the limits established by the Regulations, the application may contain a description of the characteristics of the design. The applicant may also deposit, within the limits specified by the Regulations, copies or models of the article incorporating the design.

(4) Under the conditions and within the limits established in the Regulations, a single deposit may include several designs.

(5) If the applicant wishes to claim the priority provided for in Article 6, he shall do so in his application indicating the country, the date, and the number of the national deposit on which his claim is based. He may file with the International Bureau documents supporting his claim. If no supporting documents were filed or if those filed were found to be insufficient by the competent national Authorities of a Contracting State, the appropriate supporting documents may be later submitted to these Authorities.

Doc, The Hague  
No. 19 / E  
Date: 15-11-1960

PROPOSAL OF THE DELEGATION OF AUSTRIA RELATING TO THE TEXT  
OF THE AGREEMENT

NEW ARTICLE

(1) Any contracting country may, at any time, notify in writing to the Government . . . . that the protection resulting from an international deposit shall only extend to that country if the depositor expressly demands it.

(2) This notification shall take effect only six months after the date of the communication which shall be made by the Government . . . . to the other contracting countries. Nevertheless this period shall not be applicable to countries which have availed themselves, at the time of their ratification or adhesion, of the power given by paragraph (1).

ARTICLE 3.

(3) Supplementary provisions.

The designation of those countries referred to in Article . . . . where the depositor wishes to claim protection.

ARTICLE 12

f) The amount and the manner of payment for the supplementary fee which shall be required for each country which has availed itself of the provisions of Article . . . . where protection is claimed.

NEW ARTICLE

The sums arising from supplementary fees provided for in article 12 (f) shall be divided at the expiration of each year between the countries, parties to the present Act, in proportion to the number of designs for which protection has been applied in each of them during that year.

Doc. The Hague

Nr. 20 E

Date: 15 novembre 1960

PROPOSAL OF THE AUSTRIAN DELEGATION

ARRANGEMENT

Article 3

- (3).- The international legislation of any contracting State may require that national persons who are its nationals and are either domiciled or established on its territory, present their international deposits through the intermediary of its national Administration; it also may provide that international deposits, when made in opposition to this rule, shall have no effects in its territory.

The fact that an international deposit is made in opposition to this rule does not affect the protection of the design in the other countries.

PROPOSAL SUBMITTED BY THE DELEGATION OF THE NETHERLANDS

ARRANGEMENT

Article 4

- 1.- The International Bureau shall maintain the International Design Register and shall register the deposits therein.
- 2.- The international deposit shall be considered as having been made on the date on which the International Bureau received the application in due form, the fee, and the photograph or photographs or other graphic representations of the design; and if the International Bureau received them on different dates, the last of these dates. The registration shall bear the same date.
- 3.- The International Bureau shall, as provided by the Regulations, publish in a periodical gazette all necessary information concerning registered deposits. Such publication shall include: reproductions of the photographs or other graphic representations; any description of the design; indication of the country; the date and the number of the national deposit on which the priority claim, if any, is based, as well as a reference to supporting documents if such were filed. The reproductions will be printed in black and white, unless the applicant requests reproduction in colour.
- 4a.- On request of the applicant, the International Bureau shall defer publication for the period requested by the applicant. This period may not exceed six months from the date of the deposit. Any time during this period, the applicant may renounce the deposit or ask for publication.
- 4b.- Until the expiration of the said period, the International Bureau shall keep in confidence the registration of deposits made subject to a request of deferred publication, and the public shall have no access to any documents and objects concerning such deposits. These provisions apply without limitation in time, if the applicant has renounced the deposit before the expiration of the said period.
- 5.- Except as provided in paragraph (4) above, the Register and all documents and objects filed with the International Bureau shall be open to inspection by the public.

Doc. The Hague  
No. 22 / E  
Date: 15-11-1960

PROPOSAL SUBMITTED BY THE DELEGATIONS OF FRANCE AND SWITZERLAND

ARRANGEMENT

Article 5

- (1) (a) - Deposits registered in the International Bureau shall have the same effects in each of the Contracting States as if all the formalities required by the domestic law for the obtention of protection had been complied with by the applicant and as if all administrative acts required to this end had been accomplished by the Administration of such State.
- (b) Subject to the provisions of Article 10, the protection of designs the deposit of which has been registered in the International Bureau is governed in each contracting State by the provisions of the national Law - except the provisions concerning the formalities and acts referred to in subparagraph (a) above - which are applicable in that State to designs the protection of which has been claimed on the basis of a national deposit and concerning which the said formalities and acts have been complied with and accomplished.

Doc. The Hague  
No. 23 / E  
Date: 15-11-1960

PROPOSAL SUBMITTED BY THE DELEGATION OF THE UNITED STATES

ARRANGEMENT

Article 5

(2) (a) In a Contracting State the domestic law of which calls for preliminary administrative examination for novelty, registered deposit with the International Bureau shall, subject to the provisions of the present paragraph, have the effects provided for in paragraph (1) if the applicant:

1. expressly requests in his application that the international deposit be effective in such State,
2. pays the supplementary fee, if any, prescribed by such State within the limits provided for in the Regulations.

(b) If the national office of the designated State notifies, within six months, the International Bureau that the design does not meet the requirements of its domestic law, the effectiveness in that State of the international deposit will depend on the decision of the competent national authorities against which recourse is not or is no longer possible.

(c) If the national office of the designated State does not notify, within six months, the International Bureau that the design does not meet the requirements of its domestic law, the international deposit will become effective, in that State, upon the expiration of the six months or on such earlier date which the national law of that State may designate.

(d) The six months referred to in subparagraphs (b) and (c) shall be computed from the date on which the national office received the issue of the Gazette in which the registration has been published. The national office shall communicate this date on request.

(e) The decision of the national office referred to in subparagraph (b) above shall be subject to request of reconsideration



or appeal, the notification of such decision shall indicate

1. the reasons for which it was found that the design did not meet the requirements of the domestic law,
2. the date referred to in subparagraph (d),
3. the time allowed for a request for reconsideration or appeal,
4. the authority to which such request or appeal may be addressed.

(f) Any Contracting State the domestic law of which calls for preliminary administrative examination for novelty shall notify this fact to the International Bureau prior to the date of the coming into force of the Arrangement in that State if preliminary administrative examination for novelty is introduced or abolished by the law of Contracting State after the coming into force of this Arrangement in that State, it shall notify this change to the International Bureau prior to its effective date.

(g) If a Contracting State has several statutes on the protection of designs, the provisions of the present paragraph (2) shall apply only to the statute calling for preliminary administrative examination for novelty.

Doc. The Hague  
No. 24 / E  
Date: 15-11-1960

PROPOSAL SUBMITTED BY THE DELEGATIONS OF FRANCE AND SWITZERLAND

ARRANGEMENT

Article 5

(3) Any Contracting State may provide by its domestic law that international deposits made by a natural person domiciled in or a legal entity incorporated in that State shall have no effect therein.

Doc. The Hague

No. 25 / E

Date: 15-11-1960

PROPOSAL SUBMITTED BY THE DELEGATIONS OF FRANCE AND GERMANY

ARRANGEMENT

Article 8

(1) The owner of an international deposit may transfer his rights for all or only some of the Contracting States and, in the case of a multiple deposit, for only some of the designs included in the deposit.

(2) Under the conditions specified in the Regulations, the International Bureau shall record and publish changes affecting the ownership of a design concerning which an international deposit is in effect it shall do likewise in the case of the granting of exclusive licenses concerning such deposits.

(3) The effects of such recording shall be the same as if it had been made in the national offices of the Contracting States, provided that the formalities other than recording, as well as the substantive conditions, of the national law have been complied with.

Doc. The Hague  
No. 26 / E  
Date: 15-11-1960

PROPOSITION SUBMITTED BY THE DELEGATIONS OF FRANCE, GERMANY  
AND THE NETHERLANDS

ARRANGEMENT

Article 8 bis

(1) The owner of an international deposit may, by means of a declaration addressed to the International Bureau, renounce his rights for all or only some of the Contracting States and, in the case of a multiple deposit, for only some of the designs covered by the deposit.

(2) Under the conditions specified in the Regulations, the International Bureau shall record and publish such declaration.

Doc. The Hague  
No. 27 / E  
Date: 15-11-1960

PROPOSAL SUBMITTED BY THE DELEGATIONS OF THE NETHERLANDS  
AND SWITZERLAND

ARRANGEMENT

Article 9

- (1) (No change)
- (2) (No change)
- (3) The international design notice shall consist of the symbol (D) accompanied by
  - a) the year, date of the international deposit and the name or usual abbreviation of the name of the depositor;
  - b) the number of the international deposit.

Doc. The Hague  
No. 28 / E  
Date: 15-11-1960

PROPOSAL SUBMITTED BY THE DELEGATION OF THE UNITED STATES

ARRANGEMENT

Article 10

(1) The term of protection granted by a Contracting State to international deposited designs shall not be less than:

- (a) ten years from the date on which the international deposit becomes effective according to Article 5, paragraphs (1) and (2) if, during the fifth year following the date of the international deposit, renewal has been applied for in the International Bureau;
- (b) five years from the first of these dates, if no renewal has been applied for.

(2) Notwithstanding the provisions of Article 5, paragraph 1 (b), any Contracting State may, by its domestic law, reduce the term of the protection of internationally deposited designs to the minimum terms provided for in paragraph (1) above.

PROPOSAL OF THE DELEGATIONS OF FRANCE, THE NETHERLANDS  
AND SWITZERLAND

ARRANGEMENT

ARTICLE 11

(1) There is hereby established an International Design Committee consisting of representatives of all the Contracting States.

(2) The Committee shall have the following duties and powers:

- a) To establish its own rules of procedure;
- b) To amend the Regulations by a majority of four fifths of its members present and voting;
- c) To study questions concerning the application and possible revision of the present Arrangement;
- d) To give advice on other questions concerning the international protection of designs;
- e) To approve the yearly administrative reports of the International Bureau and to give general directives to the Bureau concerning the discharge of the duties entrusted to it by virtue of this Arrangement;
- f) To draw up a report on the foreseeable expenditure of the International Bureau for each three-year period to come.

(3) Subject to paragraph 2 (b) above, the decisions of the Committee shall be taken by a majority of its members present and voting. Abstentions shall not be considered as votes.

(4) The Committee shall be convened once every three years by the Director of the International Bureau with the approval of the Government of the Swiss Confederation or upon request of one third of the Contracting States. If necessary, it may be convened between the triennial meetings by either the Director of the International Bureau or the Government of the Swiss Confederation.

(5) The travel expenses and per diems of the members of the Committee shall be borne by their respective Governments.



Doc. The Hague  
Nr. 30 E  
Date: 15 nov. 1960

PROPOSAL OF THE DELEGATIONS OF FRANCE - THE NETHERLANDS AND  
GERMANY

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ARRANGEMENT

Article 13-bis

- (1) The fees to be collected by the International Bureau for the services rendered under this Arrangement shall be so established that:
  - a) They cover all the expenses necessitated by the International Design Service and all the expenses of the International Bureau necessitated by the preparation and holding of meetings of the International Design Committee or conferences for revisions of the present Arrangement;
  - b) They allow the constitution and maintaining of a reserve fund the amount of which is fixed by the Regulations;
  - c) They allow the repayment of any loans granted under paragraph (2) of this Article.
  
- (2) If at the end of any budgetary year there is a deficit which cannot be covered by the reserve fund, the Contracting States shall grant an interest-free loan to cover the deficit of that year. This loan cannot exceed the amount of 200.000 Swiss Francs per year. The share of the total loan which shall be made available by each Contracting State shall be in proportion to the number of international deposits originating in that State in the year the deficit occurred. The loan shall be repaid from the surplusses of future receipts.

DIPLOMATIC CONFERENCE AT THE HAGUE

MINUTES OF THE PLENARY SESSION OF THE CONFERENCE OF TUESDAY,  
NOVEMBER 15th, 1960, AT 15.00 P.M.

Dr Veldkamp, Chairman, opens the session at 15.10 P.M.

1. The regulations of the Conference are carried unanimously.
2. Nominations under Article 2 of the Regulations of the Conference.

On the proposal of the Chairman the following nominations are unanimously approved :

Bureau of the Conference

Chairman : His Excellency Dr J.M.J. Veldkamp,  
Secretary of State

Vice-Chairman: Mr Federico (United States of America)

Mr Grant (United Kingdom)

Mr Mazarambroz ( Spain )

Mr Merf (Switzerland)

His Excellency G. Talamo Atenolfi Brancaccio  
(Italy)

Professor Ulmer (Germany, Federal Republic)

Rapporteur-General : Mr Finniss (France)

Secretary-General : Mr Magnin (International Bureau)

Deputy Secretary-  
General : Mr van Weel (Patent Office,  
Octrooiraad)

Secretary : Mr Lamb (International Bureau)

Bureau of the General Commission:

Chairman : Mr de Haan  
 Vice-Chairmen : Prof. Roscioni (Italy)  
                   Mr Ayiter (Turkey)  
                   Mr Simek (Czechoslovakia)  
 Rapporteur : Mr Coppieters de Gibson (Belgium)

Bureau of the Commission on Regulations :

Chairman : Mr Morf (Switzerland)  
 Vice-Chairmen : Prof. Ljungman (Sweden)  
                   Mr Mortimer (Ireland)  
                   Mr Sasdi (Hungary)  
 Rapporteur : Mr Phaf (Netherlands)

Subcommittee on Finance :

Mr Hoffmann (Luxemburg)  
 Mrs Olsen (Denmark)  
 Mr Pochon (Switzerland)

Drafting Committee :

Chairman : Mr Ulmer (Federal Republic of Germany)  
 Vice-Chairmen : Mr Bogsch (United States of America)  
                   Mr Labry (France)  
 Members : Mr van der Haegen (Belgium)  
                   Mr Lorenz (Austria)  
                   Mr Wallace (United Kingdom)

3. The Agenda of the Conference is carried unanimously.

4. First session of the General Commission.

The session is opened by Mr de Haan, Chairman.

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Mr. Finniss, Rapporteur, speaks as head of the French Delegation. He thanks both the Dutch Government for bringing together the Committee of Experts, and the Conference for the revision of The Hague Arrangement, which is to make possible, through an alteration of the fundamental principles, the participation of countries such as Italy and the United States.

It is on the means best suited to carry into effect this proposal that the reaction of the French is more precise. The present Arrangement is not a success but in one respect it is beneficial : it does not alter the very generous French conception of protection (50 years post-mortem for literary and artistic property).

The Draft Arrangement does not imply any alteration of these conceptions, but the French are concerned about the philosophy on protection which, in three respects, is different from theirs :

Publication - Preliminary Investigation - Presentation

An effort should be made with a view to enabling the Scandinavian countries, United Kingdom and the United States to join the Arrangement, but it is impossible to discuss these matters with invisible partners; they should be genuinely willing to co-operate. The enforcement of the amended Arrangement should be subordinated to these States entering into the Convention.

The Chairman thanks Mr Finniss and agrees to the idea that mutual understanding in a spirit of compromise should be achieved.

The Chairman invites Delegates to bring forward any remarks of general character.

Mr Lorenz (Austria)

Prior to starting the proceedings Article by Article, the fundamental principles should be discussed, particularly the matter of territorial limitation and the financial consequences involved, especially for those countries which do not practise the preliminary investigation.

The Yugoslav Delegate declares himself in agreement with the Austrian Delegate on the principle of territorial limitation.

Mr Bogsch (United States) demands that a proposal in writing be brought forward. He is supported by Mr Ljungman (Sweden)

In reply, Mr Lorenz states that the introduction of this principle cannot be restricted to one single Article, and he refers, by way of example, to the Madrid Arrangement, revised at Nice and including several Articles (5b & 8) dealing with both the territorial limitation and the extra fee.

Mr Bogsch suggests that the debates be opened by discussing the initial Articles of the Draft Arrangement, and that the Austrian proposal be postponed until to-morrow.

This proposal is carried.

#### Examination of Articles 1, 2 & 3 of the Draft Arrangement

Prior to examining Article 1, the British Delegate suggests that the introduction of a preamble be considered, in accordance with his Government's remarks published on page 9 of the 2<sup>nd</sup> volume containing the documents of the Conference.

Subject to a final wording of the text, the French, German, and Italian Delegates declare themselves in agreement with the British Delegate. The Chairman notes that this principle is accepted, and he refers the matter to the Drafting Committee.

Mr Magnin raises the issue of the Arrangement's title.

The Conference agrees on the addition of the word "industrial" which is to follow the words "designs or models". The question whether either one of the words "deposit" or "registration" should be used will be allowed to stand over and will be taken on again as and when the Articles of the Arrangement will have been fully discussed.

The Chairman then proceeds to the examination of Article I (Document 11 F).

Mr Phaf (Netherlands) suggests that, in accordance with the General Union Convention, the word "Country" be substituted to the word "State".

Mr Labry (France) raises the juridical point of view, and he declares himself in favour of maintaining the status quo.

The Conference agrees to this view and approves Article I in the wording as suggested by the German, Swiss, and Austrian Delegations (Doc. 11 F).

EXAMINATION OF ARTICLE 1 a AS PROPOSED BY AUSTRIA(Doc. 12 F)

Mr Lorenz (Austria) points out that Article 5d of the General Union Convention does not overlap this particular Article 1a, since on the one hand the countries having joined the Arrangement of The Hague might not be bound by the text as drawn up at Lisbon, whilst on the other hand Article 5d contains a simple schedule of legislation, even though it appears necessary to formulate in Article 1a an obligation to legislate.

The Turkish Delegate points out that Article 16, para. 2 of the Draft Arrangement gives expression to the same idea, and he suggests that the discussion of Article 1a be deferred until later, i.e. when Article 16 will be brought up for discussion.

This proposal is carried by the Conference after having been approved unanimously.

EXAMINATION OF ARTICLE 2 (Proposal by the United States, France and the Netherlands) (Doc. 13 F).

After a short break, the Chairman collects various remarks brought forward by Delegates with regard to this Article.

Mr Morf (Switzerland) suggests that the word "deposit" be used exclusively, since Registration is a formality which follows the Deposit, as was also remarked by the US Delegate.

Article 2, thus modified, is carried unanimously.

EXAMINATION OF ARTICLE 3 (Proposed by the Delegations of the  
United States of America and Switzerland) (Doc. 17/F)

Mr. Grant (United Kingdom) suggests that definitions be formulated with regard to this Article, and he requests that this remark be mentioned in the minutes. The Chairman entrusts the Drafting Committee with the task of considering this matter.

Mr. Finnis stresses the necessity of avoiding that one specific word, such as the word "deposit", might be used to different effects.

Para. 1 : carried unanimously.

Para. 2 : Mr. Morf (Switzerland) explains that this new version meets a dual concern :

Cancelling of the word "jurisdiction", used in the text of the Draft Arrangement against which objections were raised, by France among others; replacement of the expression "may require", found too rigid, subject to specifying that the non-observance of the requirement that applications for international registration shall be presented through the intermediary of the national Administration shall not affect the protection in other countries.

On the contrary, Mr. Lorent (Austria) wishes that the original texte be restored to read as follows: "the domestic law of any Contracting State may require that national persons who are its nationals and are either domiciled or established on its territory, or legal entities registered in its territory, present their application for international registration through the intermediary of their national Administration. The infringement of this rule does not affect the protection in other countries".

The delegates of the United States and the United Kingdom have pointed out that the States possess the competence required to act thus.

Mr. Lorenz proposes to draft a new text, which he will submit to the Conference tomorrow.

- 7 -

Mr. Bodenhausen (Netherlands) asks the Austrian Delegate to take into account the meaning of the word "siège", which may be understood in the sense of "Statutory Head Office, Main Head Office, Juridical Head Office, etc."

Mr. Boutet (France) expresses his opinion that there cannot be any question of its meaning anything else by "Registered office".

Mr. van Repingen's (Belgium) suggestion that the expression "un siège" (a registered office) be used is rejected by the Chairman as being too dangerous, in view of the fact that the big companies often have Head Offices in different countries.

The discussion on para. 2 is deferred to tomorrow.

Para. 3 Mr. Finniss expresses his opinion that the provisions of para. 3 would be placed more appropriately in the Regulations and suggests that para.3 be limited to the following formulation : "The international deposit implies an application made in accordance with the Regulations", the rest being referred back to the Regulations.

Mr. Bogsch (United States) thinks Mr. Finniss is probably right and that part of para. 3 might be incorporated in Article 12, as a matter to be provided for by the Regulations.

The Delegate of the United Kingdom points out that some countries might require a description, however succinct, of the particulars of the object deposited for whose protection an application has been made.

Mr. de Cortina (Spain) emphasizes that in Spain the deposit of a description is compulsory, and that if the international Deposit should not require such a description as well, this would be in contradiction to the provisions of the Arrangement.

Mr. Morf (Switzerland) considers it necessary that the text of the Arrangement itself should stipulate, not only the fees, but also all the formalities required for a deposit.

Mr. Finniss (France) makes the remark that para.3 consists of two parts; the first containing a fundamental provision, "The international deposit shall include an application accompanied by one or more photographs of any other graphic representation of the design or model as well as the fee provided for by the Regulations for carrying out the Arrangement",

the second provision merely contains a number of optional



conditions, since in it the phrase "the application may contain" is used. It would therefore be advisable to say:

"The Regulations for carrying out the Arrangement shall determine the details for implementing the present Arrangement and in particular... " (second part of para.3).

The United States delegate agrees on condition that certain essential provisions shall remain in para.3, such as the possibility of attaching designs and models. He adds that the written description is superfluous when it confines itself to referring to the design.

Mr. de Cortina (Spain) suggests that a para. be added specifying that such a description shall be compulsory for those countries that require it by their national laws.

The Chairman points out that the present Arrangement does not require the deposit to be accompanied by a description, and that even though being a party to the Arrangement of The Hague, Spain has hitherto never made any objections.

The Spanish Delegate requests that the matter be reconsidered and suggests that the matter be deferred till tomorrow.

Para.4 :

At the suggestion of Mr. Bogsch that the question as to whether Article 12 ought to be referred to the Regulations, be resumed, the matter is submitted to the Drafting Committee.

Para.5 :

Mr. Morf (Switzerland) explains that the difference in the text of the draft revision consists in the specific stipulation that in case of the omission of documents the applicant shall be allowed to produce them at the time when his case is dealt with in Court.

Mr. Hoffmann (Luxemburg) requests that a term should be fixed within which such documents shall be produced in case the Administration requires them to be produced.

Mr. de Haan specifies that the text provides for the case of a lawsuit in which no such term is fixed.

The Italian Delegate states that he agrees that a minimum term should be provided and requests that more precise details should be presented on the meaning of the phrase "appropriate documents in proof".

The Yugoslav Delegate calls attention to the observations formulated by France (p. 17 - Second Volume of the Documents of the Conference) and he points out that the wording of para. 5 (doc. 17/F) differs from the wording of Article 4 D para. 3 of the Convention of the Union : "the countries of the Union may require ...". He suggests that this discussion be deferred till tomorrow.

Mr. Labry (France) suggests that the text of this paragraph be redrafted in full agreement with the text of the Arrangement at the end of para. 5. It would suffice to replace the last few words by the following : "the appropriate documents in proof may eventually be required by these Authorities".

Mr. Finniss remarks that the following stipulation could be added to para. 5, on condition that the first two lines of para. 5 be retained : "if the applicant should wish to claim the priority right provided by Article 6, he shall do so in his application while indicating the country."

The Chairman points out that in fact para.5 supplies the answer to two points of concern: on the one hand the applicant who wishes to claim a priority in his application has to do so, on the other hand an applicant who has put forward a priority claim in his application may prove it, whatever the circumstances, by means of the documents provided for even if these documents have not been attached to the deposit.

Mr. Magnin supports Mr. Labry's suggestion that the last sentence of the paragraph, be amended. He confirms that thus there would be complete agreement between this paragraph and Article 4 of the Convention.

Mr. Labry considers that if it desired to provide for the possibility of depositing the documents in Court, which possibility does not exist in the Convention of the Union, it ought to be clearly stated.

- 10 -

Mr. Coppieters de Gibson (Belgium) asks if a mere reference to Article 4 of the Union Convention is not to be preferred.

Mr. Finniss observes that one should express one's wishes clearly :

- to concede to the National or International Administration the right to require a document
- to concede to the applicant a right to produce a document completing the file in Court.

The Chairman proposes that the discussion of Article 3 be resumed tomorrow morning and ajourns the session at 18.15 hrs.

Doc. The Hague  
Nr, 32 E.  
Date: 16th nov. 1960

DRAFT ARRANGEMENT

PROPOSAL SUBMITTED BY THE DELEGATION OF MOROCCO

ARTICLE 4

On the request of the depositor, the International Bureau shall defer publication for the period requested by the depositor. This period may not exceed twelve months from the date of reception of the application for registration by the International Bureau. At any time during this twelve-month period, the depositor may either renounce his application for registration or ask for publication.

Doc. The Hague

No 33 / E

Date : 16-11-1960

Observations concerning the draft of the new Arrangement  
presented by the Kingdom of Morocco

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- Article 4 : publication : the postponement of publication referred to is necessary. Moreover, the 6-Month period of deferred publication indicated would seem to be too short. The advisability could be argued of extending this period to 12 months.
- Article 5 : One might, it seems, take example from the provisions made by the Arrangement of Madrid for the international registration of trade marks at the time of its revision at Nice, as regards the principle of the optional territorial limitation of registration, if, in the course of the Conférence a majority decides to approve such an option.
- Article 6 : It would be a good thing to provide for the case of first deposits effected in a Unionist country that is not a Member of the Arrangement.
- Article 9 : Restrictions with regard to paragraphs 2 and 3 : It seems unnecessary to attach a notice to the Article to be protected. This ought to remain optional.
- Article 10 : It might be advisable to follow the suggestion of IAPIP, in retaining the provisions of the present Arrangement (Art. 10) to the effect that the International Bureau shall give the applicants unofficial notice of the lapse of their deposits.  
No other observations.

Article 12 : See the Regulations for carrying out the Arrangement-  
express reservations are made with reference to the  
provision made under the letter e , concerning  
supplementary fees collected in the event of an  
examination referred to in Article 5, para.3

Article 22 - Protocol : Approval of this draft Protocol  
containing supplementary provisions, especially  
on the term of protection. The text drafted by the  
Conference of Experts seems satisfactory.

Draft Revision of the Regulations for Implementing the  
Arrangement of The Hague

Rule 6 : Fees :

The fees provided for in the Draft Regulations imple-  
menting the Arrangement seem too high in comparison to the  
present fees; they ought to be **strictely limited**  
in order to allow the number of beneficiaries under the Arran-  
gement to increase.

In fact, it is to be hoped that the costs of internatio-  
nal registration will be fixed at a reasonable rate so that  
interested industries should have easier access to international  
protection.

Rule 9 : National examination for novelty :

Express reservations are made with reference to the  
collection of special supplementary fees on behalf of the  
States whose Administrations hold such preliminary examinations  
for novelty.

Doc. The Hague

No 36/E

Date: 16-11-1960

C O R R E C T I O N T O

Document 20/E

(Article 3)

First line : The word "international" should read "national"

Conference of The Hague

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Doc. Nr. 37 E

Date: Nov. 17th, 1960

Original French

MINUTES OF THE MORNING SESSION OF WEDNESDAY 16th NOVEMBER 1960 (10.00 h.)

1.- Mr de Haan, Chairman, opens the second session of the General Commission; he reminds the Commission of the fact that Articles 1, 2, and 3 para. 1 of the draft Arrangement have been approved, and he proposes to resume the discussion of Article 3, taking into consideration the first suggestion made by the Austrian delegation concerning para. 2 (doc. 20 F.)

Next the second Austrian suggestion regarding the principle of the "Territorial limitation" and its consequences (Doc. 19 F) may be examined.

Mr Finniss, rapporteur général wishes first of all to call the attention of the delegates to a problem of a general nature, viz. the protection of the typographical type<sup>face</sup>. A Committee of Experts comprising officials and private individuals of eight different countries has met at Geneva convened by the Director of the International Bureau, and has drawn up a report that has been distributed to the Delegates to the present Conference. The problem is to ascertain whether or not the protection of typographical type face will necessitate the drafting of a special Convention. Mr Finniss simply requests the delegates to appoint the time when this matter can be considered.

The Chairman thanks Mr Finniss for his intervention; he invites the typographers to express their wishes, saying he thinks the International Bureau might consider a special meeting; however, the object of the present Conference is to find ways of satisfying all manufacturers and not particular type of industry.

The program of the Conference is a very full one and the time available is limited. However, Mr de Haan might be able to find a few minutes, he or Mr Morf, Chairman of the Regulations Committee, for an exchange of views on this problem. Mr de Haan then suggests that the discussion on Article 3 of the Draft Arrangement, and in particular the Austrian suggestion with regard to para. 2, be continued.



2.- Mr. Labry (France) raises no objections as to the main issue, but he thinks that the new wording does not adduce any alteration, and in view of this he requests the Austrian Delegates to state more explicitly the reason why they prefer this wording rather than that of Document 17 F.

Mr. Lorenz (Austria) considers that the text as proposed by the Delegations of the United States and Switzerland did neither specify with sufficient accuracy which persons are constrained to use the intermediary of the national Administration for their international deposits, nor did it fix the consequences of the non-observation of this rule, both in the country of origin and in the other countries. Moreover, it did not make any provision for the Contracting States to claim this return to the national Administration. The Austrian Delegate, however, declares himself willing to accept any proposal brought forward by the Drafting Committee.

In addition, he gives expression to the wish that the French Delegation may state more explicitly its remark regarding the head office of the legal entities; actually, he feels that this term is of a somewhat ambiguous character, which he therefore proposes to supersede by the term "registered office".

Professor Ulmer (Germany) considers that this amendment does not alter the very juridical substance of the term, but that it is rather a matter "of optics".

Mr. Labry (France) declares himself in agreement with Professor Ulmer. The French Delegation considers that no ambiguity whatever is possible, as a Company can have only one head office, e.g. an Austrian Law School at Vienna has to register in Austrian territory. The term "head office" should not be mistaken for the term "domicile"; even the word "registered" would be superfluous.

Mr. Phaf (Pays-Bas) points out that in the third line of Doc. 17 F, the term "or domicile" does not appear, and this is likely to create confusions. Accordingly, he proposes that the term "or domicile" be deleted.

Mr. Lorenz (Austria) makes it clear that the term "or domicile" applies to national persons only. It is intended to constrain Austrian nationals, having i.e. both their residence and an established Company in France whilst running also a Company in Austria, to effect their deposits through the intermediary of the Austrian Administration. Since this provision does not affect the protection in the other countries, it bears no effects whatever from an international point of view. Hence, the Austrian Delegate feels that the retaining of this expression should not give rise to any particular difficulties.

Mr. Morf (Switzerland) states that the Swiss Delegation, in its capacity of joint author of Doc. 17 F, agrees with the Austrian Delegation on the new wording of Article 3, para. 2, provided that in the 6th line the term " of its national Administrations" be superseded by the term "of its national Administration".

Paragraph 2 of Article 3 (in the wording as proposed by the Austrian Delegation) is carried unanimously.

DISCUSSION OF ARTICLE 3, PARAGRAPH 3.

The first sentence is carried unanimously.

Second sentence. The Chairman reminds the Meeting of the proposal brought forward by the Rapporteur-Général, implying that all rights of option of the depositor be referred back to the Implementing Regulations. He also recalls the intervention of the Spanish Delegation, requesting that the deposit of a description be made compulsory.

Mr. Bogsch (United States) considers it difficult and even impossible to accept the Spanish proposal. If it were to be made compulsory to attach the description to the application, it would be necessary to comply with the requirements of all the national legislation on this subject (e.g. in the United States the description is only an explanation of the design), which would inevitably create difficulties on the international level.

Mr. Labry (France) declares himself to be in agreement with the American delegate. As for Mr. Finniss's suggestion it seems preferable to him to retain these stipulations in the Arrangement, for

the Regulations cannot impose limitations on the rights of the depositors. For this reason he declares himself in favour of retaining the text as it is.

Prof. Ulmer (Germany) declares himself in agreement with the preceding opinion and proposes the following compromise:

Second sentence, para. 3 Article 3, strike out the words

"within the limits established by the Regulations"

Then a provision fixing the length of the description, for instance, might be incorporated in Article 12.

The President points out that if in the Regulations an option to deposit a description is granted, it will also be necessary to define exactly what limits are set to such option in the Regulations.

Mr. Morf (Switzerland) considers it preferable to retain the reference to the Implementing Regulations in Article 3, in the interest of the depositor himself who is liable to be unaware of this Article 12 which limits his right of option.

Mr. Finnis (France) cautions the participants that they should not complicate the debate by adding to many details, and that in the text of a Convention one should confine oneself to essentials.

This opinion is supported by the German delegation.

The Yugoslav delegate calls the attention of the Commission to the fact that the Yugoslav legislation on designs and models provides that a description containing the essential characteristics of the design or model deposited is compulsory. For this reason he declares himself in favour of making it compulsory to file a description accompanying the international deposit, which standpoint is in line with the standpoint of the Spanish delegation.

Mr. de Haan emphasizes the fundamental difference existing between the Spanish and Yugoslav conception on the one hand and the one held by the other delegates, which does not admit of the necessity of any necessity of a compulsory description. The essential problem being to make provision for a publication permitting the public to acquaint

itself with the characteristics of the design or model, it is only in the event the design or model should prove to have been inadequately represented that the applicant would, in his own interest, have to produce a description.

Mr. de Cortina (Spain) wishes the text would provide for a compulsory description in those countries whose national laws require such a description to be deposited, such as Spain.

Establishing a difference of opinion as to the very substance of the matter, Dr. de Haan finally proposes that a sub-commission, including the Delegations having challenged the proposals (Spain, Yugoslavia, Germany, United States and France) be set up to find a solution and to draft a text.

This proposal is carried.

Mr. Phaf, seconded by Messrs. Ulmer, Labry and de Haan, makes an additional remark on the new Article. Should not the Drafting Committee be requested to provide for a definition of the object to be protected, to be included in the text.

Mr. Magnin then points out that this is rather a question of substance than one of form.

Mr. Bodenhausen confirms that, in his opinion, this matter of introducing a definition of the object to be protected, is more important than its description. For instance, it has to be made clear whether the object in question is a real motorcar or a toy model.

The Delegates of the United States, Germany and the Netherlands consider that, in their opinion, Article 12 adequately settles the matter which, to them, appears to be an administrative one.

Mr. Labry states that he does not agree. Mr. de Cortina (Spain) supports Mr. Labry's point of view. In his opinion, it is a matter of substance.

The Chairman then asks : does the Commission agree that the definition of the object be incorporated in Article 3.

Mr. Coppieters de Gibson agrees to this insertion, and the sub-commission just created is then entrusted with the task of drafting the text.

Professor Roscioni (Italy) then intervenes to state that he also advocates the incorporation of the definition in Article 3, and that the statement authorising the deposit of models should be left to the Regulations.

Mr. Finniss (France) feels that all these detailed rights of option (models, descriptions, etc.) burden down the text of the Convention.

Finally, the Chairman brings this discussion to an end, pending the proposals of the sub-commission.

DISCUSSION OF ARTICLE 3 , PARAGRAPH 4.

The Chairman points out that this special provision, which is also a right of option offered the depositor, although fitting in the Regulations from the juridical point of view, is perhaps more expedient in this Article 3.

Professor Ulmer (Germany) approves this view, for this is a matter of factual right for the depositor, and it should therefore be inserted in the text of the Arrangement itself.

After having cautioned against the danger of rights of option being converted into obligations in the Regulations, Mr. Finniss declares himself in favour of retaining para.4.

This retaining is carried unanimously.

The Yugoslav Delegate, although giving expression to the same view, wishes the number of deposits and models (Article 2 of the Regulations) also to be fixed in this Article 3.

On the advice of Mr de Haan, the deferment of the examination of this matter until after fixation of the number itself of these deposits, is accepted.

DISCUSSION OF ARTICLE 3, PARAGRAPH 5.

The Chairman establishes that the second sentence "he may file ....." is yet another right of option which could appear in the Regulations, and that, if so, the third sentence would be superfluous.

The French, United States and German Delegations declare themselves in favour of this opinion.

The Yugoslav Delegate gives expression to the wish that a reference be added to Article 4 D, para. 3, of the General Union Convention.

The Chairman, backed by Mr. Labry (France) points out that this reference to the General Convention is implied in all cases.

The Yugoslav Delegate agrees to the deletion of the two last sentences of Para. 5, although he gives expression to the wish that, even in the text of the Regulations, the wording of the ultimate sentence "the documents in proof ..." be amended to read: "the documents ..... can be required by these Authorities".

Paragraph 5 of Article 3, thus reduced to the sole initial sentence "if the applicant ....." is carried unanimously.

DISCUSSION OF THE PROPOSAL BROUGHT FORWARD BY THE AUSTRIAN DELEGATION RELATING TO THE PRINCIPLE OF TERRITORIAL LIMITATION AND ITS CONSEQUENCES (Doc. 19/F).

After having accurately defined the substance of the Austrian proposal, Mr. Lorenz (Austria) establishes the need of coming first and foremost to a conclusion as to the principle itself of the territorial limitation, which is not contained in the Draft Arrangement.

Mr. Finniss draws the attention of the Meeting to the danger of complete assimilation with regard to trade marks, when adopting this principle. As a matter of fact, the depositor runs a considerable risk of finding his design or model published

and not protected in one country or another, and France is not at all in favour of territorial limitation.

Mr. Ulmer (Germany) declares himself entirely in agreement with the French point of view. In this connection, he adds that the international deposit does not restrict the freedom of creation, but on the contrary, the freedom of making either copies or imitations, in a nutshell : of theft.

Certain countries, such as for example, Germany, being against claiming extrafees although they may be induced to do so, the financial implications of the principle of territorial limitation are liable to create additional difficulties originated by the nationals of the countries where such extra fees are actually being exacted..

The Delegations of the United States of America and Switzerland approve the German point of view.

Mr. Federico (United States) adds that, if the territorial limitation were carried, the depositor should, per force, be made to choose the States in which he wishes to be protected in his initial application, without having the possibility of extending subsequently this protection, at his own discretion, to other countries.

Mr. Hoffmann (Luxemburg) declares himself, on the contrary, in favour of the principle of territorial limitation without however putting it as a condition sine qua non to his country's joining the Arrangement; but he insists on both the needs of fixing a low-rated extra fee and of creating a system of more equitable sharing out than the system as laid down in Article 12.



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Mr. Phaf (Netherlands) then intervenes to state his point of view on the "philosophy" of the discussion relating to the territorial limitation.

The works achieved both by the experts and the General Commission show that some strongly advocate the limitation whilst others stress the ill-omened character of such limitation. First and foremost, he reminds Delegates of the fact that the Netherlands are, in principle, in favour of territorial limitation. Mr. Phaf considers that the difference of tendencies is already explained by the importance attached to the imitation when viewed from the angle of either copyright or Industrial Property.

A patent, of which the validity is expired, may be worked by anybody; this "imitation" after expiry of the claim is both useful and necessary. On the contrary, the "imitation" of a work of art does in no way contribute towards progress, even so when the copyright of this work has lapsed : it is entirely unfruitful.

Territorial limitation favours this unfruitful "imitation" in countries where protection is not required.

It is conceivable therefore that the interested circles in copyright are opposed to territorial limitation which, from their point of view, constitutes an encouragement to "lawful" counterfeiting, whereas the industrial property circles are more familiar with the rights which have fallen into the public domain, namely through territorial limitation.

In the opinion of Mr. Phaf the present discussions are directed more towards industrial property than towards copyright. . .

The Convention of Paris in fact, provides that industrial designs and models be protected whereas the Bern Convention refers the matter to national legislations. Moreover, the artistic nature of designs and models is generally somewhat weak; for these, wide protection in the framework of copyright would be excessive.

For those designs and models which are of undeniable artistic value, cumulative protection is legitimate.

But a second point raised by Mr. Phaf is his fear of national registers becoming cluttered up with unexploited registrations. This fear, connected with the question of fees, is, in reality, a minor argument. The real reason, explains Mr. Phaf, is the interest which local industry finds in territorial limitation: "lawful counterfeiting".

Mr. Phaf concludes by declaring that one must make concessions in order to achieve the ultimate aim of the Conference, i.e. the adhesion of a large number of countries, and for that, no effort should be spared.

M. Oudemans <sup>1)</sup>, after having thanked the Chairman for having given him the opportunity of expressing his views (purely personal), declares himself to be in favour of territorial limitation, because he fears both the cluttering up of registers and the non-accession of countries.

M. Boutet (France) then declares that he does not agree with the "philosophical" deductions of M. Phaf. Counterfactions, he says, is no more recognised in the field of industrial property than in the field of copyright. Furthermore, to deposit implies a desire for protection.

1) In the French version - Doc. 37 F - M. Ellwood's name was inserted by mistake.

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In order to be protected, the creators wish for an economic system which does not offer the disadvantage of being a provocation or a counterfaction. Nor do they wish for obstacles which they do not fully comprehend, such as a preliminary examination.

The Head of the Yugoslav Delegation expresses his agreement with the Austrian Delegation and declares himself in favour of territorial limitation.

He thanks M. Finniss for his explanations but considers the registration of a large number of unexploited models a disadvantage.

The Delegate of Morocco also declares himself in favour of territorial limitation as do both the Swedish and Turkish Delegates. The Swedish Delegate adds that one should only pay in respect of those countries chosen.

M. Finniss (France) replies that the question of fees, paid in respect of those countries chosen, represents a disadvantage because, if certain countries require such fees, other countries which do not require them, will also be induced to introducing them.

Furthermore, the monopolies governing patents and trade marks are essentially different from those connected with protected models.

M. Roscioni (Italy) fears the consequences of this discussion and agrees with the French point of view. Italy has the advantage of being a creative country in which protection is desired.

He draws a parallel between the cluttering-up of Trade Mark Registers with that of Designs, which is of a different nature. He goes on to deduct that even from the point of view of progress

the Countries known as "receiving countries" find an advantage thereby, at least from a cultural point of view.

What is important, he adds, is to increase the number of depositors. Financial questions are, in his view, of secondary importance. To conclude, he considers that territorial limitation is not advisable.

The discussion on this question is deferred until the afternoon session.

Before adjourning the session, M. de Haan once again insists on the necessity of a compromise and asks all countries in favour of territorial limitation for financial reasons, to find a solution which will avoid the Conference resulting in a failure.

The session is adjourned at 13.05 h.

Doc. The Hague

Nº 38 / E

Date : 16 Nov. 1960

On the request of His Excellency Mr. Veldkamp, Secretary of State, I have the honour to bring to the attention of the Delegates the contents of a letter, dated 15<sup>th</sup> November 1960, which was addressed to him by Mr. Gordon Grant, Chairman of the Permanent Committee of the Berne Union and the Intergovernmental Copyright Committee.

This communication relates to the joint meeting of the Permanent Committee of the Berne Union and of the Intergovernmental Copyright Committee which was held in London from the 31<sup>st</sup> October to 4<sup>th</sup> November 1960, and during which the international protection of products of applied arts and designs or models was discussed.

The Secretary General

Annex : 1.

Annex to Doc. The Hague  
No. 38 / E  
Date: 16-11-1960

Mister Chairman,

I have the honour to inform you that the Permanent Committee of the International Union for the Protection of Literary and Artistic Works (Berne Union) and the Intergovernmental Copyright Committee, at their joint session held in London from 31st October to 4th November 1960, discussed the question of the international protection of works of applied art and designs.

The deliberations of the Committees on the subject are summarized in paragraph VI of their report the relevant passages of which are transcribed hereafter :

#### VI. WORKS OF APPLIED ART AND DESIGNS

Article 14 of the Draft Arrangement on the International Deposit of Designs drawn up in 1959 in The Hague provides that the provisions of the Arrangement shall not prevent the claiming of the application of possible wider protection resulting from the domestic law of a Contracting State, and that such provisions shall not affect in any way the protection granted to works of art or works of applied art by international treaties or conventions.

The two Committees, in joint meeting, considered the meaning of this provision in connection with formalities in the design and copyright fields. It was generally agreed that:

(1) The mere fact that an article bears a copyright notice, such as the international symbol established by Article III of the Universal Copyright Convention, or that it has been registered as a work of art or work of applied art under the domestic copyright law of a country, shall not affect the eligibility of any design incorporated in such an article for registration on the International Design Register, or for the protection as a design in countries permitting cumulative protection or design protection only.

His Excellency Dr G.M.J. Veldkamp  
President of the Diplomatic Conference  
for the revision of the Arrangement  
of The Hague of November 6th, 1925  
concerning the International Deposit  
of Industrial Designs or Models.

(2) The mere fact that work of art or work of applied art bears a design notice, such as the international symbol provided for in Article 9 of the Draft Arrangement on the International Deposit of Designs, or that it has been registered as a design under the domestic law of a country or on the International Designs Register, shall not affect its eligibility for protection as a work of art or a work of applied art under domestic copyright statutes and international copyright treaties or conventions in countries permitting cumulative protection or design protection only.

While some of the representatives were of the opinion that all this was implicit in Article 14 of the Draft Arrangement, others expressed the view that it would be preferable to state the two principles in the Arrangement as an additional clause.

They all agreed that, naturally, no country is obliged to grant cumulative protection, that is, protection under the copyright and the design statutes, to the same objects, and that any country may grant only one kind of protection.

The Committees unanimously decided to communicate their views to the diplomatic conference of The Hague scheduled for November 14-26, 1960, so that that conference could take them into consideration in its discussions.

I should appreciate it much, if you would bring my letter to the attention of the Diplomatic Conference for the revision of the Arrangement of The Hague of November 6th, 1925, concerning the International Deposit of Industrial Designs or Models.

I have the honour to be,

Sir,

Your obedient servant,

sgd. Gordon Grant

Gordon Grant  
Chairman of the Permanent Committee  
of the Berne Union  
and  
the Intergovernmental Copyright Committee

Doc. The Hague

No. 39 / E

Date 17th November 1960

MINUTES OF THE SESSION OF THE GENERAL COMMISSION OF  
WEDNESDAY 16 NOVEMBER 1960.  
AFTERNOON SESSION

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The Chairman opens the session at 15.30 hrs. and proposes that the examination of the Austrian proposal (Doc. No. 19) dealing with the territorial limitation be resumed in a small Committee composed of four countries that have expressed divergent opinions:

Germany - Austria - France - Sweden

The delegate of the United States suggests that an additional fee be fixed, e.g. Swiss Fr. 1.-- per design and per country in which protection is requested.

After an exchange of views between the Chairman and the delegates of the United States, France, the Netherlands, and Belgium, the Committee is enlarged and finally comprises the representatives of Germany, Austria, France, Sweden, U.S.A., Belgium and Yugoslavia.

The Chairman then proceeds to the discussion of Article 4. He reads the proposal of the Experts, p. 8 of the First Volume of the Documents of the Conference, the proposal of the Netherlands (Doc 21), and the proposal of Morocco (Doc. 32).

In the Netherlands proposal para. 1 lays stress on the word "deposit" and in this it differs from the proposal of the Experts. Para. 1 is unanimously carried.

Para. 2 of the Netherlands proposal does not differ from the text of the Experts in substance, but the accent is laid on the word "deposit". Following on an observation made by the Yugoslav delegate the Chairman establishes that the Commission wishes to put off the drafting of this para. 2. pending the conclusions of the sub-committee entrusted with the examination of the necessity of making



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the inclusion of a description compulsory.

The Chairman reads para. 3 of the Netherlands proposal. He considers that the observation made by Yugoslavia in regard to para 2 also applies in the case of this para. 3.

The Netherlands Delegate observes that according to the decisions taken in the morning the definition of the object should be inserted in this paragraph. In addition, the words "as well as a reference to each document in proof deposited" should be deleted.

Mr. Hoffmann asks what is understood by the "necessary" information in the first sentence. Moreover, he suggests that the word "several" be inserted in the second sentence: the publication includes "several reproductions of the photographs....."

Mr. Magnin explains that the word "necessary" is a survival of the text drafted by the Experts, which states:

"The necessary information concerning registrations in accordance with the provisions of the Implementing Regulations". The word "necessary", which does not appear to be essential can however be dispensed with.

After interventions made by the delegates of France and of the U.S.A. as well as by the Rapporteur-Général it appears, however, that the "necessary" is justified because the list of required information mentioned in the second sentence of para. 3, is not exhaustive.

Other information which might be necessary but which is not mentioned in the second sentence, should also be taken into account.

The Chairman establishes that the Commission declares itself to be in favour of retaining the word "necessary".

Mr. Finniss then reminds the delegates that according to the proposal made by Mr. Bogsch, the words "in particular" should also be inserted in the beginning of the second sentence:

"the publication comprises in particular reproductions of the photographs....."

In response to a remark made by Mr. van der Haeghen the Chairman proposes to refer to the Implementing Regulations in the matter of colour reproduction. No other observation being made, the text of para.3 is accepted with the addition of the words "in particular", and the reservations made with regard to the description, the definition

of the subject and colour reproduction.

Paragraph 4 a) is the subject both of a Dutch proposal (Doc.21), in which the period of deferment of publication amounts to six months, and a Moroccan proposal (Doc. 32), in which the maximum duration of this period is set at twelve months.

The French Delegate reminds the Meeting of the fact that his country did state without ambiguity that the principle of publication was dangerous; the position adopted by the French Delegation regarding this matter remains unchanged. At all events, the delay of six months during which publication could be deferred, appears to be a too short one.

On the invitation of the Chairman, the Moroccan Delegate states that he has been strictly instructed by his Government to bring forward his proposal, but that he can offer no further explanations. He thinks, however, that Mr. Finniss may explain the position adopted by Morocco in this respect.

The Delegates of Germany and Switzerland also consider the six months' delay to be inadequate for certain branches of industry in their respective countries.

On the other hand, the Swedish Delegate reminds the Meeting of the fact that the rule of secret deposit is the main subject of objection defined by his country against the Arrangement of The Hague. He could, however, accept a six months' delay, but not more. For that matter, the rule of Article 6 with regard to priority combined with deferment of publication amounts to this, that a twelve months' deferment is made possible.

The Dutch Delegate adds that the six months' delay is already the result of a compromise between the countries which do not have the secret deposit, and those demanding that the secret deposit be adopted. The changes are that this compromise will fail, should the duration be extended by a further six months; the Netherlands, however, could accept a twelve months' delay if such were the opinion of the majority.

The United States Delegate approves the view expressed by the Swedish Delegate, and he considers that he already made a substantial

concession by accepting the possibility of a deferment for a maximum period of six months.

Mr. Finniss explains that "handicrafts of edited art" exist in Morocco; these handicrafts employ draughtsmen who create from 400 to 600 models weekly. A selection is made afterwards. It is important that these models should not be published, and the possibility must be provided for their withdrawal prior to publication whenever decision is made not to produce them on an industrial scale. The Moroccan proposal therefore meets a genuine need for protection against plagiarism.

The Italian Delegate draws the attention of the Meeting to the circumstance under which the system of secret deposits actually prevented his country from joining the Arrangement of the Hague, and in his opinion it would therefore be dangerous to put up for discussion the compromise reached by the Experts in question again; but, however, that may be, he reserves the possibility to come to a twelve months' delay which, indeed, would be an important step forward. He proposes that, on the analogy of the different phases of protection granted the designs and models in the Draft Arrangement (initial period of 5 years, followed by a possible renewal for a further 5 years, and followed again by a possible extension for yet another 5 years), a six months' delay, allowing for the possibility of extension for a second six months' period, be carried.

The Delegate of Luxemburg is not in favour either of the secret deposit, and he reserves his position with regard to the extension of the delay up to a period of twelve months. He raises the question of establishing a special fee for deferment of publication.

Mr. Finniss replies that, in his opinion, it would be dangerous to multiply the number of fees, for the international deposit might, if so, lead to considerable costs.

The Austrian Delegate already considers the six months' delay as a regrettable compromise, and consequently he prefers the twelve months' delay.

The Chairman establishes that the Delegates of the United States and Sweden stand alone to consider that the delay should be set a

maximum of six months. With a view to replying to the suggestion brought forward by the Swedish Delegate, he proposes that the countries advocating the secret deposit consider introducing this particular system into their national legislation. In these countries, the depositors will then use the six months' priority delay to file an international application. They will then have the benefit of the deferment of publication of the international deposit for a further period of six months, with the result that the delay of the secret will thus be increased to twelve months.

In the opinion of the French Delegate, the proposal brought forward by the Swedish Delegate does not appear to be satisfactory in the practical level.

Prof. Bodenhausen then suggests that the deferment of publication should be extended to a period of nine months, starting either from the date of the international deposit, or if a priority is claimed starting from the date of the deposit which starts the opening of the priority delay. This proposal is favourably received by U.S.A. and Sweden, but the Swiss delegate points out that this proposal amounts to reducing the deferment of the publication of the international deposit to three months, since the delay of nine months would be deducted from the priority delay of six months, which has already been secured in the Paris Convention. The Swiss delegate would agree to a delay of nine months, but without prejudice to the priority delay.

The German delegate reminds the Commission that in the present text the deposit may remain secret for 5 years. The reduction of the delay to 3 months is unacceptable.

Mr. Finniss calls attention to such States as Morocco, which have not got such extensive administrative means as countries that already have available experienced administrative services. It is very likely that these States will be unable to accept the proposal submitted by the Netherlands, as it would overburden their administrative services. It appears to him that the acceptance of a one-year period of secrecy is indeed a compromise of considerable importance.

The Chairman sets forth that in the opinion of the Experts the six-month period of delay seemed to be a reasonable compromise. On the other hand, a twelve-month period gives rise to serious objections. Still it appears possible, by means of the priority delay, to find a way towards reconciling these two points of view. He adjourns the

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session at 17.00 hrs, for a 20 minutes' break in order to give the delegates an opportunity for a private exchange of views on this matter.

When the session meets again the Chairman announces that it appears that a twelve-month period of delay starting from the first deposit of the application is acceptable. If the first deposit is made with the International Bureau it may remain secret for twelve months. If the first deposit is made with a National Administration and then with the International Bureau, whilst the priority right is claimed, the international deposit will remain secret for a period of twelve months from which the time lapsed between the national deposit and the deposit with the International Bureau is to be deducted. Article 4a then reads as follows:

4a.- On request of the applicant, the International Bureau shall defer publication for the period requested by the applicant. This period may not exceed twelve months from the date of the deposit, and if priority is claimed from the date of the first application. Any time during this period, the applicant may renounce the deposit or ask for publication.

The Swedish delegate will do his utmost to convince his Government to sign this Arrangement, but he hopes that deviations from the original proposal will be as slight as possible.

M. Finniss points out that the concessions made by France and those countries which are already parties to the Arrangement are wider in scope than those made by non-adhering countries, for, as a rule the countries now adhering to the agreement will sign the text approved by the Conference even if they have made concessions on some point they considered to be important, whereas the countries which have not yet adhered to the Arrangement are in a position to postpone signing to a later date.

The Chairman concludes that the delegates accept to fix the period of deferred publication at twelve months from the date of the first deposit of the application. Para.4a. is accepted with this alteration.

Para. 4b (Doc. 21) is unanimously passed.

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The Chairman reads para. 5 (Doc. 21).

The delegate of Denmark would like a system of classification to be studied and refers to the observations made by his Government as well as to those made by Sweden, Norway, and Finland, published in the preliminary documents of the Conference. Such a classification could be established by the Working Group entrusted by the International Bureau with the examination of the classification of trade-marks.

At the request of the Chairman, Mr Magnin states that the International Bureau would accept to undertake such an examination but would like to have instructions. In answer to a question put by the French delegate Mr. Magnin adds that the simple fact of arranging designs and models by classes apparently would not necessarily entail expenses, but the question that will arise is whether a supplementary fee will be asked for a deposit falling into several classes.

The U.S. delegate suggests this question of classification be mentioned in Article 11.

The delegate of the United Kingdom considers that this matter is of secondary importance and that the Arrangement itself should be dealt with first.

On the proposal of the Chairman the delegates decide to consider Article 4, para. 5 as accepted, subject to the insertion in this paragraph of a provision to the effect that publication will take place according to a classification to be established by the International Bureau.

#### ARTICLE 5

The Chairman reads the text drafted by the Experts (p.8 of the First Volume of the Documents of the Conference), and the proposal made by France and Switzerland (Doc. 22).

Mr. Morf sets forth that para.1 of the text of the Experts deals with two problems: On the one hand, the formalities for obtaining protection, and on the other hand, the scope of such protection.

The proposal submitted by France and Switzerland deals with these two points in two separate paragraphs:

- Para. a) relates to the formalities, viz. procedure to be followed by the applicant and the action to be taken by the Administration.

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- Para. b) provides that the scope of the protection is defined exclusively by the national legislation, with the exception of the formalities to be performed by the applicant and the actions to be performed by the Administration.

The Delegate of the United Kingdom points out that this text will be subject to difficulties on the part of his Government.

In two respects, the Delegate of the Federal Republic of Germany passes criticism :

- on the one hand, he considers that it would be more logical to speak in terms of "effected deposits" instead of "registered deposits" inasmuch as the deposit is the legal act, not the registration.
- on the other hand, he would like to know what should be understood by the word "formalities". If manufacture and publication are to be considered as formalities, as is laid down in the text of the Universal Convention, this should be mentioned in our Arrangement.

Mr. van der Haeghe is of the opinion that the formalities inherent to the act of deposit should be understood as "formalities", publication having not yet been made.

The Delegate of the United States considers that it would be preferable to retain the word "registered", for it seems to him that it may be difficult to give proof of a deposit which was not yet registered. Hence, this is merely a practical matter.

The Chairman suggests that the debates be interrupted at this stage and be resumed on Thursday morning, November 17th, 1960.

The Chairman adjourns the Session at 18.00 P.M.

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Doc. The Hague

N° 40 / E

Date: 17 Nov. 1960

ADDENDUM TO DOC. 31/F

Statement of Mr. Morf, page 7.

Mr. Morf considers it necessary that the text of the present Arrangement provides for the possibility of restricting certain rights of option (such as producing descriptions or models) ; for otherwise the chances are that the validity of the Regulations' provisions on restrictions of this kind will, at a given moment, be at issue.



Doc. The Hague  
No. 44 / E  
Date: 17-11-1960

PROPOSAL SUBMITTED BY THE DELEGATIONS OF GERMANY  
AND SWITZERLAND

AGREEMENT

Article 15

1. This Agreement shall be deposited with the Government of ..... and shall be open for signature by any State referred to in article 1, paragraph 2, for a period of six months after that date. It shall be subject to ratification by the signatory states.
2. States referred to in article 1, paragraph 2, and which have not signed this Agreement may accede thereto on their request and in the manner prescribed by article 16 of the Convention of Paris for the protection of industrial property. Such accession shall only be binding in respect of the text of the Agreement as last revised.

Article 15bis

States referred to in article 1, paragraph 2, which are not parties to the Agreement of The Hague concerning the international deposit of industrial designs or models, as last revised at London on June 2nd 1934, shall not be bound by their ratification or accession to the present Agreement to the States to which only the text of the previous Agreement applies.

Article 17

1. - no change
2. - no change
3. This Act shall, in relations between countries in whose name it has been ratified or which have adhered to it, replace, as from the day when it enters into force in regard to them, the Agreement of The Hague of 1925, in its texts previous to the present Act. Nevertheless, each country which shall have ratified the present Act or shall have acceded to it shall remain bound to the text of the Agreement of The Hague of 1934 in its relations with countries which shall not have ratified it or acceded to it, unless that country has not expressly declared that it no longer wishes to be bound by this text. This declaration shall be ratified to the Government of the Swiss Confederation. It shall be effective only 12 months after its receipt by the said Government.
4. The International Bureau shall organise, in agreement with the countries concerned, the administrative measures of adaption which appear necessary with a view to the carrying out of the provisions of the present Arrangement.

Doc. The Hague  
No. 46 / E  
Date: 17-11-1960

PROPOSAL SUBMITTED BY THE DELEGATIONS OF AUSTRIA, GERMANY,  
ITALY AND SWITZERLAND.

AGREEMENT

Article 22 bis

- (1) The present Act shall be signed in a single copy in the following language . . . . .  
which shall be deposited in the archives of the Government of the Netherlands.  
A certified copy shall be forwarded by the latter to each of the Governments of the countries of the Union.
- (2) Official translations of the present Act shall be established in the German, Italian and Spanish languages.

Doc. The Hague  
No. 47 / E  
Date: 18-11-1960

DIPLOMATIC CONFERENCE OF THE HAGUE

MINUTES OF THE MORNING SESSION ON THURSDAY, NOVEMBER 17th 1960

Mr. de Haan, Chairman, opens the 3rd session of the General Commission on Thursday, November 17th, at 10.30 A.M.

Following<sup>a</sup> statement made by Mr. Morf (Switzerland), supported by Messrs. Finniss and Magnin, decision is made that the minutes of each individual session shall end with the summing up of the results achieved during the session.

The discussion of Doc. 22 F is resumed (Proposal brought forward by the Delegations of France and Switzerland with regard to Article 5 of the Arrangement).

Article 5, Para. 1, Section a)

The Finnish delegate asks how the date of registration is being fixed.

Mr. Labry (France) feels that para. 2 of Article 4 is sufficiently clear in this respect, and that the date which is of consequence is the date at which the deposit is received by the International Bureau under the terms laid down in this Article 4, para. 2.

Mr. Phaf (Netherlands) points out that the term "registered deposit" is inadequate. If the law of a Contracting State requires that publication shall take place for the national deposit to become fully operative, publication of the international deposit should be awaited in order that it may become operative in that country.

Approved by Mr. Bogsch, Mr. Ulmer (Germany) adds that this assumption also applies to the case of deferred publication.

Mr. van der Haeghen (Belgium) supports this thesis whilst insisting on the need of discriminating between the right to protection and the right to take legal action.

Mr. de Haan specifies that the right to protection is as old as the deposit itself, but that in the event of counterfeit, the only legal means available is the action for injunction, since in fact the claim for damages cannot be lodged until after publication.

Professor Ulmer (Germany) disagrees with this particular point. In fact, the decisive question is to define explicitly from which time onwards protection is operative. To his mind, protection begins in all countries from the very moment when deposit, even secret, is effected. In the event of counterfeit of a secret deposit within a delay of twelve months, this is not simply due to pure accident. It is therefore necessary that a claim for damages be made possible if dishonesty should be proved, without this resulting, however, in publication of the deposit.

Mr. van der Haeghen (Belgium) points to the fact that in his country damages can be obtained in the event of counterfeit, even so when no offence is ascertained.

Mr. Roscioni (Italy) feels that the draft drawn up by the Experts, in the wording as reproduced in the printed volume, should be preferred.

Mr. Bogsch (USA) points out that the national deposit does not automatically entail protection, and this applies, in particular, for countries where preliminary examination is made, and for the United States of America, where the granting of a certificate by the Administration entails protection.

Mr. de Haan sums up the debates as follows:

- 1) all Delegates agree to the principle that the individual who, in good faith, imitates a deposit, shall not be sentenced to pay damages.
- 2) from the date of publication onwards, the depositor is entitled to take legal action with a view to having the counterfeit prohibited, even if his good faith be evident.
- 3) what will happen in the event of legal action being taken during the period of secret deposit ? Should the deposit be published or simply submitted to Court ?

Mr. Ulmer (Germany) approved by Mr. Finniss (France), simply considers submission of the secret deposit to the Court which is to deliver judgment in the case of counterfeit; the reason is, that protection becomes operative as soon as the deposit has been effected.

Mr. Phaf (Netherlands) and Mr. van der Haeghen (Belgium) consider that the secret deposit should be lifted and that publication should be effected for protection to become operative.

The Chairman suggests that a restrictive committee examine this matter.

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Mr. Labry (France) rejects this proposal.

Mr. Mathély (IAPIP) distinguishes three notions in this debate:

- 1) the notion of secret deposit;
- 2) the notion of the deposit published by the International Bureau;
- 3) the notion of the deposit disclosed by order of the magistrates in the event of legal action being taken.

He feels that the Conference should settle 2 items :

- 1) the time from which onwards protection, even secret, becomes operative;
- 2) the time from which onwards runs the right to take legal action for infringement.

Two replies are confronted here :

- of the deposit, even when secret (the fact being taken into account that the deposit will, at all events, have to be disclosed by order of the magistrates)
- of the publication.

In other words, decision will have to be made whether the right to legal action runs from the date of deposit; in second place, the case of damages in the event of good faith on the part of the imitator, will have to be examined.

Finland and Sweden consider that these matters of penalty and good faith should not be raised here.

Mr. Labry wishes that the question be cleared whether, in the case of legal action for infringement of a secret deposit, the submission to Court of this deposit amounts to its publication.

Mr. Magnin specifies that the deposit, even when published in Court, remains secret, and that publication of this kind does not amount to publication in the Bulletin.

Mr. Finniss fully supports this point of view. Even when the opponent is aware of the deposit, this fact does not in the least amount to international publication; if this were the case, this would amount to cancelling the benefits of the secret deposit.

On the proposal of Mr. Morf (Switzerland), a short break of the session is decided to allowing personal contacts between Delegations.

The session is resumed at 11.50 A.M.

Mr. Phaf (Netherlands) sums up the points on which agreement was reached.

On a proposal by Mr. Morf (Switzerland) backed by Mr. Finniss (France), the Delegates hold their decision in abeyance until after the reading of the text drafted by Mr. Phaf.

Discussion of Article 5, Para. 1, Section b)

This text is adopted unanimously, subject to an amendment to be made in the draft by the Drafting Committee.

Discussion of Article 5, para. 2, section a) (Doc. 23 F)

Mr. Finniss (France) wishes that as many countries as possible reconsider the matter of preliminary examination, like the United Kingdom and the Scandinavian countries.

Mr. Grant (United Kingdom) specifies indeed that a special Commission is now working on this problem.

Two questions of procedure are raised:

- fixing a sufficiently long delay of appeal to enable the applicant to justify his case.
- establishing the authority best qualified to notify the applicant of either the acceptance or the rejection of his demand.

Mr. Hoffmann (Luxembourg) suggests that the depositor be enabled to select, at any time after having filed his application, the countries where preliminary examination is practised and in which he wishes to obtain protection.

Mr. Federico (USA) does not feel that a measure of this kind would be desirable. On the other hand, he backs the proposal brought forward by the United Kingdom, to fix a delay for the appeal of the applicant. As regards the authority best qualified to approach the depositor, this is a matter of procedure to be dealt with in the Regulations.

Mr. de Cortina, Spanish Delegate, points out that the "preliminary examination of novelty" does not exist in Spain, but instead of this there is a procedure of injunction, and he does not know how to reconcile this procedure with the terms "preliminary examination of novelty".

In the opinion of the Chairman, this should not create any difficulties, for the examination is a matter of administrative procedure whilst the injunction is a legal action to be taken by the public.

The Norwegian Delegate declares himself in favour of the examination of novelty, although the Norwegian legislation has made no provisions to that effect, as yet.

This view is shared by the Yugoslave Delegate.

Mr. Finniss, Rapporteur-Général, expresses his surprise at these discussions which would appear to imply the adoption of the principle of territorial limitation, whereas if certain countries are in favour of this principle, others are strongly against, in consequence of which a spirit of compromise had been suggested in this respect.

Mr. de Haan points out that the territorial limitation referred to in Article 5 only relates to the extra fee to be paid by the depositors in the countries with preliminary examination which they may wish to choose.

Mr. Boutet (France) backs Mr. Finniss's point of view, and he considers that the principle of territorial limitation as such is clearly stated here.

Mr. Bogsch (USA) upholds the principle of a thoroughly conducted, realistic and concrete preliminary examination, not to be restricted to the nature of either for instance the design or the model. In the text of the Arrangement, the words: "preliminary examination of novelty" should be interpreted in such manner that if it is desired that the countries with preliminary examination join the Arrangement they can do so without having to alter their domestic law.

Mr. Ulmer (Germany) confirms that the essential point is the adhesion of as many countries as possible with preliminary examination whilst simultaneously retaining the compulsory six months' delay. The word "examination" to be understood as examination "of novelty".

On the request of Mr. Finniss (France), Mr. Bogsch (USA) confirms that the territorial limitation referred to in Article 5 is considered to be an advantage granted to the depositor and that it differs from the territorial limitation, proposed with a view to taking into account e.g. the cluttering-up of the registers.

Mr. Labry (France) then proposes to hear the observers representing the depositors' interests.

Mr. Mathély (IAPIP) expresses the point of view of the IAPIP, which is rather unfavourable to a preliminary examination of designs or models and likely to endanger paragraph 1 of Article 5. The IAPIP, however,

prefers to maintain this principle rather than to have countries making a preliminary examination, forgo joining the Arrangement.

The I.C.C. Delegate is absent.

On behalf of the FICPI, Mr. Jourdain declares himself strongly opposed to the very principle of territorial limitation, and he considers that the application of this principle to the countries with examination is unnecessary, since the depositor may simply refrain from replying to the objections raised by the Investigators (see the written text of this address).

Mr. Farrer (CNIPA) declares that one should take into consideration the accumulation of work in the Patent Offices in the United Kingdom, Germany and the Netherlands. A surplus of work without a counterpart for the public should therefore be avoided.

He declares himself in favour of the establishment of a fee for each country which would help cover the administrative costs and recalls that the field of designs and models is not, generally speaking, a very complex one.

Mr. Dusolier (LICCDD), although he has no mandate to speak on behalf of the LICCD, expresses the opinion of the majority of its members, which is opposed to this limitation, subject to it not being a sine qua non condition of the Agreement.

Professor Desbois (ALAI) does not think that a preliminary examination can be applied in the field of designs and models. He thus draws attention to the precaution which should be taken during the 6 month examination period in order to avoid frauds.

#### SUMMARY

##### Article 5, para. 1, subpara. A

The question of publication of the deposit is deferred until Mr. Phaf's text has been examined.

##### Article 5, para. 1, subpara. B

Accepted subject to drafting.

##### Article 5, para. 2, subpara. A

Deferred.

The session is adjourned until the afternoon at 15.00 hrs.

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Doc. The Hague

No. 48 / E

Date: Nov. 18th.1960

MINUTES OF THE AFTERNOON SESSION OF THE GENERAL COMMISSION

Thursday, November 17th

The Chairman opens the session at 15.15 a.m. and proposes to discuss the text of Article 5, par. 2 (Doc. 23).

The Spanish delegate insists on the fact, that Article 5 applies also to those National Offices not making a preliminary administrative examination for novelty, but nevertheless certain formalities, for instance the filing of an opposition. He cannot approve the U.S. proposal.

The delegates of Yugoslavia and the United Arab Republic are in favour of the text of the experts (article 5, par.3)

Mr. Lorenz (Austria) proposes to defer the discussion of this Article and study it in connection with the problem of territorial limitation.

The Chairman asks the delegates to choose between the U.S. proposal and the text of the Experts. The problem of territorial limitation does not seem to affect the discussion.

The U.S. delegate considers that the text of the Experts is incomplete. He prefers the possibility of amending his proposal so as to leave out "for novelty", though he does not yet approve of this amendment. On the other hand an additional sentence could be drafted, so as to include the possible filing of an opposition.

The delegate of Yugoslavia agrees to either the U.S. text with the words "for novelty" left out, or the text of the Experts. He draws attention to the case of a design or model being contrary to public morals.

The Chairman prefers to limit the discussion to the U. S. proposal (for novelty), as problems of law and order and oppositions can always be freely judged by the Courts.

However, the delegate of Yugoslavia draws attention to the fact, that, in his country, the Patent Office is competent in this field to pass judgment. Therefore, the competence of the Courts should not be discussed here.

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The Chairman proposes that this question be studied by a sub-committee consisting of the representatives of the following countries: Spain, Yugoslavia, United Arab Republic, France, United Kingdom, Norway

The French delegate declines the invitation to participate in the work of this sub-committee.

The Chairman, in view of the fact that no financial matter is at stake, considers, that a separate article might be drafted, according to which the National Offices are allowed to refuse the protection within a sufficiently limited period for reasons other than lack of novelty.

The German delegate is not in favour of this proposal. Each State has the right to refuse protection for reasons of domestic law, other than lack of novelty and it can do so without delay.

Mr. Coppieters de Gibson (Belgium) agrees with these considerations.

The Italian delegate asks the granting of a reasonable delay (for instance 6 months) so as to allow the Administrations to verify whether the application is in conformity with the provision of domestic law.

Mr. Bodenhausen (Netherlands) proposes the following solution:

- turn back to Article 5 para. 3 of the Experts, allowing for the refusal of protection for reasons other than lack of novelty.
- if a country makes an examination of novelty, there will be two additional matters: optional territorial limitation and the fee.

However, Mr. Ulmer cannot approve the text of Article 5, para. 3 of the Experts:

- with regard to the preliminary examination of novelty, the United States proposal, in his view is the best.
- with regard to the refusal of protection: this is always possible during a legal action; if the refusal is pronounced by the Administration, it is possible to fix a delay of, for instance, three months.

After an exchange of views between the Chairman and the delegates of Spain, Yugoslavia, the Netherlands, and the Federal Republic of Germany, the Chairman notes, that the delay of 6 months would be favourable received. In the case of an administrative examination, not dealing with novelty, no extra fee will be charged.

Mr. Coppieters de Gibson asks, that provision be made for the possibility of appeal against these refusals via the same channels as for nationals.

Mr. Morf states that the pattern could be taken from the Nice text.

Then the Chairman asks Mr. Bodenhause to draft a text, bearing in mind the U.S. proposal and to refer it to Mr. Ulmer.

Consequently, the sub-committee becomes superfluous.

Thus: left in abeyance till drafting of text by Mr. Bodenhause.

Article 5 para. 3

(Swiss proposal) (Doc. 24).

Mr. Morf replies that this proposal is closely related with the approved text of Article 3 para. 2 (Austrian proposal of the amended Doc. 20).

Answering a statement made by the delegate of Morocco, the Chairman declares, that the problem of fees will be solved in the Regulations.

However, the principle of the fee worries the Moroccan delegate, who is supported by the Rapporteur-Général Mr. Finniss, and Mr. Duchemin (ALAI).

The Chairman replies that until the Arrangement is finally drafted, it will be impossible to have a rough idea of the total amount of the fees.

Proceeding to the examination of Article 5 para. 3, Dr. Ulmer (Federal Republic of Germany) thinks it more advisable to discuss the Head Office in the first place, and then possibly the domicile. He proposes to speak of "Main Head Office" or its establishment or in the absence of its establishment, its domicile.

Mr. Labry (France) thinks it perfectly clear. The Head Office applies to the legal entity and the domicile to the national person.

But Dr. Ulmer points out that there is the case of a merchant, who is not a legal entity. In this case one ought to speak of the establishment.

Mr. Coppieters de Gibson declares, that he is in favour of the text of the Experts (Article 5, para. 2). The other delegates, however, do not think the notion "originating from its territory" sufficiently explicit.

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Moreover, the United States wish to define more accurately to whom these stipulations apply. The French and Swiss proposal (Doc. 24) Article 5, para. 3) is the consequence. But it is merely a matter of drafting to know whether one ought to speak of Head Office or Establishment.

Mr. Labry asks Mr. Ulmer's opinion on the following wording:  
"Any State may make provisions in its domestic law according to which  
"the deposit, made by a national person, having an establishment or  
"domicile, or by a legal entity having its Head Office on its territory  
"will not affect his territory".

Mr. Ulmer agrees with this text subject to stress being laid on the establishment.

Mr. Roscioni (Italy) states that he is about to make a statement that will probably be received unfavourably. He points out, that the Conference attempt to reduce as much as possible the fees to be paid by the depositor. But now he notes, that one wishes to bind the depositor to make a double deposit. Therefore he is opposed to the right granted to the States, to bind the depositor to file an international deposit in addition to the national deposit, if he wishes to be protected in his own country.

However, the Chairman deems it difficult to prevent the States from imposing fees on their own nationals, if they want to do so. He submits this paragraph with the amendment of Mr. Labry to the Drafting Committee.

#### Article 5, para. 4 (text of the Experts)

The French delegate draws the attention to the opposition of his government to this paragraph.

The U.S. delegate agrees to withdraw this paragraph.

The Chairman and the French delegate thank him most warmly for this proof of cooperative spirit.

This paragraph is deleted.

#### Article 6

Approved of, after substituting for the words "contracting States" the words "members of the Paris Union" in compliance with a proposal of Mr. Morf (Switzerland).

Article 5, para. 1

This paragraph has been the subject of a declaration of Mr. Phaf (Netherlands), which has been distributed (Doc. 41 F).

Mr. Morf (Switzerland) points out, that this interpretation which should be mentioned in the report of the Conference could be amended in agreement with Mr. Phaf. The wording of the amended paragraph 2 would then read as follows :

Paragraph 2

"Domestic law may provide that, if the publication, mentioned in article 4, para. 3 has taken place, the subject of the protection will be determined by this publication, and if this publication has not yet taken place, the subject of protection will be determined by a photograph or another graphic reproduction of the design or model incorporated in the deposit."

Mr. Phaf withdraws his proposal, in order to approve the text, proposed by Mr. Morf.

Mr. Finniss considers that this declaration does not amend the text of paragraph 1 a), for it is a mere interpretation. Therefore it is of no value, since the Judges are not bound by the Acts of the Conference.

Mr. Labry is opposed to the principle of an interpretation. The text of Article 5, para. 1 must be unambiguous.

The U.S. delegate asks for the English text.

The Chairman adjourns the discussion to the next morning in order that the English text be available.

Article 7 (text of the Experts)

The U.S. delegate raises the matter of the fee to be paid for renewal.

This fee, says the Chairman, should have some kind of a foundation in the Arrangement itself. But an extension of time should be provided for on the request of Mr. Phaf.

The delegate of the U.S. remarked that it is not possible to refer to the General Union Convention, because the Convention does not provide for such a case.

Mr. Morf proposes to adopt the same system as that of the Arrangement of Madrid revised at Nice concerning the international registration of trade marks.

This proposal is unanimously carried.

Article 8 (Doc. 25)

Para.1 accepted

Para.2 The Austrian delegate declares that his country's national legislation does not provide for the registration of licences; but if the principle is accepted, then that registration should not be limited to an exclusive licence.

The Netherlands delegate asks for the complete cancellation of the provision relating to the concession of an exclusive licence because such a provision does not yet appear in the Union Convention.

Para. 2 thus modified is accepted.

Para.3. On the proposal of Mr. Ulmer the words "provided that the formalities other than recording, as well as the substantive conditions of the national law have been complied with" are omitted.

Para.3 is then accepted.

The session is adjourned at 17.00 p.m. and meets again at 17.30 p.m.

Article 8bis (Doc. 26)

The delegate of the United Kingdom raises his objections with regard to the multiple deposit.

The U.S. delegate underlines that he is not particularly in favour of the multiple deposit. It is merely a means of economizing, but each design shall be published and shall be numbered separately.

The Chairman recalls that this stipulation appears in any case in the Regulations.

Mr. Grant then withdraws his objection.

Article 8 bis is unanimously carried.

Article 9 (Proposal of the Netherlands and Switzerland) (Doc. 27)

The Chairman reads out this proposal.

Mr. Phaf (Netherlands) explains that the only difference with the text of the experts lies in para. 3. These differences are merely a matter of drafting.

Mr. Bogsch points out a typing error in the English text.

The United Kingdom delegate proposes to mention only the number of the deposit but Mr. Phaf remarks that if the deposit has not yet been effected, its number is not yet known.

Mr. Lorenz refers to the reply of his Government published on page 34 of vol. 2. To maintain paras 2 and 3 is not compatible with the text of article 5 D of the Union Convention.

Mr. Federico considers that the advantage of the marking lies in the fact that it acts in lieu of notification. Moreover, if paras 2 and 3 were omitted this would limit the rights of countries to require a design notice as is the case in the United States.

The delegate of Sweden requests the omission of paras 2 and 3.

Mr. Mathély on behalf of IAPIP, ALAI and LICCD, makes the following two observations:

- article 9 stipulates marking as conditional for the obtention of rights. It therefore imposes a twofold formality: deposit and marking; consequently marking is useless since the deposit shall be published.
- this provision might create practical difficulties. Rights are independent of marking. What would happen if, after not having affixed the mark, it is affixed later.

The problem should be reconsidered with a view to reducing the obligations of the applicant.

Mr. Phaf proposes to add in para. 2 the words "in that country" "then such contracting State shall consider such condition fulfilled if all authorized copies of the article offered to the public in that country....."

The delegate of Morocco approves Mr. Mathély's statement.

The Chairman explains that the marking of the designs and models and works of art is a principle incorporated in American legislation. It is difficult for the U.S. to modify such a stipulation. The proposal of Mr. Phaf would only make marking compulsory for those countries which required it.

Mr. Boutet (France) recalls that in the provisions of the Universal Copyright Convention the sign (C) is necessary for creating rights whereas in the field of designs the U.S. only consider marking necessary for the recognition of the right; but as marking must be affixed on all objects in time and space, this means that it is necessary for its creation. One cannot create an assimilation in view of copyright where the situation is exactly the opposite.

Mr. Bogsch (U. S. ) does not think that para. 2 takes all the meaning out of para. 1 . The marking could be made separately on a tag attached to the article. It would be advisable to adopt a uniform manner of marking. The suggestion of Mr. Phaf is not practicable. The object should be marked from the very start, otherwise an article bought in a country where marking is not compulsory, and then imported into the U.S., will not bear any marking.

Mr. Phaf then proposes the following draft:

".... If all the objects presented to the public in that State by or with the authorisation of the owner of the right ...."

The delegate of the U.S. raises an objection stating that it would be very difficult to prove that the object is offered with the authorisation of the owner of the right.

Mr. Bodenhausen considers that the request of the U.S. delegate goes too far if every object manufactured in any country must bear a marking.

The U.S. delegate replies that if the manufacturer is not interested in protection in the U.S. he is at liberty not to mark his article.

The Chairman gives the following explanation. If the owner of a certain design puts his unmarked product on the market, but wishes for protection in the U.S. and imports this article into the U.S. he will then have to affix a marking.

Should it be necessary to require marking if a third party imports unmarked articles ?

Mr. Bogsch thinks that the product could be put on the market in the U.S. bearing an American tag instead of the international marking.

The Chairman defers the discussion of this question to Friday morning 18th november 1960 at 09.30 hrs.

#### SUMMARY

##### Article 5 para.2 (Doc. 23)

Mr. Bodenhausen is requested to submit a draft text to the Drafting Committee providing for :

- a return to Article 5 para. 3 of the text of the Experts, taking into consideration the Nice text with regard to appeals
- the possibility of territorial limitation with a fee for countries which make a preliminary examination for novelty, bearing in mind the text of the American proposal.



Article 5 para. 3

The text proposed by Mr. Labry is to be referred back to the Drafting Committee.

"Any contracting State may provide in its domestic legislation that the deposit made by a natural person having an establishment or a domicile, or in the case of a corporate body having its legal entity in that State, shall have no effect therein".

Article 5, para.4 deleted

Article 6 accepted after replacing the words : "contracting states" by "members of the Paris Union".

Article 5 para.1 (Doc. 41) deferred

Article 7 Deferred back to the Drafting Committee for introduction of an extension of time for payment of the fee as is provided in the Nice text.

Article 8 (Doc. 25)

Para. 1 accepted

Para.2 accepted without the provision relating to licences.

Article 8 para.3 accepted after the words "provided that the formalities other than recording, as well as the substantive conditions of the national law have been complied with", have been omitted.

Article 8bis (Doc. 26) accepted.

Article 9 (Doc. 27) discussion deferred to the meeting on Friday morning 18th november 1960.

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Doc. The Hague

N° 49 / E

Date: 18 Nov. 1960

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PROPOSAL OF THE DELEGATION OF THE UNITED STATES

It is proposed that the following sentence be added to Article 3, paragraph 3 :

" The application may include a statement of the true author or inventor of the design and such statement if not present may be separately requested by a National Office if its national legislation so requires.

Doc. The Hague

N° 50 / E

Date: 18 Novembre 1960

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PROPOSAL BY THE UNITED STATES OF AMERICA

It is proposed that the following article be inserted  
in the Agreement:

Article ....

The obligations of a contracting State under the present  
Convention (or Agreement) do not extend to designs deposited  
with the International Bureau prior to the date on which this  
Convention (or Agreement) goes into effect in that State.

PROPOSAL PRESENTED BY THE DELEGATIONS OF ITALY, FRANCE,  
MONACO, SWITZERLAND AND YUGOSLAVIA

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Resolution and Wish

The Diplomatic Conference for the revision of the Arrangement of  
The Hague for the international deposit of industrial designs or  
models revised at the Hague meeting in November 1960

Having noted

the report of the Committee of Experts which studied international  
protection of type faces which met at Geneva / 18 to 25 July 1960  
from

Observing

that the provisions of the Arrangement for the international deposit  
of industrial designs and models revised at The Hague in November  
1960 do not meet the exceptional requirements needed for a valid  
international protection of typographical designs in the cultural,  
artistic and industrial field

Expresses the wish

that the International Bureau at Geneva call a new conference of  
Experts to propose the text of a Draft Convention designed to  
provide effective international protection of type faces and  
printing designs.

Doc. The Hague

No. 52 / E REVISED

Date: 18-11-1960

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PROPOSAL PRESENTED BY THE DELEGATIONS OF ITALY, FRANCE,  
MONACO, SWITZERLAND AND YUGOSLAVIA

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Resolution and Wish

The Diplomatic Conference for the revision of the Arrangement of The Hague for the international deposit of industrial designs or models revised at The Hague meeting in November 1960.

Having noted

the report of the Committee of Experts which studied international protection of type faces which met at Geneva from 18 to 25 July 1960

Observing

that the provisions of the Arrangement for the international deposit of industrial designs and models revised at The Hague in November 1960 do not appear to meet the particular requirements needed for an international protection of typographical designs in the cultural, artistic and industrial field, such as argued by the Committee of Experts at Geneva.

Expresses the wish

that the International Bureau at Geneva shall take all the necessary steps to provide the desired international protection of type faces and printing designs.

Doc. The Hague  
18th Nov. 1960  
Nr. 53 E.

PROPOSAL BY DENMARK SUPPORTED BY FINLAND, NORWAY AND SWEDEN

RESOLUTION

- (1) There shall be set up, in liaison with the International Bureau, a provisional Committee of Experts, with the task of preparing an international classification to be used in connection with the international deposit of industrial designs.
- (2) The International Bureau shall prepare the work of the Committee and shall convene it as early as possible.

Doc. The Hague  
Nr 54 / E  
Date: 18-11-1960

MINUTES OF THE FIFTH SESSION OF THE GENERAL COMMISSION

Morning Session 18th November 1960

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Mr de Haan, Chairman, opens the session at 10.15 hrs. He proposes that the discussion of Article 9 be deferred till the afternoon and that the discussion of Article 10 be proceeded with.

Discussion of Article 10. Proposal submitted by the U.S. delegation (Doc. 28 F).

Mr Federico (United States) explains that the new draft of the text of Article 10 makes it possible, in those countries which make a preliminary examination, for the design or model to be protected for an actual term of 10 years (if renewal is made), taking the examination period into account, since in these countries protection does not start from the moment of deposit but from the end of the examination.

- This provision is an absolute one. Even if the examination takes 5 or 6 months the effective term of protection must last for 10 years.

- Mr Labry (France) states that the French delegation agrees to the new wording of the text, although France would have been in favour of a longer minimum term of protection.

- Mr Phaf (Netherlands) observes that the consequence of this text is that in the countries that make the examination, the 10-year term of protection is extended by 5 or 6 additional months, when the international registration itself has expired.

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- Prof. Ulmer (German Federal Republic) asks in which of the countries that perform the preliminary examination protection is retro-active to the moment of deposit. It is in fact necessary to know if an action for damages is possible between the moment of deposit and the end of the examination.

- Mr Ljungman (Sweden) states that in Sweden this retroactive effect does exist.

The Yugoslave delegate considers that this matter of the length of the term of protection should be settled by the domestic law of the Contracting States.

Mr Ulmer points out that the object of Article 10 is to establish in all cases a minimum term of 10 years, whatever the stipulations of the domestic laws in this regard may be.

In reply to the question raised by Mr Ulmer, Mr Bogsch (U.S.) makes a distinction between countries with an examination and countries without one. In the case of the former the matter of the retroactive effect must be settled by domestic law. In the case of the latter the date of the deposit is what counts. In the U.S. the present law on designs and models does not admit of this retroactive effect. Therefore the proposal is made to favour the depositor, bearing in mind the term of examination.

Mr Phaf (Netherlands) thinks it strange that consequently, although the international registration is no longer valid at the end of 10 years, the protection continues for an additional term of 5 or 6 months, which fact cannot be established from the entries made in the International Register.



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Messrs Haertel (Federal Rep. of Germany) and Bogsch (U.S.) insist that the object of this Article is to lay down a minimum term of protection of 10 years, whatever the term of protection granted under domestic law may be.

The Rumanian Delegate considers that the term of the deposit is laid down by Article 7 and that consequently Article 10 is redundant.

Mr de Haan points out that if this were the case, the countries would be free to set a term of protection shorter than 10 years. Article 10 avoids this contingency.

Mr Morf (Switzerland) suggests that this Article 10 be inserted after Article 7, with which it is connected.

Mr Lorenz (Austria) asks for some further details concerning the term of protection when there has been a renewal made or not and also details concerning the connection between Article 10 and Article 7.

Mr de Haan requests the Drafting Committee to work out a new draft which should provide the explanations requested by Mr Lorenz and which should indicate where Article 10 ought to be inserted. Subject to this new draft Article 10 is considered approved.

Mr Peignot then takes the floor to set forth the viewpoint of the International Typographical Association (see Doc. 51 F) in regard to the new Arrangement of The Hague.

Discussion of Article 11 (Doc. 29 / F)

Mr Grant (United Kingdom) is in favour of the approval of the budget by the Committee.

Mr Labry (France) points out that a provision corresponding to the Lisbon text has been proposed intentionally. Switzerland is under the statutory obligation to prepare the budgets and to supervise the Conventions.

Mr Morf (Switzerland) supports the French proposal. If it is the Committee that is entrusted with drawing up the Budget the function of the Swiss Federal Council would only be to pass on letters and an overlapping of responsibilities would result. The Lisbon decision to leave to the Swiss Federal Council the responsibilities in this matter has received ample consideration.

The Swiss delegate suggests that the procedure referred to be given a trial at least once. It can always be changed at the next meeting of the Committee. He proposes (letter e) to replace the word "to approve" by "to give its opinion".

Mr Grant (U.K.) thanks Mr Morf and declares himself satisfied.

Mr Bogsch (U.S.) suggests that the words "to study" be substituted for "To give advice" in para. 2 sub d.

Mr Coppieters de Gibson (Belgium) proposes that the words "or represented" (its members present or represented and voting) be added to para 3, line 3. Likewise in para. 2 sub b).

The Spanish and Rumanian delegates would like to see the amendments to the Regulations carried unanimously and not by a four fifth majority.

Mr Morf (Switzerland) seconded by Mr Labry (France) draws the attention of the delegates to the fact that, because all important matters are settled by the text of the Arrangement itself, it is possible to retain the 4/5th majority vote for amendments to the regulations, without failing to comply with the unanimous vote required for international Conventions.

Mr Truvinescu (Rumania) then wishes to have the four fifth majority inserted also in para. 3.

Mr Bogsch (United States) seconded by Mr Labry proposes to add to para. 3: a) ("subject to para. 2 a) and b)"). Thus each major amendment would require a four fifth majority.

The Rumanian delegate, though supporting the statement made by Mr Grant concerning the Budget, is no longer opposed to the adoption of Article 11.

So Article 11 is carried.

After a brief adjournment of the session Mr de Haan invites the Delegates to proceed to the discussion of Article 12.

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First Mr. Ulmer (Rép. Fed. of Germany) reports on the work of the Sub-Committee entrusted with settling the problem concerning the inclusion of a description in the international deposit required by Spain and Yugoslavia.

The proposal reads as follows: to make it compulsory to submit a brief description of a design or model, which would be sufficient in every case and would not depend on national legislation.

This brief description would be published with the graphic reproduction of the design or model.

The French delegate fully agrees to this solution.

On the contrary, Mr. Pointet (Switzerland) considers that in certain cases (viz. in the field of the textile industry) it will be difficult to submit this "brief description"

Mr. Bogsch (United States) asks Mr. Ulmer to specify if a country would have a right to refuse to protect the elements of designs or models not included in the brief description. If such were the case the photographs would be useless.

He would like to see defined, what is understood by a brief description. In the United States a description may be a simple reference to the design. Must the description be a complete one in Spain ?

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Mr. Pointet (Switzerland) shares the reservation of the United States delegate; in his opinion the description is of essential importance, especially if a country has the right to refuse a deposit, finding it inadequate.

Consequently, he declares himself opposed to this amendment, while proposing by way of compromise, that in the event of a description being found inadequate, reference to the photograph shall take its place.

In the opinion of Mr. Ulmer, (Rep. Fed. of Germany) a simple reference to the photograph is not sufficient, but a few explanatory words might suffice.

Mr. Duchemin (ALAI) points out the description will entail an additional fee.

Mr. Morf (Switzerland), seconded by Mr. Bogsch (United States) would like to know specifically whether the picture will only be considered within the limits of this brief description or if the article will be defined by the picture, the description being in no way prejudicial to this definition.

Mr. Ljungman (Sweden) also asks for further details regarding this description. Citing by way of example the photographs on page 28 of the Draft Arrangement, he asks whether the mere words "Appareil photographique" would constitute the brief description proposed.

The Spanish delegate replies that it must be stated what are e.g. the distinctive features of this camera.

Mr. de Haan (Chairman) hopes that a formula will be found according to which the applicant will be able to ascertain minimum requirements to be protected in Spain and Yugoslavia.

Mr. Pointet (Switzerland) underlines the disadvantages of these provisions. Not only in regard to the fee, but also in regard to the agent's allowances, the additional administrative work and the risk of errors.

He reminds the Delegation that the International Conventions should urge countries to adjust their domestic laws to international provisions, and that they should not attempt to meet the requirements, of each particular case.

Mr. Roscioni (Italy) suggests that the use of the description is the displaying of the original distinctive features of the design or model.

The matter is therefore referred to the Sub-Committee. Mr. Pointet will contact the Spanish and Yugoslav Delegates in order to try to reach a compromise.

The Chairman asks the Delegates if they feel that the Drafting Committee has enough data at its disposal to draft a new Article 12.

No objection is raised. The matter is therefore submitted to the Drafting Committee.

Discussion of Article 13 of the Draft.

The Rumanian Delegate considers Article 11 to be adequate, and the written procedure to be forgone accordingly.

Mr. de Haan points out that the Committee is called together only once every three years . However, amendments, important through actual circumstances, but not sufficiently important legally to warrant a meeting of the Committee, should be adopted during this three years' term through the International Bureau, which submits these amendments to the Governments concerned.

Mr. Morf (Switzerland) reminds Delegates that Article 11 makes provision for special meetings of the Committee in the course of the three years terms, should the need for such meetings arise, and accordingly he agrees to the cancellation of this Article.

Mr. Magnin (France) points out that the reasons which have induced the Contracting States to request the insertion of this Article, are mainly of a financial nature. Since, in the case in point, these reasons are not essential to the International Bureau, Mr. Magnin endorses the thesis upheld by Mr. Morf.

The United States and French Delegates consider that it will be easier and less burdensome for the International Bureau to send a letter to the Governments, rather than to invite the Delegations to meet at Geneva at the Contracting States' expense.

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The Rumanian Delegate does not oppose the retaining of this Article.

Accordingly, Article 13 is carried unanimously.

Discussion of Article 13 bis as proposed by the Delegations of the Federal Republic of Germany, France and the Netherlands

Mr. Labry (France) explains the reasons why this Article was considered to be necessary.

The International Bureau at Geneva should be self-supporting though it should not make profits. Now if the expenses should prove heavier than those anticipated, deficits if any should be covered. Hence the provision for a reserve fund to be supported by the Contracting States. But when the situation is balanced, these advances will be refunded.

Mr. Roscioni (Italy) declares himself in agreement with the spirit of this Article. He feels, however, that it will be difficult to enter on the State's Budget any "loans" that will be refunded.

Mr. Morf (Switzerland) fully concurs with the proposed text. He does not think the implementing of this provision should give rise to any complications since the Swiss Government, which advances the funds, will "hand in the bill" at the end of the current financial year, and the Governments concerned will thus have plenty of time to enter these expenses in their Budgets .

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BIBLIOTHÈQUE



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The Rumanian Delegate gives expression to the wish that a paragraph be added stating that the redistribution of the excess amounts shall be used to cover the expenses incurred by the national Administrations; such as e.g. the costs of publication.

Mr. Roscioni (Italy) specifies that what worries him is not the refund of expenses, but the entry of "advances" in the Italian Budget.

The session is adjourned, to be resumed in the afternoon.

SUMMARY OF THE MORNING SESSION OF NOVEMBER 18th 1960

Article 10 (Doc. 28/F)

is considered to be carried, subject, however, to a new wording liable to be found satisfactory by the Austrian Delegation.

Article 11 (doc. 29/F) is carried, but for 3 alterations :

- para. 2 e) "To give its opinion" instead of "To approve"
- para. 2 d) "To study any other problem" instead of "To give advice".
- para. 2 b) and para.3 (2nd line) : adding of the words "or represented" (members present or represented and voting).

Article 12 : Submitted to the Drafting Committee. The matter of compulsory description is referred back to the Sub-Commission presided over by Professor Ulmer, as requested by Spain and Yugoslavia.

Article 13 : Carried unanimously.

Article 13 bis (doc. 30/F) : discussion adjourned til the  
afternoon.

Doc. 54/E

Doc. The Hague

N° 55/E

Date: 19.11.1960

MINUTES OF THE SESSION OF FRIDAY AFTERNOON, NOVEMBER 18th 1960

The session is opened at 14.50 hrs.

Art. 13 bis (Doc. 30)

The Chairman gives the floor to Mr. Finniss concerning Article 13 bis, which has been studied in the morning.

Mr. Finniss makes the following statement :

- everybody agrees that fees ought<sup>to</sup>/cover expenses, but it should be noted that the expenses represent only a fraction of the total amount of the expenses incurred by the International Bureau for the Protection of Industrial, Literary and Artistic Property. It is necessary for the percentage of joint expenses to be determined, otherwise difficulties will arise ;
- it would seem to be illogical to provide for a triennial system of auditing the accounts, and on the other hand an annual report. The deficit should only be ascertained by the Consultative Committee.
- The granting of loans is an unusual procedure for the

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French State and will not meet the requirements of the Arrangement. It would be necessary to pay an initial contribution to get the Arrangement started. Later on it could be considered whether the contributions can be adjusted making allowance for a rise in the level of fees.

Mr. Finniss considers it necessary to be advised by the person who concerns himself with these problems in the Swiss delegation.

The Chairman requests the delegations of the Federal Republic of Germany, of France and of the Netherlands, who have proposed this Article 13 bis, to come to an understanding with Mr. Pochon, bearing in mind the observations made by Mr. Finniss, and to study an amending of the text.

#### Article 14

Document 33 is a reproduction of the resolutions carried at London by the Permanent Committee of the Bern Union and the Intergovernmental Copyright Committee during the early part of November.

Mr. Bogsch considers that the incorporation of Article 14 is useful although it is not absolutely indispensable. A more accurate definition should be worked out of the possible consequences for Copyright if the letter D appears on the design or model and the other way round the consequences for the protection of designs or models resulting from the appearance of the letter C on an article. This is not clearly stated in the text.

Mr. Labry considers that this text is sufficiently clear and concise. In fact the text provides that the stipulations of the present Arrangement do in no way affect the protection granted by domestic law or by international Treaties and Conventions on Copyright.

Prof. Ulmer presents the following objection: it is not merely a legislative matter but the interpretation of the Courts must also be taken into account. In countries where a twofold protection exists by virtue of the laws the Courts sometimes rule that the marking of a design or model must be interpreted as a renunciation of Copyright. It is therefore necessary to define more accurately in Article 14 that the appearance of the design notice does not exclude this Copyright protection.

But, Mr. Labry insists that the text of Article 14 is sufficiently wide in scope and explicit.

Mr. Magnin points out that this article applies to legislation and not to jurisprudence. However, Mr. Ulmer has stated that in certain countries jurisprudence and not domestic law interprets the appearance of a design notice as a renunciation of double protection. So such an interpretation ought to be avoided.

After the statements made by the delegates of France, of the Rapporteur-General and the Italian Delegate, the Chairman notes that on the proposal of Mr. Bodenhausen an agreement might be reached; to add to Article 14 a stipulation providing that the appearance of the notice cannot be interpreted as a renunciation of the aforesaid protections.

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Mr. Ulmer proposes to include this stipulation in Article 9.  
Subject to this proposal Article 14 is carried.

Article 15 (Doc. 44)

Para. 1

Mr. Finniss believes he is expressing the opinion of the Moroccan delegation in saying that the delay of six months is rather short. He requests that it be extended to one year. The same remark is made by the Swedish delegate, who suggests that any State referred to in Article 1, para. 2 may sign the present Arrangement until January 1, 1962. This proposal is carried.

Para. 2.

On the proposal of Mr Bogsch this paragraph is approved with para.3 Article 16 of the Union Convention of Paris included.

Mr. Bogdanovitch (Yugoslavia) asks which text will be binding for those countries signing the New Arrangement for the first time.

The Chairman points out that the countries that sign now can only sign the present text, and those which will sign later can only sign the last revised text and not the former text.

Mr. Magnin states that the Signatories to the new text should renounce The Hague Arrangement. But the text of the New Arrangement will be revised. Signatories to this revised text will not be bound to the Signatories of the former text.

In the opinion of Mr. Haertel (Germany- Fed.Rep.) the Signatories to the new text should be bound to the Signatories to the former text, as is the case with the Paris Union.

Mr. Magnin thinks a more accurate definition useful.

Therefore the Chairman notes that this text is carried subject to the draft amended.

Article 15 bis

This article is approved subject to a statement made by Mr. Bogsch (United States) cautioning against a conflicting interpretation.

Article 16

An Austrian proposal has been submitted :

"Each Contracting State undertakes to provide for the protection of industrial designs (Doc. 12) "

This proposal might be considered in this Article 16 (text of the Experts)

Mr. Labry (France) is of the opinion that the paragraphs of Article 15 are superfluous, even more so because nothing is stated as to the settlement and litigation.

The Turkish delegate is also opposed to this Article.

The delegates of the United States and the Germany -Fed.Rep. are in favour of this provision. The Italian delegate makes a distinction between countries where International Treaties

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automatically become domestic law and those where they must be adopted ("réceptionnés") by a domestic law, and where they do not apply automatically. In his opinion France belongs to the former group and Italy to the latter.

He believes that the Italian Parliament will more readily ratify a law if this provision is included in Article 16.

Mr. Labry states that a country which has signed a treaty is in any case bound by its signature.

The Chairman asks if all delegates agree to Article 16 with the inclusion of the Austrian proposal.

In his reply to an objection of the Turkish delegate Mr. Lorenz (Austria) insists that this obligation to ensure the protection of designs or models be included in Article 16, because in the present Arrangement the member countries have no national protection of designs and models. The Austrian proposal is supported by the delegates of the United States and Italy.

Mr. Bodenhausen proposes that the following words be added to para. 1 of Article 16 : "as well as a protection of designs and models deposited."

The Chairman refers Article 16 to the Drafting Committee, which will be entrusted to incorporate the Austrian resolution in its appropriate place.

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Article 17 (Doc. 44)Para. 1.

Mr. Labry asks that the necessity of at least five non-Signatory States to the present Arrangement signing the new Arrangement, be mentioned in this Article.

France is only prepared to make major concessions if this will result in at least five States joining; France attaches great importance to this point of issue.

Mr. Finniss confirms this statement and is supported by the delegations of Yugoslavia and the Germany (Rep. Fed.).

The delegate of Germany (Rep. Fed.) asks in addition that the necessity be mentioned of the adhesion of seven States parties to the present Arrangement. Thus the minimum amount of adhesions or ratifications would be increased to twelve States. The first paragraph is carried with the inclusion of the German proposal. However, the United States delegate wishes to avoid that, if five new States join the Arrangement, the effects of this adhesion might be nullified, should the adhesion of seven States already parties to the previous Arrangement not be forthcoming simultaneously. He adds that among the States parties to the previous Arrangement some do not show much interest in the Arrangement.

Para. 2 is adopted.

Para. 3

Mr. Morf (Switzerland) points out that the word "not" in the eighth line should be deleted. It would then read as follows :



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"unless that country has expressly declared that it no longer wishes to be bound by this text".

The Rumanian delegate deems it necessary to define more accurately in this paragraph, at the beginning of the second sentence: "nevertheless, each Country which has signed the The Hague Agreement revised in London shall remain bound ..."

Nevertheless, in his opinion it would be difficult for countries having signed the London text to remain bound to the countries having signed the revised text.

Mr. Magnin points out that a difficulty may arise if a State

party to the new text should wish to renounce the previous text. Provision ought to be made to the effect that the renunciation shall not become effective until the new text comes into force, or at least until the Rapporteur-General in this report draws the attention of the States to this point in order that if they denounce the previous text, they state specifically that such denunciation will only become effective after the new text has come into force.

On behalf of the Moroccan Delegation, the Rapporteur-General declares himself in agreement with para.3.

This paragraph is thus carried.

#### Paragraph 4

The French Delegate considers that this provision has no connection with Article 17. The usefulness of this paragraph is also questioned by the United States delegate.

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Mr. Magnin draws the attention to the fact that the International Bureau has no power to adapt texts. Its task is restricted to enforce these. Accordingly, it is not clear to him which measures this text is referring to.

The Luxemburg Delegate proposes that these matters be settled by the Consultative Committee. The Delegates of the United States and the United Kingdom propose that this paragraph be omitted.

The Delegates of Germany (Rep.Fed.) and the Netherlands explain that this paragraph aims at providing for the settlement of financial issues in the event of a country being simultaneously bound by both the texts, in relation to different countries, however. In this event, the chances are that a deposit would have to be filed for each of the Arrangements, and the International Bureau should be in a position to take certain measures, in particular with a view to settling the payment of fees. These explanations are considered by the French Delegate to be sufficiently convincing.

Mr. Magnin considers that, in these circumstances, the International Bureau will be in a position only to enforce the texts and is likely to be constrained to claim two deposits, entailing two different series of fees.

In view of this, the Delegate of the United States considers that it will be necessary to redraft the text, and the Chairman then entrusts the Director of the International Bureau with the task of preparing a text and submitting it to the Drafting Committee. Mr. Magnin feels that it is rather up to the Delegates to appoint a Commission. He considers that the International Bureau has no need for a special provision to enforce the texts, and he endorses the statements made by the Delegates of the

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United States and France, according to whom, this paragraph 4 is quite unnecessary.

The discussion of this item is deferred to a later session.

Protection of typographical type faces

Mr. Finniss asks the Chairman whether, prior to leaving the chair, he is prepared to request Delegates to come to a conclusion as to the view held by the Typographic Association, both on certain essential provisions of the new Arrangement of The Hague. (Doc. 51), and on the proposal brought forward by the Delegations of Italy, France, Monaco, Switzerland and Yugoslavia, tending to giving expression to a wish. (Doc. 52).

Mr. Peignot, President of this Association, simply requests that the Conference decide to refer this matter back to the International Bureau with a view to allowing the problems called forth to be solved.

The French Delegate and the Rapporteur-General urges that this wish be examined.

The Delegate of the United States considers that, in view of the importance of this matter, it will be difficult to come to a conclusion as to this particular item during this session, and on the proposal of the Chairman, the examination of the problem is deferred to the session scheduled for Saturday morning, November 19th, 1960.

The meeting is dissolved at 17.15 P.M.

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S U M M A R Y

Article 13 bis (Doc. 30). Carried

Article 14. Carried

Article 15 (Doc.44) Carried

Article 15 bis (Doc.44) Carried

Article 16 ; including the Austrian proposal (Doc.12) Carried

Article 17 (Doc.44) Carried with the exception of para 4.  
the discussion of which was deferred to a later  
session.

Typographical type faces : discussion postponed.

Doc. The Hague

No. 56 / E

Date: 18-11-1960

PROPOSAL PRESENTED BY THE DELEGATIONS OF ITALY, FRANCE,  
MONACO, SWITZERLAND AND YUGOSLAVIA

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Resolution and Wish

The Diplomatic Conference for the revision of the Arrangement of The Hague for the international deposit of industrial designs or models revised at The Hague meeting in November 1960.

Having noted

the report of the Committee of Experts which studied international protection of type faces which met at Geneva from 18 to 21 July 1960, which concludes that the provisions of the Arrangement for the international deposit of industrial designs and models do not meet the particular requirements needed for an international protection of typographical designs in the cultural, artistic and industrial field, without pronouncing itself on the merits of the above-mentioned report,

Expresses the wish

that the International Bureau at Geneva take the necessary steps to pursue the studies already undertaken, with a view to seeking the means for ensuring the desired protection and to report back to the Governments.

NEW ARTICLE 5 bis

RELATING TO THE REQUIREMENT OF THE DESCRIPTION

(Draft of the Special Working Group)

- (1) A short description, indicating the details of the design or model of which a photograph or other graphic representation has been deposited, may be required under the condition set forth under par. a) and b) herein after.  
This description shall not constitute an element of the deposit and shall not be published internationally.
- (a) If the legislation of a State provides a procedure for an appeal in opposition, a short description shall be sent by the depositor to the national administration of that country through the intermediary of the International Bureau within a period of one month as from the date of deposit. The only fee that may be required shall be that required for the national publication of the description. If the description has not been sent within the prescribed period, the depositor shall be considered as having renounced protection for his design or model in that country.
- (b) Where the national Administration shall consider, it necessary it may after international publication require from the depositor a short description of his design or model. The description shall be sent to the national Administration of that country through the intermediary of the International Bureau within a period of two months as from the date of reception by the depositor of the request for the description. No fee shall be required from the depositor.
- (2) Those States wishing to take advantage of either of the provision stipulated under par. 1, a and b above, should declare so expressly when ratifying the present arrangement, or acceding to it.

Conférence de La Haye  
Doc. No 59/E  
Date: 19-11-1960

PROPOSITION OF THE DELEGATION OF THE  
UNITED STATES OF AMERICA

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Article 9, paragraph (2) should read as follows:

"If the domestic law of a Contracting State provides for a notice on the article for any other purpose, then such State shall consider the requirements of such provision fulfilled if the authorized copies of the article offered to the public, or a tag attached to such copies while they are in commerce, bear the international design notice."

Conférence de La Haye  
Doc No 60 / E  
Date: 19-11-1960

PROPOSAL OF ITALIAN DELEGATION

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A final article should be drafted as follows :

1. This Arrangement shall enter into force three months after the date on which at least twelve instruments of ratification or accession have been deposited, provided that at least five of these instruments were deposited by States not party to the Arrangement concerning the International Deposit of Industrial Designs or Models as signed at The Hague on 6 november 1925 or as revised at London on June 2 1934.

2. Same as article 17, par. 2 , doc. 44

3. Same as article 17, par. 3, doc. 44



REPORT OF THE FINANCIAL SUB-COMMITTEE

The Financial Sub-Committee having considered the problem of ensuring that there shall be sufficient money to enable the new Arrangement to work and to avoid any subsequent deficit reached the following conclusions : -

- (1) That an initial contribution totalling not less than 250.000 Sw.frs. is necessary. This estimate is based on an approximate cost of 100.000 Sw.frs. a year for the existing Arrangement and assumes that some time may elapse before the operation of the new Arrangement can become self-supporting from fees. It also recognizes that the new Arrangement is likely to be more expensive to operate.
- (2) This initial contribution should be divided equitably between the members and it is thought that this could be done suitable on the basis of their class of membership in the Paris Union. The final division cannot be made until the members are known and should then be agreed between them and the Swiss Government.
- (3) The Arrangement should not come into operation until the initial contribution of each member has been agreed and an undertaking to pay it within 12 months has been received by the Swiss Government.
- (4) Any new member joining after the original 12 shall pay the same contribution as it would have paid if it had joined at the beginning. The payment of initial contributions may cease when the Committee decides that the financial state of the Arrangement warrants this.
- (5) [Any member State which has not paid its initial contribution within the 12 months specified in para.3 shall cease to be entitled to the benefits of the International Design Service.]
- (6) The fees to be collected for the services rendered under the Arrangement shall be so established that:
  - a) They cover all the expenses necessitated by the International Design Service and all the expenses of the International Bureau necessitated by the preparation and holding of meetings of the International Design Committee or conferences for revisions of the present Arrangement;

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- b) They allow the constitution and maintaining of a reserve fund the amount of which is fixed by the Regulations;
- (7) When the Reserve Fund has reached the figure fixed by the Regulations it shall be within the competence of the Committee to return to the members any surplus. This surplus, shall be divided in proportion to the initial contributors.
- (8) If at the end of any budgetary year there is a deficit too great to be covered by the Reserve Fund the Committee shall decide what measures are to be taken to provide the money necessary to enable the operation of the International Design Service to continue.

Doc. The Hague

Nr. 63 E

Date: 19. Nov. 1960

C O R R E C T I O N

to Doc. 47/E minutes of Thursday 17<sup>th</sup> November, 1960

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On page 4, line 17, Mr. Farrer's (CNIPA) statement should be amended by adding the following sentence :

"He also favoured territorial limitation"

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Doc. The Hague  
 No. 64 / E  
 Date: 19-11-1960

COMMITTEE ON TERRITORIAL LIMITATION

PRINCIPLES OF A POSSIBLE SYSTEM OF "TERRITORIAL LIMITATION"  
SUBMITTED BY THE GENERAL COMMISSION

- (1) The applicant must designate by name each state in which he wishes the International deposit to have effect. The International deposit will have effect only in the States so designated.
- (2) a) Subject to point (3) below, the applicant will pay, in addition to the 50 Swiss Francs "international" or "basic" fee, a supplementary fee of approximately 5 Swiss francs per deposit (simple or multiple) and per designated State.
- Example : The depositor wants protection in 6 States. He will have to pay  $50 + (6 \times 5) = 50 + 30 = 80$  Francs
- b) The supplementary fee, in its entirety, will be paid over by the International Bureau to the Administration of the designated State. During the five years of the initial period, the national office of the designated State cannot ask for any additional payment in connection with the recording of changes in ownership or address, renunciations, etc, during this period, this prohibition does not apply, namely, to cases of judicial procedures
- c) At each renewal, the same supplementary fee (or ten Francs for each renewal) will be paid per deposit and for each State in which the applicant wishes the renewal to have effect. Point (b) applies mutatis mutandis also for the renewal periods.
- d) In the case of countries carrying out novelty search and examination the fee for the first period will be approximately what the draft Regulations provide (Rule 9).
- (3) States may bilaterally agree that they waive their right to the supplementary fee in the case of deposits made by their respective nationals.

Examples : France and Germany renounce their right to supplements; Austria does not.

(1) A French depositor designating Austria and Germany will have to pay  $50 + 5 = 55$  Francs (50 Francs basic fee; 5 Francs for Austria; nothing for Germany).

(2) A French depositor designating Germany will have to pay 50 Francs only.

(3) An Austrian depositor designating France and Germany will have to pay  $50 + 5 + 5 = 60$  Francs.

(4) In order to facilitate the task of those national Offices which wish to keep parallel registers with the International Register, and in order to make the keeping of such parallel national registers more economical,

- 1) the national offices will receive, on request, copies of the International Gazette in which printing is only on one side of each page, so that both the original publication and later entries can be clipped and pasted by the national offices;
- 2) in the International Gazette designs will appear in some order of classification; main classes may constitute separate series of the Gazette; such international classification should facilitate classification by the national offices.

Doc. The Hague  
No. 65 / E  
Date: 19-11-1960

ADDENDUM TO DOCUMENT No. 54

Mr Trufinescu's Statement on page 5, lines 5 and 6,  
should read as follows:

The Delegate of the People's Republic of Rumania considers that by virtue of Article 16, which binds the Contracting States to take the necessary measures towards ensuring that the Arrangement is applied, the term of the deposit is stipulated in Article 7, and consequently Article 10 is useless. On the other hand, Article 14 establishes that regulations wider in scope may be enacted by a Contracting State, and thus the term of protection in a particular country may exceed the term laid down in Article 7.



Resumption of the discussion of the Draft Arrangement.

Discussion of Article 19 : No objections being made, this Article is carried unanimously.

Discussion of Article 20 : On the proposal of Mr. Labry (France) para. 2 is left out as superfluous, and Article 20 is carried unanimously subject to this deletion.

Discussion of Article 21 : Mr. Finniss points out that the expression "a common administration will be substituted" does not cover the possibility of a Common Administration set up by several States, not being substituted for the National Administrations, but of their being added to these National Administrations. The certificates issued by this Administration would not replace the national certificates, but would exist side by side with these certificates. This hypothesis would therefore have to be provided for in a new drafting of Article 21.

The Chairman proposes that this matter be referred back to the Drafting Committee.

Mr. Magnin is of the opinion that it is not a drafting matter but a matter of substance, viz.: can Supranational Communities enjoy the benefits of an Arrangement contracted between the States ? The answer is doubtful. In any case this question is quite different from the one referred to in Article 21.

The Chairman asks for Mr. Ulmer's opinion, who replies that he will think the matter over.

The Delegates agree on the spirit as such of Article 21, which is referred to the Committee.

Discussion of Article 22 : Mr. Grant (United Kingdom) reminds the Delegates of his Government's observations with reference to this Article 22 published in the Second Volume.

In addition, he wishes that English were considered to be an official language on the same footing with French, in view of the fact that the English language has gained considerably in International exchanges since the period when French was the only language used in International Conventions.

Mr. Labry recalls the lengthy debates on this matter which took place at Lisbon in 1958, and the arguments that have resulted in the



adoption of French only. These arguments are still valid at present. Therefore the French Delegation is unreservedly in favour of the use of one official language.

Mr. Phaf (Netherlands) suggests that the words "le présent Protocole" (Para. 1, line 4) be replaced by "le Protocole annexé au présent Arrangement" (as in the English translation) and that in the fifth line "lors de la signature de la ratification" be replaced by "lors de signature ou de la ratification" (as in the English translation). These suggestions are submitted to the Drafting Committee.

Mr. van der Haeghen (Belgium) points out that not all Countries have acceded to the London text, and that a distinction ought to be made in this regard.

The Rumanian Delegate then proposes that Article 22 and the Protocol be abandoned. In his opinion they do not lay down an accurate connection between the present Arrangement and the proposed Draft. According to him the new text should not become operative until the old text has been renounced in order that no risk of a twofold protection may be incurred.

Dr. de Haan having pointed out that the aim of the Protocol is not to lay down the connection between the old text and the new text of the The Hague Arrangement, but to provide for stipulations of a wider scope (a minimum term of 15 years and no marking), which some countries would like to adopt within the framework of the new Arrangement, the Rumanian Delegate withdraws his proposal and the discussion of the Protocol is deferred.

The Rapporteur-Général, Mr. Finnis expresses a wish that financial questions be raised prior to any other discussion.

Mr. Morf (Switzerland) gives an account to the financial situation of the present Arrangement: this situation shows a deficit and means must be found to make up this deficit. The present fees are insufficient to meet the cost of the service, which are steadily rising. It is therefore necessary to provide for an increase in the present fees and for the means to cover the initial expenses that will be incurred when the new Arrangement becomes into force.

Mr. Finnis explains this financial situation. Since 1925, the Arrangement of The Hague proved incapable of being financially self-supporting. Funds issuing out of returns in excess were supplied by

the Madrid Arrangement on Marks, making up the 400.000 Swiss Francs deficit. This practice cannot go on indefinitely. In addition, the deficit shows an annual increase of 70.000 Swiss Francs, and if this situation were allowed to continue, the total deficit would amount to 1 million Swiss Francs within 7 years.

Aggravation of the deficit should therefore be avoided first and foremost by raising present fees in a 1 : 10 ratio.

In the second place, the debt of 400.000 Swiss Francs should be refunded, and this should be effected by the Contracting States. Hence, the settlement of these items is a matter of pressing urgency. As to the new Arrangement, the mere fixing of future fees is inadequate; an initial fund should be set up, with a view to enabling the organization's financial start, the payment of officials and printing expenses, etc., up to such time when the receipts from the fees will suffice to meet these costs and expenses.

Hence, there is urgent need for the new Arrangement to stipulate that Contracting States shall pay both an initial contribution and an annual contribution which is to be restricted in time, e.g. to 4 or 5 years, and that these contributions shall be refunded as and when the Arrangement effectively comes into force.

Mr. de Haan thanks Mr. Finniss for his statement, and he specifies the the problems relating to the members of the present Arrangement only (Settlement of the debt and raising of fees) will be dealt with separately, since the Conference must deal with the financial terms governing the future Arrangement.

Discussion of Article 13 bis, paragraph 2 (Doc. 30 F).

Mr. Finniss explains that the terms "Initial and Annual Contributions" to be paid with a view to covering the initial expenses of the new Arrangement, are more orthodox than the expressions "Advances" or "Deposits non productive of interest", but that the system is the same, as it is to remain understood that the fees are to cover the expenses, that any amount in excess shall be transferred to the reserve fund, and that the surplus amount shall be refunded to the Contracting States.

Mr. Roscioni (Italy) also considers that it is impossible to integrate the system of advances or loans not productive of interest into the yearly Budget of his country. He adds that he is opposed to the principle of contributions, but that if there is any deficit, it is of course up to the Member States of the Arrangement to meet any such

deficit, the refund to be effected proportionally to the amounts actually paid.

Since a Committee will be entrusted with the task of settling the expenses involved during the 3 initial years, it is mainly a matter of fixing fees at a sufficiently high level to cover the expenses.

Mr. Federico (USA) agrees that it will be difficult to have the idea of "lean non productive of interest" accepted by the legislator.

He stresses, however, that this paragraph only relates to the deficit accruing during a given future financial year, when the Arrangement will be fully operative. He therefore proposes that a special additional paragraph be inserted with a view to solving the question of the initial establishment of the Arrangement

Replying to Mr. Roscioni (Italy), Mr. Finniss explains that the problem is not to meet annual deficits to be covered by the Contracting States, but rather an initial investment, which should amount to 200.000 Swiss Francs at least. The Contracting States should therefore advance this sum, otherwise Switzerland would have to meet this expense.

Furthermore, it may be that, even in the event of a normal turnover, contributions might have been calculated erroneously, and that the receipts prove to be insufficient. If the Contracting States should not commit themselves to refund the deficit, Switzerland would again have to pay; but since one can no longer count on the Madrid Arrangement the settlement of this problem is a matter of pressing urgency.

Mr. de Haan notes first of all that the Delegates agree to the principle of an initial amount to be paid with a view to enabling the Arrangement to be set up. He then asks the Delegates whether the system of contributions, as proposed by Mr. Finniss, is acceptable to them.

Mr. Bögsch (U.S.A.) agrees as to the principle but considers it difficult to take a final stand without a written text.

Mr. Finniss is formally opposed to having it said that contributions must cover a deficit. The Governments cannot accept any obligation to cover a deficit without having the means to supervise it. Now this supervision falls within the competence of the Swiss Federal Council and one cannot change the whole system of supervision. He adds that the Parties to the Madrid Arrangement will see their payment covered by the debt that the Paris Convention itself has with respect to the Arrangement, and that only on this condition they will accept the system of initial and annual contributions.

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The session is adjourned at 12.00 hrs.

It is resumed at 12.35 hrs.

Mr. Winter (United States) seconds the proposal made by Mr. Grant (United Kingdom) to draw up an English version of the text of the Arrangement that would be authentic as is the French text. This English text would make a more general and varied interest in the Arrangement possible, which would be in accordance with the very aim of this Conference, which consists in encouraging the greatest possible number of adhesions. Moreover, he underlines the practical difficulties that arose in the United States, when the Lisbon Revision was submitted to the Congress, and several months passed until an official translation was available.

Mr. de Haan proposes to revert first to the discussion of Article 13 bis, para. 2.

Mr. Haertel (Fed. Rep. of Germany) agrees to providing for an initial contribution but he does not see any necessity of also providing for annual contributions. He would prefer to raise the initial amount.

Mr. Labry (France) and Mr. Morf (Switzerland) second this suggestion. Mr. Labry points out that if the principle of an annual contribution were laid down even as a temporary measure, this would be in contradiction to the principle according to which the International Bureau shall become financially independent.

Mr. de Haan proposes to defer the discussion till the financial Sub-Committee, in which Mr. Grant (United Kingdom) replaces Mr. Hoffmann (Luxemburg), has submitted his report.

In connection with the proposal made by Mr. Phaf (Netherlands), Mr. Haertel (Fed. Rep. of Germany) feels that the Conference may express a wish to the effect that the Parties to the former text shall settle the financial situation before the new text comes into force.

Mr. de Reuze (Belgium) requests that the Sub-Committee also examine the basis on which the amounts of the contributions shall be calculated.

Mr. de Haan now reopens the discussion on Article 22 bis (Doc. 46) concerning the use of the English language. He proposes that Article 19 of the Union Convention, as revised at Lisbon, be adopted purely and

simply, even if the debate on the language question should be reopened in the course of the next Conference for the revision of the Union Convention. An English text might be drafted to avoid a long delay.

Mr. Labry considers that it is up to the States themselves to draft the text in their own languages.

Mr. Winter (U.S.) does not wish to embark on a lengthy discussion, but he is of the opinion that a general proposal for an English text equivalent to the basic French text, would be of considerable practical advantage.

Mr. Labry (France) recalls that at Lisbon this question was studied at length, and that it seemed difficult to say that, of two equivalent texts, only one was authentic. All the arguments in favour of the English language were examined for the revision of the Union Convention, and have resulted in this exclusive use of one language. For this reason it seems difficult to say that the arguments brought forward two years ago are no longer valid today.

Mr. Winter (U.S.) considers that both texts could be signed, but that the French text would be authentic in case of divergencies.

Summary :

Document 56 / F (Typographers)	referred back to the Drafting Committee.
Article 19	Carried
Article 21	Referred back to the Drafting Committee.
Article 22	Referred back to the Drafting Committee.
Protoccl	examination deferred till later.
Article 13 bis	Referred to the Financial Sub-Committee.
Article 22 bis	See Report.

## MINUTES OF THE SESSION OF THE GENERAL CONFERENCE

Afternoon Session Saturday, 19 November 1960, at 16.00 hours.

Article 3, para. 3.

Proposals submitted by the U.S.

"The Application may include a statement of the true author or inventor of the design and such statement if not present may be separately requested by a National Office if its national legislation so requires" (Doc. 49 / E).

Mr. Roscioni (Italy) asks what the aim of this addition is.

Mr. Frederico (U.S.) explains that according to American law one has to swear to the fact that one is the author. This proposal does not go as far as that, but it does not seem proper that third parties cannot know the name of the author. The object of the American proposal is to meet this deficiency.

Mr. Phaf (Netherlands) believes that this provision is not in conformity with Article 5.

The Chairman then proposes that in Article 5 a phrase be included : "without prejudice to the formalities provided in Article 3, para. 3."

Mr. Pointet (Switzerland) asks what will happen if an applicant does not provide the statement requested by the National Office.

Mr. Frederico replies that in that case the application will not be registered and will be considered to have been abandoned.

Mr. Labry (France) cautions the Delegates against accepting an ever increasing number of exceptions.

Mr. Ulmer (Fed. Rep. of Germany) proposes that it be stated expressly that this request is not a general one, but one referring to a special case. On the other hand, a term within which a reply

shall be made ought to be laid down. The Chairman proposes that this para. 3 be carried, but it might be agreed to in a Protocol that the other countries will not make use of this possibility.

Mr. Bogsch (U.S.A.) proposes that this provision be inserted in the text dealing with examinations for novelty.

The Delegates being in agreement as to the substance, the Chairman establishes the fact that there is only a matter of drafting to be settled and he refers the text back to the Drafting Committee.

Doc. 58 (description)

The Chairman reminds the Delegates that Yugoslavia and Spain insist upon a description being included in the National deposit. A Committee composed of the Delegates of these two countries and presided over by Mr. Pointet (Switzerland) has worked out a draft of a new Article 5 bis. Mr. Pointet explains that the text submitted does not entirely reflect his views, but meets with the requirements of the Spanish and Yugoslav Delegates. It differs from the compromise proposal submitted by Dr. Ulmer, produced by the Working Group over which he presided.

It presents the following disadvantages:

- it introduces territorial limitation;
- it leaves aside the language question, but Mr. Ulmer's text was equally not satisfactory in this respect, because the Spanish Delegation has expressly stated that while agreeing with Dr. Ulmer's text it did not wish to waive the use of the Spanish language, but wanted to reserve this question until the language debate.
- publication of all the descriptions to be paid by the depositor.
- possibility granted to the other States of benefiting from the same reservation.
- exchanges between the depositor and the Office will begin to take place, without its being possible to know what requirements will be imposed by the Office.

On the other hand there are advantages:

- it restricts the obligation to produce a description only to those countries so requesting it. In fact, this is not an advantage for these countries (Spain and Yugoslavia). But the introduction of territorial limitation itself, rather than a general limitation in Mr. Ulmer's interpretation, which would make a short description

generally compulsory- , is of advantage to the other countries.  
-no fees, for there is only a national publication.

Mr. Pointet reads the following text:

Para. 1.

This paragraph ought to be amended by adding:

-at the beginning: if the legislation of a Contracting State  
so requires.

-at the end: it should be written in one of the languages  
provided for by the National protection.

Mr. Pointet knows that this addition is not approved of by the Spanish Delegate, but the latter will explain his motives for opposing it, which also apply to the compromise draft presented by Mr. Ulmer.

Para. 1a) refers to the case of Spain. The intermediary of the International Bureau aims at avoiding that a depositor be obliged to have recourse of a legal representative in Spain.

Para. 1b) refers to the case of Yugoslavia, which country wishes to be allowed to proceed automatically to an examination in exceptional cases. The description may be filed in the languages used for international publication.

Para. 3. aims at avoiding that a National Office introduces similar provisions after its adhesion.

Mr. Pointet considers, however, that these provisions are not absolutely necessary. If a National Office finds a "dossier" <sup>1)</sup> lacking in clarity, it will inform the International Bureau that it does not believe itself to be in a position to grant protection to the design or model, but that it will allow for the possibility of a description being supplied. The supply of such a description may then result in its acceptance.

The U.S. Delegate objects to the draft of new Article 5 bis since he cannot accept certain elements, namely:

- the possibility of a request being made for a description in the national language.
- a fee being left to the discretion of the National Office.
- the option left to the National Office with regard to the form of the description.

1) File (transl. note).



Dr. Ulmer raises the following objections:

- the text provides that the description shall not be subject to international publication. However, in the particular case of colours it is necessary that this description be published by the International Bureau. It is therefore necessary to revert to the original proposal;
- concerning point b) the option of the National Office ought be limited by stipulating:  
"in the case of an examination the National Office may require a short description."

And this provision should be coordinated with the American proposal relating to the name of the author.

- Letter a) meets with serious criticisms, for the depositor may not be familiar with the national law, and he may forget to send, within the period of one month, a description in the instance of those States which provide a procedure for an appeal in opposition.

The Netherlands Delegates shares this view.

The Yugoslav Delegate states that in his opinion the description will only be required in exceptional cases, e.g. if a design or model is concerned. Therefore it is not necessary that the description be incorporated in the deposit, that it be published by the International Bureau, that it be written in languages other than the international ones, and that a fee be imposed on it. Nevertheless he requests the Delegates to make a minor concession in order to reach a compromise that would satisfy him.

The Spanish Delegate retains the requirement of a description in the national language, because his Office is not in a position to study the texts in the official languages. He adds that the costs of national publication will be very low.

The Chairman requests the Spanish Delegate on the one hand to make a last effort to accept that the description may be submitted in one of the international languages, and on the other hand to study the question as to whether Spain could not simply abandon the requirement of a description, and be satisfied with international publication, which does after all, represent a considerable improvement on the present Arrangement, to which Spain already adheres.

As for point b) concerning Yugoslavia, it could be settled in

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the same way as the matter of the indication as to the author.

The Yugoslav Delegate thanks Dr. Ulmer and Mr. Pointet for their efforts to reach a satisfactory solution.

The U.S. Delegate considers the wording of para. 1 b) unnecessarily broad, and he proposes that it should be restricted to such countries as Yugoslavia. In addition, it should be specified what the description shall contain.

The following proposals are submitted to meet these objections:

- either to use the wording of the Protocol (proposal made by the Chairman)
- or to restrict this possibility to those countries making an administrative examination (proposal made by Dr. Ulmer).

The Yugoslav Delegate points out that Mr. Bodenhausen is already entrusted with the task of drafting a new Article 5. He might perhaps insert a provision concerning this matter in his draft. This would make the drafting of a separate article or the signing of a Protocol unnecessary.

The Chairman refers this matter to the Drafting Committee, which is requested to find the appropriate place for its insertion and a satisfactory wording.

#### OBLIGATIONS IMPLIED BY THE NEW TEXT (DOC. 50)

The text of this article provides that the obligations of a Contracting State, bound by the Convention do not extend to the designs and models deposited with the International Bureau until the actual Convention has come into force in that State. Citing the case of a State, party to the Convention prior to its coming into force, renouncing the former text, the Rumanian Delegate draws attention to the necessity of amending the text in order to avoid that, in that State, the designs and models should no longer be protected by the former text and not yet by the new one.

The U.S. proposal (Doc. 50) appears to be superfluous to the Netherlands Delegate, who does, however, not oppose it.

The Delegate of the Federal Republic of Germany shares this opinion, but to meet the objection raised by the Rumanian Delegate it would be useful to define in a new Article:

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"The States adhering to the former text shall continue to protect the designs and models deposited with the International Bureau until the present Convention comes into force in that State".

Mr. Bogsch (U.S.A.) points out that the difficulty is caused by the ambiguity of the French text of the U.S. proposal, from which one might conclude that the obligation of the States, already parties to the present Arrangement and which would adhere to the new Arrangement, would no longer extend to the designs and models previously deposited. Therefore the translation should be corrected. The French text ought to read as follows "les obligations découlants de la présente Convention ...." This text is carried and referred to the Drafting Committee.

#### Article 9 (Doc. 59)

The U.S. delegate points out, that Document 27 had provided for certain amendments to Article 9 to be made, but it did not change paras 1 and 2. A clearer wording of para.2 has been requested. Para.1 prohibits the deposit notice to be a required condition for the right to be recognized, but the appearance of a design notice may be permitted for other purposes. For instance, Netherlands legislation makes it obligatory under penalty of a fine, to mention the number of the patent. Para.2 provides that States requiring the appearance of a design notice for purposes other than those referred to in para.1 must then be satisfied with the appearance of the international design notice, and may not require the notice provided for by their domestic law.

The Chairman points out that the drafting of this provision may lead to the belief that this notice is necessary if an applicant is to exercise his rights.

The Rumanian Delegate draws attention to the remarks made by the Popular Republic of Rumania (Doc. 6), page 3, requesting that this paragraph, considered to be contrary to Article 5 D of the Union Convention, be cancelled.

Mr. Phaf (Netherlands) specifies that, if he correctly understands the U.S. law, this law does not subordinate the pursuance of the means of appeal to the copyright notice when a writ has been served on the opponent, notifying the existence of a right. A provision should be added to Article 9, specifying that this copyright notice is only

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intended to exempt from the obligation of personal notification as and when this notification is necessary.

This interpretation of the U.S. law is confirmed by Mr. Bogsch who considers, however, that completion of Article 9 as proposed by Mr. Phaf would serve no useful purpose, since this is a matter of provisions in the domestic law which, not being contrary to Article 9, para. 1, remain permanently applicable.

The proposal brought forward by Mr. Phaf is approved by the Chairman who draws the attention to the difference existing in this respect between the Dutch law and the U.S. law. In Holland, a legal provision prescribes compulsory marking of patented articles; the penalty, however, is a mere fine which, for that matter, has fallen into disuse. A counterfeiter having acted without being aware of the existence, cannot be sentenced to pay damages; he is, however, bound to stop counterfeiting. In the United States on the other hand, whilst the fact of not having provided an article with the copyright notice does not prevent from taking legal action, the Court may nevertheless, in the absence of marking, decide that the infringer is not guilty. One exception, however, is provided for in the United States: judgment may be passed, even in the absence of marking, in the event of the holder having notified the infringer of the existence of his rights. It should therefore be clearly defined in the text that notification exempts the holder from the obligation of marking.

Mr. Federico (USA) draws the attention to the fact that para. 2 does not institute the right to claim the marking.

This obligation to mark articles arises from the provisions of domestic law. Likewise, domestic law provides for the possibility of notification which exempts from the obligation of marking. If para. 2 were deleted, this requirement would be retained by virtue of domestic law. Paragraph 2 is intended merely to specify that countries requiring the marking are bound to accept international marking.

Finally, the U.S. proposal is found to be acceptable by the Delegates of Sweden, Austria, the Netherlands and France who consider it preferable to the texts drawn up by the Experts. This proposal of Article 9, para. 2, is carried.

Accordingly, Article 9, para. 3, is carried likewise.

RESOLUTION CONCERNING THE INTERNATIONAL CLASSIFICATION (Doc. 53).

The Netherlands Delegate, although he raises no objection to this proposal, nevertheless asks why the same classification cannot be adopted for the designs or models as is used for trade marks.

The Chairman explains that the classification of marks requires to be adapted if it is to be used in conjunction with designs or models, for certain classes will have to be cancelled whilst other classes will, on the contrary, have to be subdivided.

A proposal aiming at entrusting the International Bureau with the task of preparing a report for the Committee, presented by Mr. Morf (Switzerland) and supported by the Danish Delegate, is carried.

FINAL ARTICLE - ITALIAN PROPOSAL (Doc. 60)

Mr. Roscioni (Italy) recalls that the French Delegation requested the adhesion of five new countries, whilst the Delegation of the Federal Republic of Germany added the adhesion of seven countries, participants to the present Arrangement of The Hague. The chances are that each group of countries may hold in abeyance the decision to accede to the new Arrangement until such times as reactions of other groups will be known. But in any case, this Article relates to the Arrangement as a whole, and its only appropriate place is in a final provision. Such is the sense of his proposal.

This proposal is approved by both Mr. Bogsch (USA) and Mr. Grant (United Kingdom).

Mr. Phaf considers that it would be dangerous to require the adhesion of five new countries, for the chances are that it may prove impossible to set the Arrangement going, notwithstanding the adhesion of both the majority of the former members and 3 or 4 new and very important members.

No other delegate having requested the floor, the Chairman considers this provision as accepted.

TERRITORIAL LIMITATION (Doc. 64)

Although reserving his personal position, Mr. Boutet (France), Chairman of the Committee on Territorial Limitation, states the conclusions reached by this Committee. Paragraph 1 grants the depositor freedom to choose the countries in which he wishes to be protected.

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Paragraph 2 fixes a moderate fee of 5.-- Swiss Francs per country, in addition to the basic fee of 50.-- Swiss Francs. This fee can be raised to 10.-- Swiss Francs for the renewal, because generally, when renewal is applied for, the object of the deposit has already met with a certain commercial success.

Paragraph 3 provides that the Contracting States may renounce this fee. Paragraph 4 offers to the National Administrations the possibility to cut out from the International Bulletin any deposits and indications as may be published.

This system is subject to deliberate reserves on the part of Mr. Roscioni (Italy), who considers it to be both too complicated and too expensive. He would prefer the solution adopted, in this respect, at the Nice Conference. The system of bilateral or multilateral agreements to which the proposal refers appears to him to be a mechanism which it will be hard to get started.

Mr. Bogsch (USA) feels that it should not be necessary to have recourse to bilateral agreements. Generally speaking, the proposal does not seem to him to be unacceptable.

Mr. Phaf (Netherlands) declares himself in agreement both with the proposal presented by the Committee and the optional system of Nice, as proposed by Mr. Roscioni.

Mr. Labry (France) intends reserving his agreement until such times as he will be informed of the Draft Arrangement in its entity. For if France should accept to make concessions on certain items, other countries in turn should do the same in respect of other items.

In the opinion of Mr. Pointet (Switzerland), the text presented by the Committee shows that certain States wish to obtain additional returns. However, territorial limitation with its technical implications was refused to the Spanish Delegation; there is no better reason at present to accept a territorial limitation with financial implications. The introduction, at Nice, of territorial limitation did meet other concerns, namely the "decongestion" of the registers.

Therefore we are faced with a different situation.

In the opinion of the Chairman there are not only financial reasons for accepting territorial limitation. As it turned out at Nice, one might also wish to avoid the congestion of registers with deposits in certain countries, for which the depositor has no interest.

Mr. Phaf seconds this remark adding that in his opinion the report of the Committee does not show clearly that it was only the concern for obtaining additional returns or for avoiding administrative work that have worked in favour of territorial limitation.

The proposal made by the Committee is firmly seconded by Mr. Lorenz (Austria). He explains that if countries opposed to territorial limitation have made considerable concessions, the concessions made by its advocates ought not to be disregarded. Mr. Lorenz considers that a fee of Sw.Fr. 5 per country is a minimum, and that it would be very difficult to cite a country where at present protection is to be obtained at this price. The fee of Sw.Fr.10 for renewal is justified by the benefit that the owner of the deposit will have derived from his design or model. Finally, in the case of multiple deposits Mr.Lorenz cannot accept a number of designs or models exceeding 20.

Mr. Magnin states that as a representative of the International Bureau, he cannot but be pleased with the agreements reached by the Delegates. Nevertheless speaking as a person he would like to ask for a few explanations if the Chairman Mr. de Haan would so permit. In his opinion the text submitted does not seem to be a compromise between those countries which, like France, Switzerland, and Italy, are opposed to territorial limitation, and those who are in its favour. In fact, para. 1 states the principle of integral territorial limitation. The question of fees is quite different. At Nice, there was a real compromise with regard to territorial limitation. In contrast to the proposal made by the Committee which amounts to territorial limitation, the Nice text only adopts optional territorial limitation. He wonders why the Committee has not taken up the view expressed at Nice as Mr. Roscioni had proposed. Presumably the Committee has examined and rejected the Nice solution for very valid reasons, but Mr.Magnin would like to be informed of these reasons. Moreover, the text proposed not only renounces the principle of universality, but also introduces the rule of reciprocity, which does not seem to be in agreement with the spirit of the Paris Convention.

The Chairman considers it preferable not to go too deeply into reasons that have led the Committee to reach the compromise submitted.

Mr. Haertal (Federal Republic of Germany) agrees with the remark made by Mr.Magnin. The Committee's solution is not a compromise, it

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amounts to territorial limitation. But he considers a compromise on this point to be an impossibility: there will either be territorial limitation or not. The compromise lies in the fees. He considers that this solution is a better one than that adopted at Nice. At Nice, financial reciprocity could not be operative, and it is this reciprocity, that to several countries offers the advantage of the solution reached by the Committee.

Mr. Magnin thanks Mr. Haertel for the explanations he has kindly given.

Mr. Labry (France) seconds the statement made by Mr. Haertel. The French Delegation will only accept territorial limitation subject to reciprocity.

At the request of the Chairman Mr. de Haan, Mr. Ulmer, as Chairman of the Drafting Committee states he now considers it possible to embark on the drafting, bearing in mind the proposal made by the Territorial Limitation Committee.

This matter is referred to the Drafting Committee.

The Chairman notes that the Agenda of the General Committee is exhausted and thanks the Delegates warmly for the spirit of compromise showed by them during the sessions of the General Committee. He convenes the Delegates to attend the first session of the Committee on Regulations to be held at 9.30 A.M. on Monday November the 21st 1960.

At 7.30 P.M. the session is closed.

#### SUMMARY

Article 3, para. 3 (Doc. 49) accepted and referred to the Drafting Committee.

Description (art.5bis) (Doc.58)

Para.1 a) The Chairman asks the Spanish Delegate to reconsider his position.

Para.1 b) carried and referred to the Drafting Committee.

Obligations implied by the new text (Doc. 50): carried and referred to the Drafting Committee.

Article 9, paras 2 and 3 (Doc .59) : carried

International classification (Doc. 53) task of preparing a report entrusted to the Bureau.



Final Article (Doc. 60) : carried

Territorial limitation (Doc. 64) proposal made by the Committee accepted and referred back to the Drafting Committee.

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Doc. La Haye  
N° 68/E  
Date: 21. 11. 1960

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PROPOSAL OF THE AUSTRIAN DELEGATION

REGARDING A DEFINITION OF THE

"MULTIPLE DEPOSIT"

A multiple deposit relates to objects of the same kind which are only variations of the same design or model.

Doc. The Hague  
No. 69 / E  
Date: 22-11-1960

DIPLOMATIC CONFERENCE OF THE HAGUE

MINUTES OF THE SESSION OF MONDAY 21 NOVEMBER 1960 AFTERNOON  
SESSION

The Chairman Mr. Morf opens the session at 14.45 hrs. welcoming the Director, Mr. Secretan.

He reminds the Delegates that the question of multiple deposit was referred to a working group presided over by Mr. Boutet in the morning, and that the amount of the basic fee was fixed at 50 Swiss francs. It is now necessary to proceed to an examination of the additional fee chargeable for territorial limitation on the one hand, and for the examination for novelty on the other.

The Chairman asks the Delegates if they would like to discuss first the possibility of cumulating these two additional fees for those countries which made the examination for novelty, or if they prefer to fix the amount of the additional fee beforehand.

The Moroccan Delegate proposes that the fee for the examination for novelty be abolished, for reasons of equity. It would seem unfair to authorize the countries which made an examination for novelty to levy an additional fee when the nationals of such countries do not have to pay any additional fee in order to obtain protection in those countries which do not make the examination.

The Chairman suggests that the extra fee due for territorial limitation be discussed first of all. He reminds Delegates of the fact that the working group fixed the rate at 5 Swiss Francs per country. For the present time, the point in question is to take measures of a fundamental nature, subject to being reconsidered according to the forthcoming decision regarding multiple deposits, with a view to complying with the wish expressed by the Swedish Delegate who states that he feels unable to take either one side or the other so long as the number of designs or models to be authorized in one multiple deposit will remain unknown to him.

Mr Federico, having pointed out that the figure of 5 Swiss Francs was truly a real compromise, the Chairman proposes that it should not be altered.

The extra fee of 5 Swiss Francs per country is carried.

The Chairman notes the reserves formulated by the Delegations of Austria, France, Switzerland and Italy, stating that the result achieved by the Commission on Multiple Deposits may have a bearing on their decision.

Fee due for the examination of novelty.

The draft fixes this fee at 50 Swiss Francs, but it should be decided whether in the event of a multiple deposit, this fee should be considered per deposit or per design included in the deposit.

The Swedish Delegate requests that the fee be calculated per design, stressing that in the event of a multiple deposit, the costs of examination are multiplied by the number of designs.

Nevertheless the Chairman, at the request of the Moroccan Delegate, first proceeds to the debate on the principle of this fee itself.

The Moroccan Delegate means in fact that the countries should be prevented from levying a fee for this examination.

Mr. Ljungman (Sweden) pronounces himself in favour of the principle of the fee, because a country which makes a preliminary examination cannot give better terms to foreigners than to its own nationals.

Mr. Federico (U.S. ) reminds the delegates of the necessity of a certain willingness to make concessions, in order to persuade the countries which do not wish to give up the preliminary examination to adhere to the Arrangement. He considers that the text of the Experts, which fixes the fee at three fourths of the national fee with a maximum of Swiss Francs 50 is satisfactory. In his opinion it would be difficult to put the countries that do not make the examination on the same level with those which do make the preliminary examination, in view of the considerable costs involved in making examinations, in particular the examinations of multiple deposits. Under the proposed system the United States would sustain a considerable loss on each examination made. However, one standard fee might be considered if the number of designs included in a multiple deposit were reduced and on condition that such designs should have some characteristics in common.

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The Delegate of the United Kingdom requests that the fee be calculated per design, and states that in the United Kingdom it is at present 12 Swiss Francs 12.- which is less than the maximum 50 Swiss Francs.

The Moroccan Delegate cannot withdraw his request, having received formal instructions on this issue. He feels that from a point of view of equity his position remains valid.

Mr. de Haan (Netherlands) points out that the countries which make a preliminary examination have considerable administrative expenses. If these countries do not adhere to this Convention, depositors will remain obliged to effect direct deposits, which will entail far higher costs.

The French Delegation states that it makes reservations in regard to a fee of this kind.

The Chairman notes that the greater majority, with the exception of Morocco, is in favour of retaining the principle of this fee.

The question now to be decided is whether this fee shall be paid in respect of each deposit or per design deposited in the case of multiple deposits.

Mr. Pointet (Switzerland) considers that this fee would become a prohibitive one if it were levied on each design included in a multiple deposit.

In certain cases, especially if the deposit is a collection of designs for the textile industry, the examination of a multiple deposit is far easier than an examination of several separate deposits for different products. This consideration ought therefore to induce the countries which make the preliminary examination to accept a fixed fee per deposit for multiple deposits.

The Delegate of the United Kingdom specifies that, in this event, his country merely requests that the fee be reduced by 50% (in a case of a collection of patterns for the textile industry). Where a series is being dealt with, a total fee equivalent to twice the usual fee would have to be levied.

The United States Delegate states that, to date, the deposit of one single design only per application is authorized in the US. The deposit of several designs per application, e.g. three or four designs, might be considered provided that these designs have either

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one feature in common or similar characteristics.

Mr. Ljungman states that in Sweden the fee amounts to 40 Swiss Francs per deposit, whilst one design only per deposit is authorized. There is a possibility that this fee may be raised, as the present fee does not cover the cost of preliminary examination. Sweden therefore cannot accept any reduction of the maximum attainable.

Mr. Tschenin (ALAI) remarks that in certain cases, in particular where deposits of seasonal models frequently amounting to 250 for one single collection are concerned, fees are so prohibitive that an application for protection is likely to be out of question.

Mr. Pointet thanks the Delegates for their indications as to the amount of national fees, and he adds that in Switzerland the medium-size and small-size firms will be unable to pay a total fee exceeding 1000 Swiss Francs for one multiple deposit including 20 designs and valid in all countries parties to the Arrangement. The single fee of 50 Swiss Francs per country and per single or multiple deposit should therefore be retained.

Mr. Magnin points out that the countries which make the preliminary examination are not at present parties to the Arrangement of The Hague, and he considers that if too low a fee be retained these countries will not adhere, which would impose higher fees on the depositors, who would be obliged to effect direct deposits in each of these countries.

In reply to Mr. Pointet, Mr. Ljungman states that he considers fees levied per deposit and not per design to be an unacceptable stipulation.

Mr. Boutet (France) points out that the Delegates should also consider the benefits to be derived from the new Arrangement by the countries which make a preliminary examination. In the provision drafted for multiple deposits the requirement will be made that the deposit include designs similar in nature; for this reason it is not normal for the examination fee to be the same as in the case of a multiple deposit including articles different in kind.

The Netherlands Delegate states that he is prepared to accept a fee per design in view of the facilities offered in other respects by the Arrangement.

By way of compromise the Chairman proposes that the fee be retained with a maximum of Swiss Francs 50 per single deposit and a maximum of

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Swiss Francs 250 for a multiple deposit. This compromise is considered satisfactory by Mr. de Haan (Netherlands). The Chairman proposes as an alternative solution that a Working Group be set up. This proposal is favorably received by the Swedish Delegate.

At a suggestion made by Mr. Pointet the Working Group presided over by Mr. Boutet is entrusted with the task of finding a compromise solution on this basis. This group is composed of the representatives of the following countries:

The United States, Sweden, France, Switzerland, Italy, Morocco.

The Chairman proposes that the Netherlands be added to the group, which is accepted.

Mr. Ljungman considers that it would be useful if the United Kingdom Delegate were to join the group, too, but Mr. Grant prefers to abstain from participating.

The Chairman asks the Delegates if they prefer that the amount of the fee be a fixed one or that it remain a proportion of the national fee.

The Delegate of the United Kingdom pronounces himself against a fixed amount, and points out that the latter would involve the risk of setting a fee exceeding the national fee.

Mr. Magnin reminds the Delegates that Rule 9 of the Regulations provides for a twofold maximum:

- the fee cannot exceed three fourths of the national fee, with a maximum of 50 Swiss Francs.

This stipulation seems satisfactory, for it offers the depositor all the advantages provided for in the national legislation.

The Delegates decide in favour of retaining the twofold maximum.

#### Payment of fees.

First of all, the Chairman requests Delegates to make a decision as to whether the date of deposit should be considered as an established fact only after complete payment of all fees, or whether it will suffice to pay the basic fee, the remaining fees to be paid at a later stage, within a delay to be set by the International Bureau.

Mr. Magnin reminds Delegates of the fact that, according to the Arrangement, a complete application will have to be filed, leaving no possibility to extend the deposit to further countries at a later date.

All fees should therefore be paid as and when the application is filed.

The Chairman establishes that the Delegates accept to make it an essential condition that all fees be paid for the deposit <sup>to</sup> be dated.

#### Cumulative fees.

The question is whether it is advisable that the novelty fee and the territorial limitation fee be cumulated with a view to creating one single fee applying to the countries where preliminary examination is practised.

Mr. Federico (United States) considers that the decision on this matter rests with the Drafting Committee, and not with the Commission on Regulations.

Mr. Ljungman (Sweden) remarks that in order to arrange for the conclusion of bilateral or multilateral agreements on the retaining of fees, the two extra fees should remain separate. Accordingly cumulative fees are rejected.

#### Multiple Deposits.

The Working Group will have to consider the Austrian proposal (Doc. 68).

#### Number of photographic copies

The Chairman reminds the Delegates that the United States have proposed that the number of photographic copies to be included in a deposit be fixed at three and not at two.

The U.S. Delegate explains that the International Bureau may lend this third photograph to those National Offices which might wish to reproduce it in their Gazettes.

This proposal is carried.

#### Renewal Fees

Rule 6, para. 6d) of the Regulations fixes the amount of the renewal fee at 50 Swiss Francs per design or model.

The Chairman observes that the General Commission has decided in favour of the Nice system of renewal.

Mr. Magnin recalls the reasons for which the Experts adopted the amount of 50 Swiss Francs per design or model.



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It was thought that at the end of 5 years the depositor is in a position to decide which of his designs are successful. He will prefer to pay a high fee for renewal and a reduced one for a deposit.

The Delegates of Sweden and the United Kingdom as well as Mr. Duchemin (ALAI) express their approval.

Mr. Pointet (Switzerland) points out that in the case of a multiple deposit there is a risk of the fee becoming too high. It is necessary that the Working Group also come to a conclusion with regard to the possibility of stipulating that the fee for renewal need only be paid for certain designs in the case of a multiple deposit.

The Chairman recalls that according to the Nice system, renewal must be effected without any changes in the deposit. Perhaps it would be advisable to amend the Nice system in this respect.

Mr. Magnin observes that in point of fact, there is no such thing as a multiple deposit, but that there is only a graded decrease of prices if several deposits are effected simultaneously. The designs of a multiple deposit are identified by different numbers, hence it will be sufficient to state the number that one wishes to have renewed.

Mr. Pointet asks if the Delegates also wish to permit, that renewal is limited to certain countries.

In the opinion of Mr. Phaf this renunciation could proceed from Article 8 of the Arrangement.

Mr. Magnin observes that such a renunciation would give rise to the payment of a fee.

Mr. Pointet reminds the Delegates that according to the general lines indicated by the Committee on Territorial Limitation (Doc.64, para.2c), renewal may be effected only for certain countries.

Mr. de Haan (Netherlands) endorses this remark.

The Chairman then notes that the Delegates mean to leave open the possibility for the depositor to renounce protection in certain countries and in respect of certain designs at the moment when renewal is effected. A text dealing with this issue will be drafted.

Renewal (fee for territorial limitation)

Document Nr.64 contains the plan for raising this fee from 5 to 10 Swiss Francs in case of renewal.

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The Delegates of Denmark, Austria, the Netherlands, and Sweden pronounce themselves in favour of an amount of 10 Swiss Francs.

The Delegates of Switzerland, France, Italy, Belgium, and Yugoslavia are in favour of retaining it at 5 Swiss Francs. To them it seems that the formalities for renewal are reduced to a minimum. There is therefore no reason for a rise in this fee.

This matter remains undecided pending the decision that will be taken on the issue of territorial limitation as a whole.

#### Extension of time

The U.S. Delegate is not opposed to this extension of time for a period of six months within which a belated renewal may still be effected, but he considers it to be a dangerous condition. In his opinion such an extension in any case has no connection with Article 5 bis of the Union Convention.

According to the interpretation of this Rule in the United States, the extension of time provided for in the Convention merely concerns the case where payment is necessary to avoid the lapsing of a right granted for a certain period fixed beforehand; it does not apply to the case where the act of payment as such starts a new period of protection. This Rule would therefore apply to the annual instalments, not however to the renewals.

The Chairman establishes that this extension of time will entail a certain amount of insecurity; however, everyone concerned knows at what date the protection is to come to an end, and in view of this it is quite normal that the possibility of a belated renewal within the six months of respite of time be reckoned with.

Mr. Bodenhausen reminds Delegates of the fact that an extension of time for the renewal of marks was granted at Nice; (Article 7, para. 5). As to Article 5 bis of the Union Convention, he considers that the word "retaining" also applies to the renewal.

The Chairman establishes that the Delegates agree to adopt the Nice Regulations which provide for a six months' extension of time whilst allowing for the possibility of excluding certain countries or certain articles from renewal.

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Replying to a question asked by Mr. Phaf, the Chairman specifies that the extra fee due for belated renewal amounts to 10 Swiss Francs, as laid down in the Regulations.

On a proposal presented by Mr. Duchemin (ALAI), the Chairman entrusts Mr. Magnin with the task of preparing a report summing up the financial position with figures in support of the result.

The meeting is adjourned at 17.00 P.M.

#### SUMMARY

Territorial limitation fee: carried : Swiss Francs 5

Novelty examination fee:

- 1) Principle accepted
- 2) Amount in case of multiple deposit: matter referred to a Working Group
- 3) Twofold-maximum principle retained.

Payment of fees: all fees will have to be paid at the moment of deposit.

Curulation: rejected

Definition of multiple deposit: Austrian proposal (Doc. 68) will be submitted to the Working Group.

Number of photographic copies: three

Renewal fee: Nice principle accepted with the possibility of renouncing protection in certain countries and in respect of certain articles at the time of renewal. Text to be drafted.

Rate of fees for territorial limitation (renewal): pending.

Extension of time for the payment of renewal fee: six months.

Doc. The Hague

No. 70 / E

Date: 22-11-1960

MINUTES OF THE MORNING SESSION OF MONDAY, NOVEMBER 21st, 1960

Mr. Morf (Switzerland) opens the first session of the Commission on Regulations.

First, the Chairman points out that two members of the Commission should be entrusted with the task of informing the Drafting Committee of the working programme scheduled for the Session.

Messrs. Uggla (Sweden) and Pointet (Switzerland) are nominated to this effect.

The Chairman then submits the following Draft Agenda to the Delegates :

- I - Fixing of the number of multiple deposits to be authorized in one single deposit.
- II - Fixing of the amount of the fees to be levied for these deposits.
  - 1) Amount of the basic fee.
  - 2) Additional payments to be made both for having the territorial limitation applied and for countries where preliminary examination of novelty is being practised.

Two subsidiary questions :

- Will these additional payments be cumulative or not ?
- What will be the amount of each additional payment ?

As for the additional payment for the examination for novelty, will it be levied per deposit or per design included in each deposit ?

Will there be a fixed amount or will the amount be calculated in terms of a percentage of the national fee ?

3) What fees shall be payable to determine the date of the deposit ?

This Agenda is carried unanimously.

Determination of the number of designs in a multiple deposit.

Mr. Matter (Switzerland) seconded by the Delegates of the Federal Republic of Germany, the United Arab Republic, Austria and France, considers that the number of 20 designs in a deposit as

proposed by the draft of the Experts is not sufficient, and that it ought to be at least 50.

In fact, he points out that the principle of a multiple deposit has played an important part in the international deposit system. Now, under the present Arrangement up to 200 deposits can be made, and to reduce this figure to 20 seems excessive.

Moreover, there is an enormous difference in rates in comparison with the old Arrangement: instead of a uniform fee of Swiss francs 10 for 200 articles, this fee now becomes Swiss francs 2720 for 10 deposits of 20 articles, not to mention the fee levied in those countries which make an examination. This is really disproportionate.

Moreover, at the moment it is possible to deposit articles different in kind, whereas the new Arrangement provides for articles of the same kind.

All the countries which are against raising the number of designs in a multiple deposit are countries which make an examination for novelty, but the risk is not great, for if the fees for each article are high in such countries, depositors will hesitate to deposit too great a number of articles.

On the contrary, the principle of the multiple deposit works to the advantage of the countries which do not make an examination for novelty, and they cannot accept too small a number of deposits.

The Delegate of Morocco seconds this point of view and proposes that the number of designs in a deposit be fixed at 100.

Mr. Duchemin (ALAI) also declares himself to be in favour of a high figure for multiple deposits, 50 or 100, although in practice deposits rarely exceed 20.

Mr. Federico (United States), seconded by Mr. Ljungman (Sweden) and Mr. Grant (U.K.) on the other hand, expresses his opposition to an excessively high figure of designs included in a deposit. He points out that in countries making an examination, these deposits raise a serious problem, and he considers that 5 designs in each deposit possessing similar characteristics would be sufficient. In any case, a very clear representation of the designs is desirable.

The Swedish Delegate then declares himself prepared to accept as many as 10 designs in a deposit.

Mr. Jourdain (FICPI) points out that, if the wishes of all parties concerned are to be taken into account, the facts should be considered as well. Now, in practice a deposit of 50 or 100 models is quite exceptional (but for the field of textile industries), and the figure 20 should suffice to meet the requirements of current practice.

A proposal brought forward by Mr. Matter (Switzerland) with a view to admitting the figure of 50 objects for the textile industries is then examined.

It is dismissed following statements made by Messrs. Duchemin (ALAI), Ljungman (Sweden), Boutet (France), Coppieters de Gibson (Belgium) and Winter (USA) who point out that it is difficult to define the textile industry as such. In addition, it is dangerous to provide for exceptions in an International Convention, as indeed further industries, varying from one country to another, may also wish to be considered as exceptions.

Mr. Federico (USA) then proposes that a subcommittee be appointed to find a possible compromise.

This proposal is carried. The subcommittee referred to, presided over by Mr. Boutet (France), includes Messrs. Federico (USA), Ljungman (Sweden), Matter (Switzerland), Marchetti (Italy) and the Moroccan Delegate.

After a short break the session is resumed and the Delegates proceed to examine the second item of the Agenda, the determination of the amount of the fees.

Basic fee (Rule 6, Draft Regulations)

Mr. Magnin explains the data on the basis of which the Committee of Experts has proposed the figure of Swiss francs 50 for the basic fee, i.e. Swiss francs 25 for administrative costs and Swiss francs 25 for the costs of publication (use of the standard space of 1/6 page). These figures have been determined after examining the 1939-1959 period. The average cost of a deposit amounted to approximately Fr.7.60. The financial survey of the High Authority has brought to light a deficit of Swiss Francs 309.000.

Taking the average number of deposits during these last 20 years, 100 deposits a year, the deficit amounts to Fr.16.50. Added to the average cost of Fr.7.60 the figure of the administrative costs amounts to Fr. 24.10. The figure of 25 Swiss Francs to cover these costs is therefore a minimum.

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Mr. Pointet (Switzerland) considers that it is difficult to express one's opinion on one fee without taking the other ones into consideration. He proposes that each fee be discussed without any decisions being taken (or that if any decisions are taken, that they be considered to be guiding lines). Then, after each fee has been examined, the final decision will be taken on the basis of a synthesis to be worked out for instance by the Working Group.

Mr. Grant (United Kingdom) points out that the fundamental item at issue in this discussion is that the basic fee should strictly cover the operation of the system (office allowances, registration, publication, etc.) without, however, being too high; as a matter of fact, the additional fees are often more expensive than may have been anticipated, and if the Arrangement proved to be too onerous, the chances are that it would be unworkable.

On the other hand, the annual costs of the present Arrangement amount to approximately 100.000 Swiss Francs, and mainly because of the publication, the new Arrangement will no doubt prove more expensive. Now if the number of deposits should not be larger than last year (2000 approximately), the basic fee of 50 Swiss francs would hardly suffice to cover the operating expenses.

Mr. Magnin draws the attention to the fact that these figures of 100.000 Swiss Francs for administrative expenses on the one hand, and 2.000 deposits on the other hand, relate to last year only. Now it is impossible to establish a Budget for the future without making allowance for the previous years. The survey made by the High Authority dealt with the past 20 years, and the cost of administrative expenses amounted to 25 Swiss Francs approximately per deposit. Fixing the basic fee at 50 Swiss Francs should allow for the covering of both these expenses and those required for publication.

Mr. Morf, Chairman, then calls upon Mr. Pochon (Switzerland), financial supervisor, to address the Meeting.

Mr. Pochon considers that last years' amount of 100.000 Swiss Francs was due to the importance of the factor extension of time (500 extensions for 2000 deposits). This figure was retained as a comparative factor for the initial capital. In any case, it is premature to undertake either the raising or the lowering of fees before having tried these out in practice. At all events, it will be easier to change them in the new Arrangement where they appear in the Regulations

(hence the possibility of changing them at the end of a period of three years by a 4/5ths majority vote) than in the present Arrangement where they appear in the text of the Arrangement itself.

Mr. Winter (USA) underlines the fact that the administrative expenses have been constantly rising during the last 7 years, and he points out that this rise should be met since the Arrangement must be "self-executing". The excess funds will go to the Reserve Fund. For this reason, he considers that it would not be expedient to reduce this fee of 50 Swiss Francs.

Following a statement made by the Rumanian Delegate, who suggests that both an "optimistic" and a "pessimistic" alternative of the average costs assessed be considered, Mr. Morf reminds Delegates of the fact that the minimum amount of the costs that must be reckoned with is not entirely parallel to the number of deposits, and he stresses that, at all events, a basic senior staff is necessary, and that the number of countries participating in the Arrangement is as yet unknown.

Messrs. Pochon (Switzerland) and Grant (United Kingdom) propose that the figure of 50 Swiss Francs fixed by the Experts be retained.

To a remark made by Mr. Lund (Denmark) to the effect that provisions ought to be made not only for the administrative costs but also for the costs of e.g. Revision Conferences, Mr. Magnin replies that the countries will pay an initial contribution to meet the initial expenses of setting up the new Arrangement, and that the Service of the International Bureau will be "self-executing". Thus the contributions will not be used entirely. In any case, Conference expenses will not arise straight away.

Mr. Magnin therefore proposes that the basic figure of Swiss Francs 50 be retained for the first few years. If, in the course of the second or third financial year, this amount proves to be insufficient, the International Committee will intervene at that moment, and will be able to raise it, if necessary.

This proposal is carried unanimously.

The session is closed at 13.15 hrs.

#### SUMMARY

Discussion on the number of articles or designs that may be included in a multiple deposit: the matter is entrusted to a subcommittee presided over by Mr. Boutet (France).

Determination of the basic fee: fixed at Swiss Francs 50 (amount proposed by the Committee of Experts).



Doc. The Hague  
No. 71 / E  
Date: 22-11-1960

CORRECTION TO DOCUMENT 66 / F

The last sentence at the bottom of page 3 ought to be replaced by the following text :

"It is therefore found inevitable to convene in the very near future a special Diplomatic Conference whose task it shall be to raise the fees of the Arrangement now in force to take effect at once, and to take a decision on the paying of the debt to the Madrid Union".

Doc. The Hague  
No. 72 / E  
Date: 22-11-1960

CORRECTION TO DOCUMENT 40 / E

In the title of document 40 / E the word "addendum" shall be replaced by "correction".

The title therefore reads as follows :

"Correction to document 31 / F. "

PROPOSAL OF THE DELEGATIONS OF AUSTRIA, DENMARK, FINLAND, IERLAND  
MAROCCO, NORWAY, SWEDEN, UNITED KINGDOM, UNITED STATES

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ARTICLE 22 bis

1. This Agreement is signed in French and English.
2. In case of divergence between the two texts, the French text shall prevail.
3. Official translations shall be established by the International Bureau in consultation with the interested Governments in German, Italian, Spanish and, on request of any Contracting State, in other languages.

MINUTES OF THE SESSION OF TUESDAY 22 NOVEMBER 1960

AFTERNOON SESSION

The Chairman Mr Morf opens the third session of the Commission on Regulations. He recalls the decisions taken yesterday concerning the rate of fees and proposes that the Committee proceed to examine the first Rules of the Draft Regulations, taking into consideration the first draft presented by the Drafting Committee, which shall be considered only as a working-paper.

Discussion of Rule 1 of the Draft Regulations.

Prof. Morf proposes that the suggestion be submitted to the Drafting Committee to incorporate paragraphs 2 and 3 in one paragraph, since these paragraphs include everything that the application must contain.

Mr. Finniss points out a disparity between the text of the Draft Regulations, which employ the phrase "application for registration" and the Draft presented by the Drafting Committee, in which only the word "application" is used (Art. 3 bis).

Seconded by Mr. Magnin, Mr Finniss proposes that the word "registration be deleted everywhere in the Draft Regulations and that in Rule 3 of this Draft reference be made to: Draft Arrangement, Article 3 bis.

This proposal is carried unanimously.

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Following a statement made by Mr. Phaf (Netherlands), a proposal submitted by Mr. Finniss to submit to the Drafting Committee the matter of references made to the text of the Arrangement, is carried likewise.

Mr. Morf resumes the discussion of Rule 1 of the Draft Regulations.

- Paragraph 1 - Carried
- Paragraph 2 - a) : carried.  
 b) : carried as to its principle, subject to its being adapted to the text of Article 2 of the Draft Arrangement as drawn up by the Drafting Committee.  
 c) : carried.  
 d) : carried.
- Paragraph 3 - carried as to its principle, subject to its being incorporated in para. 2 in accordance with the initial proposal of Mr. Morf. Decision is also made that the indication as to the Contracting States where protection is claimed, is to be attached to the application.
- Paragraph 4 - The proposal of Mr. Magnin approved by Mr. Phaf, aiming at bringing into line the wording of section a) with the wording of Rule 3 bis, Para. 3 a) of the Draft Arrangement as drawn up by the Drafting Committee, is carried unanimously.  
 This paragraph should therefore read as follows:

Rule 1 - Paragraph 4:

In addition, the application may contain:

- a) a brief description of characteristic features of the design or model.....This description should not exceed 100 words.

This wording is approved, without prejudice to submitting to the Drafting Committee the expediency of writing either "a brief description of features" or "of the features".

- b) carried unanimously.

Mr. Phaf proposes that the requirement of a statement indicating the

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name of the true inventor of the design or model be inserting here, with a view to coordinating it, with the text of Rule 3 bis, Para. a,2) of the draft presented by the Drafting Committee.

This proposal is submitted to the Drafting Committee.

- c) Carried, the term "request for the deferment" being superseded by the word "request".

Mr Morf, approved by Mr. Phaf, proposes in addition, the insertion in this paragraph of the optional right to file further appendixes such as priority documents, articles or scale models (the size of which should be fixed), be submitted to the Drafting Committee.

Mr. Finniss then makes a remark about the wording of Rule 3 bis of the draft presented by the Drafting Committee.

As a matter of fact, it is stated in paragraph 1 that the fees provided for in the Regulations must be attached to the documents included in the application. Now it is impossible to remit the amount to be paid in the cover containing these documents. The depositor should be allowed to send only the voucher in support of the fact that he has taken the necessary steps with regard to the payment of the fees. The difficulty lies in the fact, that the deposit will not be considered as valid until after the International Bureau will have actually received the fees.

Mr Magnin underlines this difficulty, adding that if payment is made through the intermediary of the Clearing Office a delay of 15 days or one month may take place before the International Bureau receives the amount, which may entail loss of priority.

Mr Finniss adds that the depositor will, in this case, be obliged to have a correspondent in Switzerland in order to avoid this delay, which is due to the obligation to work

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through a Clearing Office, and that the costs of the deposit will be increased by the same amount.

After the statement made by the Rumanian Delegate, who considers the possibility of postponing only the publication until the date on which the fees are received, it is decided to abide by the present text for the time being, since this discussion falls within the competence of the General Commission.

#### Discussion of Rule 2 (Multiple Deposits)

This discussion is deferred pending the report of the Subcommittee entrusted with finding a compromise on this issue.

#### Discussion of Rule 3

##### Para. 1

Mr Morf recalls the decision taken yesterday to fix at 3 instead of 2 the number of photographic copies to be made available for the preliminary examination.

The proposal made by Mr Phaf (Netherlands) to the effect that 3 copies of the application be also requested instead of 2 is carried unanimously, and the text is submitted to the Drafting Committee.

Mr Magnin points out that the sizes of photographs cannot be fixed because the printers' estimates differ from one to another, and in any case these sizes cannot become operative prior to the Arrangement itself. Hence an ad hoc Committee should be set up with a view to settling these matters.

##### Paragraph 2

Carried, subject to the addition of the Belgian proposal referring to the impossibility of depositing perishable articles.

After a short break at 11.20 A.M., the Commission on Regulations resumes the examination of the Rules of the Draft Regulations.

#### Rule 4 - (Documents in proof)

Paragraph 1 : Carried.

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Paragraph 2 : Carried provisionally, provided that the Drafting Committee succeed in coordinating the text with the text of Article 8 of the Draft Arrangement with which it corresponds and which was redrafted.

Rule 5

Carried provisionally, subject to a new wording allowing for the decision on principles providing for the limitation of the scope of renewal with regard to both articles and the countries.

Rule 6

Paragraph 1 : Carried

Paragraph 2 : a) Carried

b) Agreement on the principles of this text;

however, the report drafted by the working group entrusted with the task of fixing the number of multiple deposits should first be waited for.

Paragraph 3 : Carried.

Paragraph 4 : Messrs Uggla (Sweden) and Federico (USA) consider that a standard space should not include more than one reproduction because excessive reduction of the reproduced size of the designs would make it a difficult task to examine these properly, which might be detrimental to the depositor himself. In spite of their reproduction on a reduced scale, the designs should remain sufficiently clear, and this is not always possible. Messrs. Morf and Magnin then point to the financial implications of a claim such as this one.

Mr Duchemin (ALAI) also declares himself in favour of retaining the possibility of using one single standard space for 4 items because of the substantial increase of costs of the deposit which would result from the suppression of this possibility.

Mr. Finniss then proposes that the depositor supply 2 additional photographs in countries where preliminary examination is practised, with a view to facilitating this examination in the event of too small reproductions. This suggestion is not considered as appropriate, since the examination deals with what is actually published, but the US and Swedish Delegates do not oppose the



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retaining of paragraph 4, which is therefore carried.

Paragraph 5 - Carried subject to 2 amendments :

- a) Deletion of the word "for registration".
- b) Addition to the reference : Article 4, paragraph 4 b).

Paragraph 6 - a) Carried subject to checking that the reference actually corresponds with the amended text of Article 1.

b) Following a statement made by the Delegates of Yugo-Slavia and Finland, the text is redrafted by Messrs. Phaf and Finniss to read as follows :

"30 Swiss Francs for the registration of a change affecting either all or part of, or in one or more countries, the proprietary rights of one or more designs contained in one deposit."

This new wording is carried unanimously.

c) Carried, subject to inserting the following addition proposed by Mr. Phaf : "as well as in the addresses of both the depositor and his legal representative".

d) The words "of a deposit" shall replace the words "of the registration". The Moroccan Delegate intervenes, requesting that it be specified that the fee of 50 Swiss Francs will actually have to be paid for each design.

Mr. Phaf then proposes that the matter of renewal fees be settled in Rule 5.

The discussion of section d) is deferred till afternoon.

e) Carried.

f) Mr. Roscioni (Italy) asks whether this is a matter of written or verbal information.

Messrs. Morf and Finniss consider that, if this is merely a matter of extracts from registers, it overlaps section e).

Mr. de Haan (Netherlands) points out that the information required is not always an extract from the registers. For instance, it may be necessary to ascertain which are the designs belonging to an important manufacturing company in a given field. The time needed to complete this information may be rather long, and this is why the Experts have proposed that a price per-hour be fixed. After all,

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this is merely a matter of data to be supplied, and does not constitute a thorough search in the true meaning of the word.

Mr. Finniss considers that the text may be understood to apply both to the searches and to the information supplied, and he feels this raises the problem of creating a research service at the International Bureau. Now the creation of a service of this kind comes within the scope of the Arrangement, as this is a matter of principal relating to the internal organization of the International Bureau. He requests that this paragraph be suppressed until after the General Commission has solved both the problem of defining this kind of information and the problem of creating a research service.

Mr. Roscioni (Italy) also declares himself completely opposed to any system of fees based on the criterion of time elapsing.

Mr. Magnin points out that this is a twofold question. Discernment should be made between the question of criterion, which is arguable indeed, and the question of defining the information.

Extracts from the registers are always available, but there is also the possibility of asking for a list of all the deposits effected by a particular manufacturing company. This is neither a search for priority, nor a "complete extract", and the time needed to complete and convey this information justifies a fee to be levied from the applicant.

Consequently, it would be advisable to define this kind of information but this, however, does not raise the problem of creating a research service.

Mr. Morf then proposes that this paragraph be retained, provided that it be specified in the Report how this kind of information should be interpreted, and that the Committee of Directors be entrusted with the task of making sure that the service referred to is not set up.

The proposal presented by Mr. Morf is carried.

g) Carried unanimously.

Mr. Bodenhausen (Netherlands) requests that it be specified that the renunciations are free of charge.

Mr. Morf proposes that this provision be appended to b).

The session is adjourned until 15.00 P.M.

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SUMMARYRule 1 : Draft Regulations

Paragraph 1 : Carried

Paragraph 2 : a) Carried

b) Carried, subject to adapting it to the text  
of Article 2 presented by the Drafting Committee.

c) Carried

d) Carried

Paragraph 3 : Carried, subject to being appended to paragraph 2.

Paragraph 4 : a) New wording : "A brief description of charac-  
teristic features....."

This description shall not exceed 100 words.

b) Carried + statement of inventor.

c) Carried, the word "request" replace the word  
"application".Rule 2 : Discussion deferred until after the special subcommittee will  
have presented its report.Rule 3 : Paragraph 1 : 3 copies of application and photographs, instead  
of 2.Paragraph 2 : Carried + impossibility of depositing perishable  
articles.Rule 4 : Paragraph 1 : Carried

Paragraph 2 : Carried subject to a new wording.

Rule 5 : Carried subject to a new wording.Rule 6 : Paragraph 1 : Carried

Paragraph 2 : a) Carried

b) Agreement on the principle pending the report  
to be presented by the special subcommittee.

Paragraph 3 : Carried

Paragraph 4 : Carried

Paragraph 5 : Carried, with the inclusion of the following  
2 amendments:

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- Deletion of the words "for registration".
- Addition to the reference : Article 4, para. 4 b ).

- Paragraph 6 :
- a) Carried
  - b) Should read : "30 Swiss Francs for the registration of a change affecting all or part of, or in one or more countries, the proprietary rights of one or more designs contained in one deposit".
  - c) Carried with the following addition : "as well as in the addresses of both the depositor and his legal representative".
  - d) Discussion deferred until the afternoon.
  - e) Carried.
  - f) Retained subject both to the interpretation of the word "informations" and to the supervision by the Committee of Directors.
  - g) Carried.

Doc. The Hague  
N° 76 / E  
Date : 23-11-1960

C O R R E C T I O N

TO DOC. N° 55/E - MINUTES OF FRIDAY 18th NOVEMBER 1960

(AFTERNOON SESSION )

Page 8, para. 3 (line 3).-

After the word "text", the full stop should be replaced by a comma and the following text added :

", because of practical difficulties such as :  
a considerable increase in the fees; the publication of reproductions provided for in the new Arrangement but not in the one now in force;  
the suppression of the sealed deposit as provided by the new Arrangement; territorial limitation which is not provided for in the text now in force."

Doc. The Hague

N° 77/E

Date: 23 November 1960

C O R R E C T I O N

TO DOC. N° 66/F MINUTES OF THE SESSION OF 19th NOVEMBER 1960

(MORNING)

Page 3 , line 24.-

Replace the words "withdraws his proposal" by :

"agrees not to insist on the suppression of the  
Protocol as it is only optional ".....

C O R R I G E N D U M

TO DOC. 70/E - MINUTES OF THE MORNING SESSION OF MONDAY,

NOVEMBER 21st, 1960 -

Page 4, last paragraph :

The first two sentences should be deleted and replaced by the following text :

"Mr. Pochon considers that the importance of the factor of extension of time should also be taken into consideration (500 extensions in respect of 2000 deposits in 1959). The figure of 100.000 Swiss Francs covering expenses for last year has been retained as a comparative factor for the initial capital".

Page 5, paragraph 3 :

Replace the words "Following a statement made by the Rumanian Delegate, who suggests that both an "optimistic" and a "pessimistic" alternative of the average costs assessed be considered " by the following two sentences :

" Mr. Trufinescu (People's Republic of Rumania) points out that in establishing the fees, consideration should be given to the fact that reduction from 200 to 20 of the number of designs or models accepted for one multiple deposit would have entailed a larger number of deposits in respect of the 33.000 designs and

models or thereabout which were registered in 1959; actually, the holders would have had to make some 3000 deposits instead of the 2000 deposits or thereabout which they effected in 1959.

If the problem were viewed from this angle, greater optimism would be warranted whilst fees could be fixed at a lower rate because the fact must be taken into consideration that the owners have a real interest in protecting their designs and models.



Doc. The Hague  
Nr 79 / B  
Date: 22-11-1960

MINUTES OF THE SESSION OF 22 NOVEMBER 1960

AFTERNOON SESSION

COMMISSION ON REGULATIONS

Rule 6 (continued)

The Chairman reminds the Delegates that decisions on the issue of the renewal fee were deferred until the problem could be dealt with as a whole.

It should be added to Rule 6 that a fee amounting to 5 Swiss francs shall be levied per country, and to Rule 1 that a reference should be made to Article 6 where it is stipulated that the depositor should indicate the countries in which he would like to be protected. Subject to this reservation Rule 6 is carried.

Rule 7

Para. 1. The Delegates will have to decide on the matter of the three copies of the application. The text therefore reads as follows:

"When the formalities referred to in Article 4, para. 2 of the Arrangement have been fulfilled, the date provided for in the same paragraph, as well as the registration number and the seal of the International Bureau have to be put on each of the three copies of the application. These three copies shall bear the signature of the Director of the International Bureau or of the

Representative whom he has appointed for this purpose.  
One of the copies, which shall constitute the official registration document, shall be entered in the Register; the second copy, which shall constitute the registration certificate shall be returned to the depositor; the third copy shall remain at the disposal of the Bureau to be made available to Countries so requesting it."

The text of para. 1 is accepted subject to final drafting.

Para. 2. The Chairman wonders if there is any reason for referring to the address also in this paragraph.

Mr Phaf, Rapporteur, considers that this paragraph ought not only refer to changes affecting proprietary rights, but also to all other changes.

The Norwegian Delegate considers, in connection with the notifications provided for in Article 5, para. 3 of the Arrangement, that the final decision taken by the National Office ought to be published. On the other hand, it should be noted that the reference is to Article 5, para. 2, since in the new drafting (Document 23) rejections of protection will be mentioned in para. 2.

Mr Federico proposes that publication of such notifications be postponed until a final decision has been passed on a rejection, and he proposes that the words "subject to change in case it becomes final" be added.

Mr Bodenhausen (Netherlands) seconds a proposal made by the Chairman to the effect that the examination of this question be deferred pending the results achieved by the Drafting Committee in regard to Rule 5.

Mr. Phaf (Netherlands) recalls that reference has been made to the first notification, for this notification is connected with a delay of 6 months; as for the other notifications, no debate on them had been intended. The matter is therefore left undecided, as had been proposed.

Rule 8.

The Belgian Delegate takes up again an Austrian proposal published on p. 45, Second Volume, requesting that the International Bureau send to the National Offices a copy of the Design Gazette printed on one side only in order to facilitate the establishment of card indexes.

The sending of this publication is indeed of extreme importance, since it relieves the International Bureau of the obligation to notify the National Offices personally.

It is this sending of the Gazette that has to be discussed. The Belgian Delegates propose moreover, that para. 3 of Rule 8 be inserted in the Arrangement itself. The present Arrangement contained an similar provision in Article 3 - p. 29 of the First Volume - for that matter.

In reply to the first objection made by the Belgian Delegate the Chairman points out that the sending of a copy printed on one side only has been provided for in the proposal concerning territorial limitation (Doc. 64, para. 4.1.) As for his second objection, it will be studied simultaneously with para. 3.

Para. 1.

At the request of Mr. Roscioni, the Chairman proposes that the Bulletin be given the title of "Bulletin of International Deposits of Designs and Models". However, the Finnish Delegate proposes the title of "International Bulletin of Designs and Models."

Subject to having this matter referred to the Drafting Committee which will have to decide on the English version, para. 1 is carried.

Para. 2. The Chairman observes that the fate of Rule 5, para.3. will also have to be held in reserve, as it was decided in regard to Rule 7.

At the request of Sweden and Finland a decision on classification is also suspended.

Mr. Phaf points out that both Rule 8 and Rule 6 refer to changes for social or commercial reasons. However, rule 1 does not mention any social or commercial seat in the date that the registration shall contain, Therefore this Rule 1 ought to be completed.

Thus amended, para. 2 is carried.

Para. 3. The Chairman submits for discussion the proposal made by Belgium, according to which this paragraph ought to be included in the Arrangement itself.

The Belgian Delegate considers that in view of the importance of the sending of the Bulletin, which replaces the written notification by the International Bureau, this stipulation constitutes a matter of substance, which would be more appropriately placed in the Arrangement itself.

Called on to speak by the Chairman, Mr. Magnin states he is in favour of this suggestion. He proposes that this provision be inserted in Article 4, para. 3 of the Arrangement, which proposal satisfies the Belgian Delegate.

The Chairman notes that the Committee decides to propose this amendment to the General Commission and to bring it to the attention of the Drafting Committee.

The Yugoslav Delegate apologizes for reverting to para. 2, and once more raises the language problem. It would seem difficult to him to oblige the officials of the National Offices to know both French and English. He therefore considers that the two concluding sentences of para. 2 would be more appropriately placed in the Arrangement itself, or at least, that the principle of the matter ought to be provided for in the Arrangement.

Mr. Grant (United Kingdom) does not consider such a reference in the Arrangement to be an essential element.

Mr. Bogdanovitch (Yugoslavia) explains that he simply wishes to draw attention to the fact that a contradiction might arise in connection with the decision that might finally be taken with regard to the language question.

On proposal of the Chairman, the Commission decides to accept Rule 8 subject to these reservations.

Rule 9.

The Swedish Delegate asks that the question of the rate of the fee levied for the novelty examination be reconsidered.

The Chairman reminds the Delegates that the Moroccan Delegate has also expressed a desire to have the rate of the fee for renewal in the case of multiple deposits re-examined. He will revert to these two requests for reconsideration later on.

The Chairman proposes that the whole of Rule 9 be reserved pending the texts submitted by the Drafting Committee.

Mr. Grant suggests that at the time when Rule 9 is studied the possibility be examined of informing the depositor simultaneously with the International Bureau, in order that the depositor may be informed of rejections made by the Office.

Rule 10.

In the observations communicated by the countries, which

have been published by the International Bureau of Geneva, Luxemburg suggests that the International Bureau contacts the depositor before destroying deposits that are not renewed.

Mr. Coppiclers de Gibson considers that the words "unless the interested party has requested restitution be made of his documents " be added.

Mr. Federico observes that provision ought also to be made for the restitution of documents in the case of the withdrawal of deposits.

After obtaining the agreement of Mr. Magnin, the Chairman refers this matter to the Drafting Committee.

Rule 1.

Para. 2.

The Italian Delegate observes that to Rule 1 2a) the christian names, residence or Registered Office and the complete address of the depositor, should be added.

Mr. Magnin expresses his agreement, explaining that it would be advisable to coordinate this Rule with the new drafting of Rule 2, which was deferred in the morning, in particular with regard to the words "residence or Head Office of the Company concerned." There is also the matter of the signature. Subject to the final draft, these additions are accepted.

Fee for Renewal.

The Chairman submits for discussion the motion presented by Morocco that the decisions taken with regard to Article 6 para 6d) be reconsidered.

The Moroccan Delegate considers that the fee for renewal of 50 Swiss francs per design or model is too high, and that

depositors in Morocco will not actually be able to enjoy the benefits of this Arrangement because of their limited financial resources.

He proposes that the fee for renewal be fixed at 50 Swiss francs per deposit.

The Norwegian Delegate opposes this amendment, reminding the Delegates that the increase in the fee for renewal is justified by the commercial success that the design or model will meet with.

Mr. Pointet points out that a multiple deposit comprising 20 designs would come to an amount of 1000 Swiss francs on the basis of a fee of 50 Swiss francs per design, whereas the same deposit would amount to 50 Swiss francs on the basis of the Moroccan proposal. The papers presented by Mr. Magnin reckoned exclusively with the deposit fee of 50 Swiss Francs, and did not take into consideration the fee for renewal. The fee of 50 Swiss francs has been found sufficient to cover the expenses entailed by the Arrangement; therefore the fee proposed for the renewal of multiple deposits is unnecessary. Mr. Pointet therefore pronounces himself in favour of a lower fee than the one proposed in the draft, and supports the Moroccan proposal.

The Delegates of Austria, Rumania, the United Arab Republic support the Moroccan proposal.

Mr. Phaf (Netherlands) is in favour of a higher fee for the renewal of multiple deposits. The excess, if any, might permit the lowering of the basic fee.

Mr. Duchemin reminds the delegates that yesterday he was in favour of a higher fee for the renewal of multiple deposits and states that he is, nevertheless, impressed by the observations made by Mr. Pointet.

The Swedish Delegate states that he is in favour of the principle of a higher fee for the renewal of multiple deposits. However, he could accept a reduction of the fee per design, if this is acceptable to the International Bureau.

The Austrian Delegate proposes that, by way of a compromise, the fee for the renewal of multiple deposits be fixed at twice the amount of the fee stipulated in Rule 6 2d) for the multiple deposit of designs and models, on the understanding that the fee for each standard space used be deducted.

The Danish Delegate seconds the statement made by Sweden.

The Chairman invites Mr. Magnin to express his opinion; Mr. Magnin expresses his approval of the compromise proposed by the Austrian Delegation.

However, he points out that the matter of the rate of the fee for renewal should also be considered from the point of view of the National Offices wishing to avoid the cluttering up of their Registers. If this fee yields any excess amounts, it will make possible a decrease in the fee per deposit.

Mr. Federico (U.S.) proposes a fee per deposit amounting to 50 Swiss francs, adding 10 Swiss francs from the second design or model upwards.

The Chairman points out that the fee for renewal for a multiple deposit comprising 20 designs or models would therefore amount to 240 Swiss francs according to the U.S. proposal, and to 180 Swiss francs, according to the Austrian proposal.

Mr. Grant (United Kingdom) considers that it is quite normal to charge a higher fee for renewal in view of the fact that the holder of the rights attached to a deposit will probably only renew those designs or models that have met with success.

The Committee of National Institutes of Patent Agents, through



its observer, points out that the costs of the fees are negligible in comparison to the costs involved in introducing designs or models on the market. Even if extra fees for renewal, for the novelty examination, and for territorial limitation are taken into account, the protection of rights will be less expensive than if national deposits had to be effected.

The Chairman notes that in view of the explanations given by Mr. Magnin and the opinions expressed by the Delegates, it appears possible to be content with a fee for renewal lower than the one provided.

On the other hand, it should also be considered that this fee for renewal will make it possible to reduce the fee for deposits.

The U.S. proposal or the Austrian proposal therefore seems reasonable.

The Delegates of Morocco and the United Arab Republic express their agreement in order to reach a solution, and thank the Chairman.

Mr. Pointet (Switzerland) could subscribe to either of the two compromise proposals.

The Swedish Delegate would prefer a fee amounting to 225 Swiss francs per design, but nevertheless he does not insist.

Mr. Phaf (Netherlands) now proposes to coordinate a tangible reduction of the fee for renewal with the increase to 10 Swiss francs of the fee per country.

His proposal is considered to be a reasonable one by the Chairman. It would be liable to make the solution as a whole acceptable to the National Offices.

The Moroccan Delegate is not in favour of a tie-up between these two fees, since they are for different purposes, and he observes that the countries not adhering to the protocol will eventually be obliged to pay the increase of the fee per Country.

Mr. Pointet observes that, taking the example of a simple deposit in 12 countries, the proposal made by Mr. Phaf would imply that the depositor would have to pay more than he would have had to pay according to the text of the Experts.

However, Mr. Phaf explains that a multiple deposit will be cheaper, and the Swedish Delegate seconds this opinion. Mr. de Haan suggests that this matter be submitted to the Financial Committee.

The Chairman requests Mr. Federico (United States) and the Austrian Delegate to submit their proposals in writing. The Committee will be entrusted with adding the suggestion made by Mr. Phaf and to proceed to an assessment of the costs according to the two varying scales (fee amounting to Swiss Francs 5. or to Swiss Francs 10 per country and per deposit.) This Committee will also include Mr. Magnin.

Rate of the fee for the novelty examination.

(Proposal submitted by Sweden).

Mr. Federico (United States) considers that the three fourths maximum is justified. In countries which do not make an examination for novelty, the National Offices only receive the fee of 5 Swiss francs. Therefore, they have to cover the costs of the administrative examination.

In the countries which do make an examination for novelty the loss of  $\frac{1}{4}$  of the national fee is practically an equivalent loss.

Mr. de Haan (Netherlands) shares this opinion. The National Offices have less work to do than in the case of a national application, since the International Bureau has already completed certain administrative formalities.

This statement is seconded by the Delegate of the United Kingdom.

Mr. Ljungman (Sweden) announces that he will abstain.  
The Chairman thanks the Swedish Delegate and notes that the Delegates agree to uphold the decision taken yesterday concerning a  $\frac{3}{4}$  maximum of the national fee.

Mr. Boutet reminds the Delegates that the Working Committee has also been entrusted with studying the problem regarding the fee for a preliminary examination for novelty (Rule 9, para. 1) in the case of multiple deposits.

The Chairman concludes that the Committee will have to submit a report on the two following points:

- 1) Fee for renewal of multiple deposits
- 2) Fee for novelty examination of multiple deposits.

Mr. Matter (Switzerland) recalls that in addition the Regulations would have to decide on:

- the procedure to be followed when a National Office requires its nationals to present their applications for deposits through its intermediary;
- the amount of the Reserve Fund.

The Chairman observes that Mr. Magnin is to submit proposals on the first issue. As for the second, before it is settled it would be advisable to await the drafting of the Rules regulating financial matters.

The Agenda being exhausted, the Chairman adjourns the session at 17.15 hrs. and convenes the Delegates for the next session of the Commission on Regulations at 15.00 hrs. on Wednesday 23, November.

#### SUMMARY

- Rule 6 : carried
- subject to the matter of the fee for renewal, which remains to be decided;

- with the addition of the fee to the amount of  
5 Swiss francs per country for territorial limitation.

-Rule 7: Para. 1 : accepted (see minutes)  
Para. 2 : reserved.

-Rule 8 : Para. 1 : carried, subject to a decision on the name of  
the Bulletin.

Para. 2 : carried with amendment (see minutes)

Para. 3 : carried, subject to inserting a provision  
of principle in para. 3 of Article 4 of the Arrangement.

-Rule 9 : reserved.

-Rule 10 : Carried.

-Rule 1 : Addition of christian name, residence of registered  
office, and complete address of depositor.

-Fee for renewal : (Rule 6, para. 6d.)

Referred to Financial Committee (Chairman Mr. Boutet).

-Fee for novelty examination (Rule 9, para. 1).

Maximum of  $\frac{3}{4}$  of the national fee confirmed.

-Fee for novelty examination in the case of multiple deposits:

referred to Financial Committee.

-Procedure regarding international deposit through a National Office:

awaiting proposal to be made by Mr. Magnin.

-Amount of the Reserve Fund

reserved, pending the drafting of financial Rules.

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Doc. The Hague  
 No. 82 / E  
 Date: 23-11-1960

REPORT OF THE SUB-COMMITTEE ON FINANCE AND FEES PROVIDED  
FOR IN THE DRAFT ARRANGEMENT

1. The Sub-Committee in establishing its report, has only taken into consideration the basic fees.
2. The annexed tables show the manner in which the cost of deposit and renewal are calculated according to different scales.
 

Deposit	: Tables A B C
Renewal	: Tables D and B
3. Explanatory notes on tables:
  - a) Table A shows the basic fees for a deposit and does not take into account extra fees for territorial limitation and preliminary examination for novelty.
  - b) Table B shows the extra fees payable in respect of territorial limitation taking into account the number of articles (maximum of 20) and the number of countries (12); this table should be read in conjunction with table A in order to ascertain the total cost if preliminary examination for novelty is not asked for.
  - c) Table C shows the extra fees for a preliminary examination taking into account the number of articles (maximum of 20) and the number of countries (3) and the maximum fee of Swiss francs 50.- as decided upon by the Commission. This table should be read in conjunction with Tables A and B.
  - d) Table D shows the fees payable for renewal (maximum of 20 articles) according to the different proposals and suggestions.  
 In order to ascertain the effects of proposal c (bottom of page), see Table B relating to the deposit.
4. Only the fees indicated in Tables A and D (top part) show the costs involved for the functioning of the Agreement (including fees for publication).  
 The other fees are for those countries availing themselves of territorial limitation or making preliminary examination for novelty.
5. If the Commission so desires, the Sub-Committee will gladly give further examples on the black board.

Doc. The Hague  
No. 83 / E  
Date: 23-11-1960

Report submitted by the Working Group (Mr. Boutet) on the number of designs and models comprised in one deposit.

It would appear that a solution may be found in the circumstance that every depositor would be entitled to incorporate up to a maximum of 100 designs and models in a deposit of this nature.

Following the period of one year provided for the deferred deposit, an applicant would be entitled to renounce those of his designs and models included in the deposit which he would consider as being of no interest.

At the time when the deposit would be filed with the International Bureau at Geneva, the depositor would have to pay a lump sum of 25 Swiss Francs intended to ensure the administrative operation of the Arrangement via the Bureau at Geneva.

During this one year's period, the depositor will make known his decision as to the designs and models he wishes to be published on the one hand, also as to those he wishes to renounce on the other hand.

The administrative fee, intended to cover the expenses proceeding from the application of the Arrangement and fixed under the provisions of Rule 6, will be paid for the twenty designs or models initially retained. As regards the further models - from the 21st model onwards - the administrative fee will amount to 2 Swiss Francs per design or model to be retained.

Of course, nothing is altered with regard to the payment of the publication fee as provided for in this same Rule 6 (para.2 b) viz. 25 Swiss Francs per standard space.

The solution indicated hereabove would presumably necessitate various alterations to Article 4, para. 2, of the Arrangement.

Doc. La Haye

N° 84 / E

Date: 23 November 1960

CORRECTION TO DOC. 69/E

MINUTES OF THE SESSION OF MONDAY 21<sup>st</sup> NOVEMBER - AFTERNOON

Page 8, para.7

The second sentence should read as follows :

" It is not necessary to make a decision now on the question as to whether, in Article 5 bis of the Union Convention, the word "maintenance" also applies to renewals.

Doc. The Hague

No. 85 / E

Date: 23-11-1960

REPORT OF THE RAPPORTEUR GENERAL - AGREEMENT ARTICLE 13bis

The fees payable to the International Bureau are fixed by the Regulations as follows :

a) their receipts must cover all the costs of the international Service for designs and models as well as the expenses necessitated for the preparation and the organizing of the meetings of the International Committee on designs and models or the Conference of revision of the present Agreement.

b) That they make allowance for a reserve fund.

The amount of the reserve fund is fixed at 250.000 Swiss francs.

It may be modified by the procedure provided for in the Regulations.

The initial contribution to the reserve fund amounting to 250.000

Swiss francs is covered by the States which pay to this fund at the time when the present Agreement comes into force for those countries, a single initial contribution the amount of which is determined for each State according to the class to which this State belongs, as provided in article 13 of the Union Convention.

If the total sum of the reserve fund exceeds the figure of 250.000 Swiss Francs or that fixed by the Regulations, either as a result of the initial contributions paid by the States which accede to the present Agreement after it has come into force, or as a result of the payment to the reserve fund of the excess receipts received by the International Bureau, the surplus shall be shared between the Contracting States in proportion to the initial contributions paid by them until the amount of these contributions due has been reached.



Doc. The Hague  
No. 86 / E  
Date: 23-11-1960

PROPOSAL SUBMITTED BY THE RAPPORTEUR-GENERAL

DRAFT RESOLUTION

The Contracting States parties to the Arrangement of Madrid concerning the International Registration of Trade Marks shall have power to balance the payment of the initial contribution to which they would bind themselves under Article 13bis of the revised Arrangement of The Hague, to the amount of the claim which they would have in respect of the Paris Union on account of the loans granted to this Union by the Union of Madrid.

Doc. The Hague

Nr 87 / E

Date: 23 November 1960

MINUTES OF THE SESSION OF THE COMMISSION ON REGULATIONS ON

WEDNESDAY 23 NOVEMBER 1960

The Chairman, Mr Morf, opens the session at 15.15 hrs.

He reminds the Delegates that the following questions still have to be discussed:

- multiple deposit (Working Group presided over by Mr BOUTET)
- fees for renewal
- amount of the Reserve Fund (Doc. Nr 85, Rule 13 bis)
- proposal made by the International Bureau concerning the relations between the International Bureau and the National Offices.

I. MULTIPLE DEPOSIT.

Mr BOUTET informs the Delegates of the results of the work done by the Working Group.

The first question studied was the meaning of the term "of one and the same kind" in Rule 2 of the Draft Regulations. The Working Group has looked for other expressions to narrow down this idea of "of one and the same kind", but it has come to the conclusion that the text of the Experts will have to be retained. However, in order to make this expression more explicit the Working Group considered that it was essential to draw up an international classification which would group the products into classes by reference to this idea of "of one and the same kind". The Working Group would therefore like the text to be drafted to refer expressly to the existence of such a classification, in order to make it plain what shall be understood by articles of one and the same kind.

- 2 -

Mr Phaf asks whether the International Bureau shall be competent to decide whether the various articles included in a multiple deposit are of one and the same kind or not.

Mr de Haan explains that the Working Group wanted to introduce an objective concept in defining the term "of one and the same kind" by referring to the international classification. This classification will have to be drawn up in such a way that the same entity be defined narrowly enough and broadly enough to comprise articles of one and the same kind. It shall be divided into classes, sub-classes, groups, entities, at the discretion of the experts who will set up the classification, but above all, special care shall be taken to put in the same class only articles of one and the same kind.

The Chairman considers that if the criterion is to depend only on the way in which the classes are arranged this may restrict the idea of articles of one and the same kind in the case of finely divided classes, or, conversely, this may broaden this idea in the case of classes less finely divided.

Mr Magnin considers that the International Bureau cannot determine whether the articles are in fact of one and the same kind. He states that it would be simplest to decide that the articles are of one and the same kind when they belong to the same class.

Mr Matter (Switzerland) supports Mr Magnin's remark. First it should be stated expressly who shall decide if articles are in fact of one and the same kind.

In addition, he draws attention to the Austrian proposal (p. 42 - Second Volume), in cases where the National Office should hold conceptions of the term "one and the same kind" different to the interpretation given to this term by the International Bureau. In such a

- 3 -

case, provision might be made to grant the depositor the option to maintain his deposit on payment of extra fees.

Mr de Maan explains that if there are no other rules, the term "one and the same kind" has to be interpreted by the International Bureau or by the National Office. The International Bureau cannot perform subjective appraisements. In the same way the National Offices must follow a criterion in order to avoid differences of appraisal between countries. Hence the proposal that those articles be considered to be of one and the same kind which belong to the same entity of classification, or rather, to the same class.

The Chairman notes that the Delegates appear to agree that articles of one and the same kind shall be defined as articles belonging to the same class.

If the deposit includes articles belonging to several classes, the International Bureau shall ask the applicant whether he wishes to renounce certain particular articles or if he prefers to extend his deposit to another class. In the latter case a second deposit shall be effected, which shall bear the same date.

Mr Bogdanovitch asks if it would not be advisable to provide for the possibility for depositors to appeal against a decision of the International Bureau, if the International Bureau is given the task of deciding whether articles do belong to the same class or not. In certain countries, viz. in Yugoslavia, the depositor may, in case of disagreement with the Office, appeal to a higher Authority. Yet, in the present case this appeal does not exist with respect to the International Bureau. It does not appear advisable to entrust the International Bureau with the task of deciding whether articles are of one and the same kind or not.

- 4 -

Mr Magnin considers that this difficulty will not often arise, for there is ground for assuming that the international classification and the list of products drawn up by the Experts will be very complete, as in the case of the list of trade marks.

A difficulty could only arise with the appearance of a new product, but this does not occur very often. In such a case it would always remain possible to refer the inquiry into the class into which the new product would have to be incorporated, to the Committee of Experts.

Mr Bodenhausen proposes to draft a provision similar to the one adopted for trade marks at the Conference of Nice (Article 3 para. 2.).

Mr Magnin points out that according to the terms of this provision the International Bureau at Geneva has recourse to the assistance of the National Office. He considers it to be impossible to adopt a similar rule, since in the majority of cases the international deposit will not be effected through the intermediary of the National Office.

Mr Bogdanovitch (Yugoslavia) observes that it would be difficult to submit specific cases to the Committee of Experts, but in point of fact he recognizes that there may perhaps not be any difficulties in view of the explanations given by Mr Magnin.

The Chairman therefore concludes that the proposals made by the Working Group are carried.

Second item. Number of objects included in a multiple deposit.

Mr BOWLER explains that the Working Group has considered that the number of articles that may be included in a multiple deposit might be raised to 100, with the restriction that the applicant shall then

- 5 -

inform the International Bureau within a maximum period of one year on the objects which he intends to withdraw from his deposit. On the expiration of this term the applicant may either renounce his deposit or retain it for any number of articles he may choose, but he will have to group these objects in multiple deposits of <sup>a</sup>maximum of 20 articles each.

The initial fee would be the present fee of 25 Swiss francs required for the administrative costs on the Arrangement. At the end of this term of one year the administrative fee provided for in Rule 6 shall be paid <sup>for</sup> the first multiple deposit including a maximum of 20 articles. The additional articles included shall be paid for at a rate of only 2 Swiss francs per design or model.

As for the publication fee, it is maintained at 25 Swiss francs per standard space used.

Mr Boutet adds that this proposal has the advantage of making the costs of a deposit relatively low beyond the 20th article, but it would involve the necessity of making a few adjustments in para. 2, Article 4 of the Arrangement.

The Chairman thanks Mr Boutet for his statement, but he considers it difficult for the Delegates to express their opinions without having the text of this proposal.

Mr Phaf feels he may draw the conclusion that the maximum number of articles included in a multiple deposit is thus retained at 20, but that in the case of a request being made for postponement, the applicant may effect a deposit including 100 articles, if he reduces his deposit at the end of a term of postponement to a maximum number of 20, or if he effects additional multiple deposits including a maximum of 20 articles.

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Mr Boutet adds to his statement that the Working Group has not examined the case where no postponement is applied for.

Mr de Haan confirms that the advantage of this proposal lies in the fact that the second, third, fourth and fifth multiple deposits will result in a fairly low fee being charged.

The Chairman then asks at what number of articles the multiple deposits should be fixed in the case where no postponement is applied for.

According to Mr de Haan the maximum would then be 20 articles.

Mr Federico points out that the Working Group has made no proposal for this figure to be changed except in the case of postponement.

On the request of the Chairman, Mr Boutet hands the text of his proposal to the Secretariat for distribution to the Delegates.

Mr Lorenz (Austria), who has just joined the meeting, apologizes for having been unable to attend the discussions from the very beginning. He had been detained by the Drafting Committee.

The Chairman having briefly summarized the progress of the discussions so far, Mr Lorenz states that his Delegation will be unable to accept an increase in the number of objects to be included in a multiple deposit, unless the extra fee of 5 Swiss francs were raised simultaneously. The Austrian Delegation accepted this extra fee on the understanding that the multiple deposit was not to include more than 20 objects. If this number were to be increased, the extra fee would have to be increased as well from 20 objects onwards. With regard to the rest of the proposal, Mr Lorenz wishes to maintain an attitude of reserve until after having examined the written draft. He feels, however, that it will be difficult for him to accept that a multiple deposit be allowed to include 100 objects during the term of deferment, even though this figure might be reduced to 20 at a later stage. In the

Austrian system, the secret deposit in fact enjoys full protection. The proposed system would be easier to understand if the countries did not, in actual fact, protect the deposited objects during the period of secret deposit.

Mr Boutet points out that this is a fundamental matter. Both the multiple deposit and the secret deposit are provided for in the Arrangement, and the Commission on Regulations is not allowed to depart from these provisions.

The Chairman proposes that the next item be brought to discussion, pending distribution of the written proposal.

Third item: Fee to be paid for the examination of novelty.

Mr Boutet explains that the Working Group investigating the matter of the fee, to be paid for the examination of novelty in the event of a multiple deposit fixed in the Draft at a twofold maximum of  $3/4$  of the national fee per article, the minimum being 50 Swiss francs, has sought a solution with a view to lowering this fee, taking the multiplicity of articles into account.

The Working Group proposes that the multiple deposits be subdivided into groups of 5 designs or models each, forming variants of one and the same design or model. Thus, one single fee could be collected per group.

If the National Administration considers that a given article should not have been classified under one of these groups, the depositor would be entitled to pay the fee applying to that particular article or to renounce the protection for the article referred to.

Mr Boutet adds that certain members of the Committee consider the preliminary examination of novelty as an almost insurmountable obstacle for the depositor, who is practically obliged to renounce the protection



in those countries via the Arrangement.

Mr Secrétan, Director of the International Bureau, asks Mr Boutet whether the grouping by series of 5 articles each will be effected at depositor's risk or at the risk of the International Bureau.

Mr Boutet specifies that, in the event of the deposit being filled directly with the International Bureau, the depositor would have to assume the responsibility of the grouping. On the other hand, in the event of the deposit being represented by the National Administration, this Administration would be in a position to notify its objections directly to the depositor.

Mr Secrétan states that the International Bureau will neither be in a position to assume responsibility for the grouping, nor to make any remarks on the grouping as arranged by the depositor.

Mr Federico (USA) approves the proposal presented by the Working Group. He explains that it is an acceptable compromise which allows for the different systems in force in the various domestic laws.

The Moroccan Delegate states that he expressed certain reservations with regard to the countries where preliminary examination is practised and to which Mr Boutet referred. He requests that these reservations be mentioned in the General Report.

The Chairman puts on record this request.

After a short break of the session, the Chairman proposes that the discussion of Item II be resumed, as indeed the written proposal presented by the Working Group had just been distributed to the Delegates.

Item II. - Number of objects incorporated in a multiple deposit.

The Chairman reminds the Delegates of the fact that the Working Group presided over by Mr Boutet did submit a proposal to which Document 83

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refers. This proposal would entail consequential effects with respect to the text of the Arrangement, and this is not desirable.

This is the reason why he submits a different proposal to the Commission, aiming at increasing only the number of objects which may be included in a multiple deposit, to fix this number at 30 or 40, and for the rest, to abide by the text of the Draft Arrangement.

Messrs. Ljungman and Grant declare their intention to abstain from voting, if a vote were taken on a figure, higher than 20.

This proposal is thought to be acceptable by Mr Lorenz, on the understanding however, that the extra fee of 5 Swiss francs per deposit be levied likewise with respect to the 20 additional objects. Thus, a multiple deposit of 40 objects would entail an extra fee of 10 Swiss francs.

Mr de Haan feels that it would be preferable to retain the figure of 20 objects. He proposes that the compromise presented by the Working Group be discussed prior to the proposal brought forward by Mr Morf.

This suggestion is approved by Mr Duchemin. The total amount of fees to be paid for the deposit of 20 objects would amount to 3000 Swiss francs according to Document 82. In this respect, the proposal of the Working Group would amount to a substantial lowering of these fees.

Mr Finniss (France) shares the impression felt by Mr Duchemin, and he considers that the Arrangement of the Hague runs the risk of being deprived of its very substance on account of the high fees advocated.

Mr Lorenz points to the fact that page 4 of Document 82 containing the figures submitted by the Financial Committee, also refers to the extra fee of 5 Swiss francs per country and per deposit, whereas it had been agreed that this fee of 5 Swiss Francs was to be understood "per

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deposit, up to and including 20 objects".

Mr Pochon specifies that the memo considers all cases liable to occur, with a view to showing the consequential effects of the various proposals.

In the event of one fee per deposit being considered for the territorial limitation, the mere reading of the first line of page B appended to Doc. 82/E will be sufficient.

Referring back to the matter now being discussed (Document 83), Mr Boutet explains that the Working Group considered it important that, from the 20th object onwards, a low fee be sought. This is why this fee was fixed at 2 Swiss Francs from the 21st object onwards.

Mr Phaf presents a new proposal, according to which the number of objects should be kept down to 20; when fixing the administrative fee, however, the total number of deposits should be taken into account. Five deposits of 20 models each would entail the same administrative fee as in the case of Mr Boutet's proposal, but both the inconveniences of a deposit including 100 objects and renunciation during the period of deferment would be avoided.

After an exchange of views between Delegates, the Chairmannotes that Austria considers as unacceptable the proposal presented by the Working Group, which entails the alteration of the Arrangement itself and which opens the way to certain abuses. On the other hand, Mr Lorenz declared himself in favour of Mr Phaf's proposal, subject to the extra fee being raised to 10 Swiss Francs for 40 objects. On the other hand, the Delegations of the Netherlands, Morocco and France declared themselves in favour of the proposal submitted by the Working Group, enabling applicants to file a multiple deposit at a lower cost.

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As regards Mr Ljungman (Sweden), this Delegate stated that he would be in a position to accept either of these proposals.

Accordingly, the Chairman feels that the discussions should be stopped at this stage and be resumed to-morrow at 8.30 A.M.

Mr Roscioni thinks that it might be possible to reconcile these two proposals, but he nevertheless believes that the solution presented by the Working Group would be preferable.

Mr Finniss requests that Mr Phaf's proposal be submitted in writing, and that the financial consequences involved be specified.

Mr Pointet believes these two proposals should not prove irreconcilable. The proposal presented by the Working Group could apply to a multiple deposit with deferred publication, whereas Mr Phaf's proposal could apply to a multiple deposit with immediate publication.

This statement is approved by Mr Coppieters de Gibson (Belgium).

Mr Lorenz points out that, in this way, deferred publication would lower the costs of deposits.

Accordingly, the principle should be admitted that a secret deposit is to be less expensive than a normal deposit, to enable the applicant to decide whether or not he wishes to maintain the deposit. This consequence should be carefully considered.

The Chairman then adjourns the further examination of this problem until the next session, to be held on Thursday, November 24th, 1960, at 8.30 A.M.

#### SUMMARY.

##### I. Multiple deposit.

- a) expression "of one and the same kind" : the proposal submitted

by the Working Group is carried (criterion of international classification).

b) number of objects included in a multiplied deposit:

the proposal submitted by the Working Group (Document 83) to be coordinated with Mr Phaf's proposal (see the report). Deferred till the session scheduled for the 24th November, 1960.

c) fee to be paid for the examination of novelty: the proposal presented by the Working Group is carried (retaining of the twofold maximum fixed by Rule 9 for groups of 5 objects each, forming variants of one and the same design or model).

II. Renewal fee : Discussion postponed till the session scheduled for the 24th November, 1960.

III. Amount of the Reserve Fund: Discussion postponed till the session scheduled for the 24th November, 1960.

IV. Relations between the International Bureau and the National Offices: Discussion deferred till the session scheduled for the 24th November, 1960.

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Doc. The Hague  
No. 88/ E  
24th. Nov. 1960

PROPOSAL BY THE SWEDISH DELEGATION

Regulations, Rule 6, para.5.

When an application for registration is withdrawn in accordance with article 4, para.4, of the Arrangement the International Bureau shall refund the amount of 25 Swiss francs for each unused standard space as well as half of all the other fees, which refer to the registration of non published designs.

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DRAFT OF THE DRAFTING COMMITTEE

AGREEMENT OF THE HAGUE CONCERNING THE INTERNATIONAL DEPOSIT OF INDUSTRIAL DESIGNS OF 6th NOVEMBER, 1925, AS REVISED AT LONDON ON 2nd JUNE 1934, AND AT THE HAGUE ON 26th NOVEMBER 1960

The Contracting States

moved by the desire to provide the creators of industrial designs with the opportunity of obtaining by an international deposit an effective protection in a large number of countries;

considering it desirable to that end to revise the Agreement for the International Deposit of Industrial Designs signed at The Hague on 6th November 1925 and revised at London on 2nd June 1934;

have agreed as follows : -

Article 1

- (1) The Contracting States constitute a Separate Union for the International Deposit of Industrial Designs.
- (2) Only States members of the International Union for the Protection of Industrial Property may become parties to this Agreement.

Article 2

For the purposes of this Agreement the following expressions shall have the meanings attributed to them herebelow :

Agreement of 1925 : Agreement of The Hague for the International Deposit of Industrial Designs of 6th November 1925

Agreement of 1934 : Agreement of The Hague for the International Deposit of Industrial Designs of 6th November 1925, as revised at London on 2nd June 1934

- 2 -

- this Agreement or the present Agreement : the Agreement of The Hague for the International Deposit of Industrial Designs as established by the present instrument
- Regulations : Regulations for the execution of the present Agreement
- International Bureau : Bureau of the International Union for the Protection of Industrial Property
- international deposit : deposit of a design made in the International Bureau
- national deposit : deposit of a design made in the national office of a Contracting State
- multiple deposit : a deposit including several designs
- State of origin of an international deposit : the Contracting State in which the applicant has a real and effective industrial or commercial establishment or, in the absence of such establishment in a Contracting State, the Contracting State in which he is domiciled or, if he has no domicile in a Contracting State, the Contracting State of which he is a national
- State having a novelty examination : a Contracting State the national law of which provides for a preliminary ex officio search and examination by its national office as to the novelty of deposited designs

### Article 3

Nationals of a Contracting State and persons who, without being nationals of a Contracting State, are domiciled or have a real and effective industrial or commercial establishment in a Contracting State, may deposit designs in the International Bureau.



Article 4

- (1) International deposit may be made in the International Bureau:
1. directly or
  2. through the intermediary of the national office of a Contracting State if the rules of that State so permit.
- (2) The national law of any Contracting State may require that international deposits of which it is the State of origin shall be made through its national office. Non-compliance with this requirement shall not affect the effects of the international deposit in the other Contracting States.

Article 5

- (1) The international deposit shall consist of an application accompanied by one or more photographs or other graphic representations of the design and the fees prescribed by the Regulations.
- (2) The application shall contain the following indications:
1. an enumeration of the Contracting States in which the applicant requests the international deposit to be effective;
  2. the designation of the article, or articles in which it is intended to incorporate the design;
  3. if the applicant wishes to claim the priority provided for in Article 9, a statement of the date, the State, and the number of the national deposit which gives rise to the right of priority;
  4. such other particulars as the Regulations prescribe.
- (3) (a) In addition, the application may contain:
1. a short description of characteristics of the design;
  2. a statement as to who is the true creator of the design;
  3. a request for deferment of publication as provided for in Article 6 (4).
- (b) The application may be accompanied also by samples or models of the article or articles incorporating the design.
- (4) A single deposit may include several designs.

Article 6

- (1) The International Bureau shall maintain the International Design Register and shall register the international deposits therein.
- (2) The international deposit shall be deemed to have been made on the date on which the International Bureau receives the application in due form, the fees, and the photograph or photographs or other graphic representations of the design, or, if the International Bureau receives them on different dates, the last of these dates. The registration shall bear the same date.
- (3) For each international deposit, the International Bureau shall publish in a periodical bulletin :
  1. reproductions in black and white or, at the request of the applicant, in colour, of the deposited photographs or other graphic representations;
  2. the date of the international deposit ;
  3. the particulars prescribed in the Regulations.
- (4) (a) At the request of the applicant, the publication referred to in paragraph (3) shall be deferred for such period as he may request. This period may not exceed twelve months computed from the date of the international deposit. However, if priority is claimed, the starting date of this period shall be the priority date.
  - (b) At any time during the period referred to in subparagraph (a) the applicant may request immediate publication or may withdraw his deposit.
  - (c) Until the expiration of the period referred to in subparagraph (a) the International Bureau shall keep in confidence the registration of deposits made subject to deferred publication, and the public shall have no access to any documents or objects concerning such deposits. These provisions apply without limitation in time if the applicant has withdrawn the deposit before the expiration of the said period.
- (5) Except as provided in paragraph (4) above, the Register and all documents and objects filed with the International Bureau shall be open to inspection by the public.

Article 7

- (1) (a) Any deposit registered in the International Bureau shall have the same effect in each of the Contracting States designated by the applicant in his application as if all the formalities required by the national law for the grant of protection had been complied with by the applicant and as if all administrative acts required to this end had been accomplished by the Administration of such State.
  - (b) Subject to the provisions of Article 11, the protection of designs the deposit of which has been registered in the International Bureau is governed in each Contracting State by those provisions of the national law which are applicable in that State to designs the protection of which has been claimed on the basis of a national deposit and concerning which all formalities and acts have been complied with and accomplished.
- (2) An international deposit shall have no effect in its State of origin if the national law of that State so provides.

Article 8

- (1) The national office of a Contracting State the national law of which provides that the national office may, on the basis of an administrative examination ex officio or pursuant to an opposition by a third party, refuse the protection, shall, in case of refusal, notify the International Bureau within six months that the design does not meet the requirements of its national law other than the formalities and administrative acts referred to in Article 7 (1). If no such refusal is notified within six months, the effects of the international deposit shall commence in that State as from the date of this deposit. However, in a Contracting State having a novelty examination, the effects of the international deposit shall, if no refusal is notified within six months, commence at the expiration of the six-month period unless the national law provides for an earlier date for deposits made with its national office.
- (2) The six months referred to in paragraph (1) shall be computed from the date on which the national office receives the issue of the

periodical bulletin in which the registration of the international deposit has been published. The national office shall communicate this date to third parties at their request.

- (3) The applicant shall have the same means of recourse against the refusal of the national office referred to in paragraph (1), as if he had deposited his design in that national office; in any case, the refusal shall be subject to a request of reconsideration or appeal. The notification of such refusal shall indicate:
1. the reasons for which it is found that the design does not meet the requirements of the domestic law;
  2. the date referred to in paragraph (2) ;
  3. the time allowed for a request for reconsideration or appeal;
  4. the authority to which the request or appeal may be addressed.
- (4) (a) The national offices of Contracting States, the domestic laws of which are of the kind referred to in paragraph (1) and which require a statement as to who is the true creator of the design or a description of the design, may provide that, upon request and not sooner than within 30 days from the receipt by the applicant of such request, the applicant shall file in the language of the application filed with the International Bureau :
1. a statement as to who is the true creator of the design,
  2. a short description underlining the essential characteristic features of the design as shown by the photographs or other graphic representations.
- (b) No fees shall be charged by the national offices in connection with the filing of such statements or descriptions or for their possible publication by the national offices.
- (5) (a) Any Contracting State having a novelty examination shall in due time notify to the International Bureau that it is such a State.
- (b) If a Contracting State has several systems for the protection of designs one of which provides for novelty examination, the provisions of this Agreement concerning States having a novelty examination shall apply only to the said system.

Article 9

If the international deposit of a design is made within six months of the first deposit of the same design in a State member of the International Union for the Protection of Industrial Property and if priority is claimed for the international deposit, the priority date shall be that of the first deposit.

Article 10

- (1) An international deposit may be renewed every five years by paying, during the last year of each period of five years, the renewal fees prescribed by the Regulations.
- (2) Subject to the payment of a surtax fixed by the Regulations, a period of grace of six months shall be granted for the renewal of the international deposit.

Article 11

- (1) (a) The term of protection granted by a Contracting State to a design for which an international deposit has been made shall not be less than :
  1. ten years from the date of the international deposit in case of one renewal of such deposit ;
  2. five years from the date of the international deposit in the absence of renewal.
- (b) However, if, according to the provisions of the national law of a Contracting State having a novelty examination, protection starts at a date later than that of the international deposit, the minimum terms provided in subparagraph (a) shall be computed from the date at which protection starts in that State. The fact that the international deposit is not renewed or is renewed only once does not affect the minimum terms of protection thus defined.
- (2) If the national law of a Contracting State provides for designs for which a national deposit has been made a protection the duration of which, with or without renewal, is longer than ten years, protection of the same duration shall, by virtue of an international

deposit, be granted in that State to designs for which such an international deposit has been made.

- (3) Any Contracting State may, by its national law, limit the minimum term of protection of designs for which an international deposit has been made to the terms provided for in paragraph (1).
- (4) Subject to the provisions of paragraph (1b), the protection in a Contracting State shall terminate at the date of expiration of the international deposit, unless the national law of that State provides that the protection shall continue after the date of expiration of the international deposit.

#### Article 12

- (1) Under the conditions specified in the Regulations, the International Bureau shall record and publish changes affecting the ownership of a design concerning which an international deposit is in force. It is understood that the transfer of the ownership may be limited to the rights arising out of the international deposit in less than all the Contracting States and, in the case of a multiple deposit, to less than all the designs included therein.
- (2) The recording in the International Bureau shall have the same effect as if it had been made in the national offices of the Contracting States.

#### Article 13

- (1) The owner of an international deposit may, by means of a declaration addressed to the International Bureau, renounce his rights for all or only some of the Contracting States and, in the case of a multiple deposit, for all or some of the designs included therein.
- (2) Under the conditions specified in the Regulations, the International Bureau shall record and publish such declarations.

#### Article 14

- (1) No Contracting State may, as a condition of recognition of the right to protection, require that the article incorporating the design bear an indication or mention of the deposit of the design.
- (2) If the domestic law of a Contracting State provides for a notice on the article for any other purpose, then such State shall consider

the requirements of such provision fulfilled if all the copies of the article offered to the public under the authorization of the owner of the rights in the design, or a tag attached to such copies, bear the international design notice.

- (3) The international design notice shall consist of the symbol (D) accompanied by
1. the year of the international deposit and the name or usual abbreviation of the name of the depositor, or
  2. the number of the international deposit.
- (4) The mere appearance of the international design notice on the articles or the tags shall in no case be interpreted as implying a waiver of any claim to protection by virtue of copyright whenever, in the absence of such notice, a claim to such protection can be made.

#### Article 15

(Provisions concerning the Regulations)  
(Reserved)

#### Article 16

The fees prescribed by the Regulations shall consist of:

1. fees for the International Bureau;
2. supplementary fees for the Contracting States designated by the applicant, namely:
  - a) a special fee for each Contracting State having a novelty examination and which requires the payment of a fee for such an examination,
  - b) subject to the exception referred to in Article 17 (2), a fee for each Contracting State not coming under letter a), above

#### Article 17

- (1) The supplementary fees referred to in Article 16,2 shall be collected by the International Bureau and paid over annually to the Contracting States designated by the applicant.
- (2) (a) Any Contracting State may notify the International Bureau that if waives its right to the supplementary fees referred to in Article 16.2b in respect of international deposits of which

any other Contracting State making a similar waiver is the State of origin

- (b) It may also make a waiver in respect of international deposits of which it is itself the State of origin.

Article 18.

The provisions of this Agreement shall not prevent the claiming of the application of possible wider protection resulting from the national law of a Contracting State, nor shall they affect in any way the protection which is granted to works of art or works of applied art by international copyright treaties or conventions.

Article 19.

- (1) There is hereby established an International Designs Committee consisting of representatives of all the Contracting States.
- (2) The Committee shall have the following duties and powers:
  - 1. to establish its own rules of procedure by a majority of four fifths of its members present or represented and voting;
  - 2. to amend the Regulations by a majority of four fifths of its members present or represented and voting;
  - 3. to study matters concerning the application and possible revision of the present Agreement;
  - 4. to study all other matters concerning the international protection of designs;
  - 5. to comment on the yearly administrative reports of the International Bureau and to give general directives to the International Bureau concerning the discharge of the duties entrusted to it by virtue of this Agreement;
  - 6. to draw up a statement on the foreseeable expenditure of the International Bureau for each three-year period to come.
- (3) Subject to paragraphs (2) and 3 above, the decisions of the Committee shall be taken by a majority of its members present or represented and voting. Abstentions shall not be considered as votes.



- (4) The Committee shall be convened by the Director of the International Bureau with the approval of the Government of the Swiss Confederation:
  1. at least once every three years,
  2. at any time on request of one third of the Contracting States, or if deemed necessary, at the initiative of the Director of the International Bureau or the Government of the Swiss Confederation.
- (5) The travel expenses and subsistence allowances of the members of the Committee shall be borne by their respective Governments.

Article 20

- (1) The Regulations may be amended either by the Committee as provided for in Article 19 (2) 2 or by a written procedure as provided in paragraph (2) below.
- (2) In case of written procedure, amendments will be proposed by the Director of the International Bureau in a circular letter addressed by the Government of the Swiss Confederation to the Government of each Contracting State. The amendments will be considered as adopted if, within one year from their communication, no Contracting State has communicated an objection thereto to the Government of the Swiss Confederation.

Article 21

(Budgetary Provisions)  
(Reserved)

Article 22

- (1) This Agreement shall remain open for signature until 31st December 1961.
- (2) It shall be ratified and the instruments of ratification shall be deposited with the Government of the Netherlands.

Article 23

- (1) States members of the International Union for the Protection of Industrial Property which do not sign this Agreement may accede thereto
- (2) Such accessions shall be notified through diplomatic channels to the Government of the Swiss Confederation, and by it to the Governments of all Contracting States.

Article 24

- (1) Each Contracting State undertakes to provide for the protection of designs and to adopt, in accordance with its constitution, the measures necessary to ensure the application of this Agreement.
- (2) At the time a Contracting State deposits its instrument of ratification or accession, it must be in a position under its national law to give effect to the terms of this Agreement.

ARTICLE 25

- (1) This Agreement shall enter into force one month after the date on which the Government of the Swiss Confederation shall have despatched a notification to the Contracting States of the deposit of twelve instruments of ratification or accession at least five of which were deposited by States which, at the date of the present Agreement, are not party to the Agreement of 1925 or the Agreement of 1934.
- (2) Thereafter, the deposit of the instruments, ratifications and accessions shall be notified to the Contracting States by the Government of the Swiss Confederation. Such ratifications and accessions shall become effective one month after the date of the dispatch of such notification unless, in the case accession, a subsequent date is indicated in the instrument of accession.

ARTICLE 26

Any Contracting State may at any time notify the Government of the Swiss Confederation that this Agreement shall apply also to all or any of the Territories for the international relations of which it is responsible. Thereupon the Government of the Swiss Confederation shall communicate this notification to the Contracting States and the Agreement shall apply to the said Territories at the expiration of one month after the dispatch of the communication by the Government of the Swiss Confederation to the Contracting States unless a subsequent date is indicated in the notification.

ARTICLE 27

- (1) Any Contracting State may, by notification addressed to the Government of the Swiss Confederation, denounce this Agreement in its own name or on behalf of all or any of the Territories

as to which a notification has been given under Article 26, Such notification shall take effect one year after its receipt by the Government of the Swiss Confederation.

- (2) Denunciation shall not free any Contracting State of its obligations under this Agreement in respect of designs deposited in the International Bureau before the effective date of the denunciation.

ARTICLE 28

- (1) This Agreement shall be submitted to periodical revision with a view to the improvement of the protection resulting from the international deposit of designs.
- (2) Revision conferences shall be called at the request of the International Designs Committee or of not less than half of the Contracting States.

ARTICLE 29.

- (1) Two or more Contracting States may at any time notify the Government of the Swiss Confederation that, subject to the conditions indicated in the notification:
1. a common office has been substituted for their several national offices;
  2. they are to be considered as a single State for the purposes of Articles.....
- (2) This notification shall take effect six months after the date of dispatch of the communication of this notification which shall be made by the Government of the Swiss Confederation to the Contracting States.

ARTICLE 30

(Relations of old and new texts)

(Reserved)

ARTICLE 31

(Reference to Protocol)  
(Reserved)

ARTICLE 32

(Place of deposit of the only original copy of the Agreement.)  
(Languages)

(Reserved)

PROTOCOL

(Reserved)

Doc. The Hague  
No. 89 / E REVISED

Date: 27-11-1960

REVISED TEXT  
OF THE  
AGREEMENT  
  
AS  
  
SUBMITTED BY THE  
  
DRAFTING COMMITTEE

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## DRAFT OF THE DRAFTING COMMITTEE

AGREEMENT OF THE HAGUE CONCERNING THE INTERNATIONAL DEPOSIT  
OF INDUSTRIAL DESIGNS  
OF 6th NOVEMBER, 1925 AS REVISED AT LONDON ON 2nd JUNE 1934,  
AND AT THE HAGUE ON 28th NOVEMBER 1960

The Contracting States,

Moved by the desire to provide the creators of industrial designs with the opportunity of obtaining by an international deposit an effective protection in a large number of countries;

Considering it desirable to that end to revise the Agreement for the International Deposit of Industrial Designs signed at The Hague on 6th November 1925 and revised at London on 2nd June 1934;

Have agreed as follows :

- 1 -

Article 1

- (1) The Contracting States constitute a Separate Union for the International Deposit of Industrial Designs.
- (2) Only States members of the International Union for the Protection of Industrial Property may become parties to this Agreement.

Article 2

For the purpose of this Agreement the following expressions shall have the meanings attributed to them herebelow :

Agreement of 1925 : Agreement of The Hague for the International Deposit of Industrial Designs of 6th November 1925

Agreement of 1934 : Agreement of The Hague for the International Deposit of Industrial Designs of 6th November 1925, as revised at London on 2nd June 1934

this Agreement or the present Agreement: the Agreement of The Hague for the International Deposit of Industrial Designs as established by the present instrument

Regulations : Regulations for the execution of the present Agreement

International Bureau: Bureau of the International Union for the Protection of Industrial Property

international deposit: a deposit made in the International Bureau

national deposit : a deposit made in the national office of a Contracting State

multiple deposit : a deposit including several designs

State of origin of an international deposit :

The Contracting State in which the applicant has a real and effective industrial or commercial establishment or, if the applicant has such establishments in <sup>several</sup> Contracting States, the Contracting State which he has indicated in the application; if the applicant does not have such an establishment in any Contracting State, the Contracting State in which he is domiciled; if he has no domicile in a Contracting State, the Contracting State of which he is a national

State having a novelty examination :

a Contracting State the national law of which provides for a system which involves a preliminary ex officio search and examination by its national office as to the novelty of each deposited design

Article 3

Nationals of a Contracting State and persons who, without being nationals of a Contracting State, are domiciled or have a real and effective industrial or commercial establishment in a Contracting State, may deposit designs in the International Bureau.

Article 4

- (1) International deposit may be made in the International Bureaus:
  1. directly or
  2. through the intermediary of the national office of a Contracting State if the law of that State so permits.
- (2) The national law of any Contracting State may require that international deposits of which it is the State of origin shall be made through its national office. Non-compliance with this requirement shall not affect the effects of the international deposit in the other Contracting States.

Article 5

- (1) The international deposit shall consist of an application, one or more photographs or other graphic representations of the design, and payment of the fees prescribed by the Regulations.
- (2) The application shall contain :
  1. an enumeration of the Contracting States in which the applicant requests the international deposit to be effective;
  2. the designation of the article or articles in which it is intended to incorporate the design;



3. if the applicant wishes to claim the priority provided for in Article 9, a statement of the date, the State, and the number of the deposit which gives rise to the right of priority;
  4. such other particulars as the Regulations prescribe.
- (3) (a) In addition, the application may contain:
1. a short description of characteristic features of the design;
  2. a statement as to who is the true creator of the design;
  3. a request for deferment of publication as provided for in Article 6 (4).
- (b) The application may be accompanied also by samples or models of the article or articles incorporating the design.
- (4) A multiple deposit may include several designs intended to be incorporated in articles of the same kind. Articles belonging to the same class of the International Design Classification shall be deemed to be of the same kind.

∟ referred to in article 19, 2 item 3

Article 6

- (1) The International Bureau shall maintain the International Design Register and shall register the international deposits therein.
- (2) The international deposit shall be deemed to have been made on the date on which the International Bureau receives the application in due form, the fees payable with the application, and the photograph or photographs or other graphic representations of the design, or, if the International Bureau receives them on different dates, the last of these dates. The registration shall bear the same date.
- (3) (a) For each international deposit, the International Bureau shall publish in a periodical bulletin :
  1. reproductions in black and white or, at the request of the applicant, in colour, of the deposited photographs or other graphic representations;
  2. the date of the international deposit;
  3. the particulars prescribed in the Regulations.
- (b) The International Bureau shall send the periodical bulletin to the national administrations as soon as possible,

- (4) (a) At the request of the applicant, the publication referred to in paragraph (3)(a) shall be deferred for such period as he may request. This period may not exceed twelve months computed from the date of the international deposit. However, if priority is claimed, the starting date of this period shall be the priority date.
- (b) At any time during the period referred to in subparagraph (a) the applicant may request immediate publication or may withdraw his deposit. The withdrawal of the deposit may be limited to one or more Contracting States and in the case of a multiple deposit to only some of the designs included therein.
- (c) If, the applicant fails to pay in time the fees payable before the expiration of the period referred to in subparagraph (a), the International Bureau shall cancel the deposit and shall not effect the publication referred to in paragraph (3) (a).
- (d) Until the expiration of the period referred to in subparagraph (a) the International Bureau shall keep in confidence the registration of deposits made subject to deferred publication, and the public shall have no access to any documents or objects concerning such deposits. These provisions apply without limitation in time insofar as the applicant has withdrawn the deposit before the expiration of the said period.
- (5) Except as provided in paragraph (4), the Register and all documents and objects filed with the International Bureau shall be open to inspection by the public.

Article 7.

- (1) (a) Any deposit registered in the International Bureau shall have the same effect in each of the Contracting States designated by the applicant in his application as if all the formalities required by the national law for the grant of protection had been complied with by the applicant and as if all administrative acts required to this end had been accomplished by the Administration of such State.
- (b) Subject to the provisions of Article 11, the protection of designs the deposit of which has been registered in the International Bureau is governed in each Contracting State by those provisions of the national law which are applicable in that State to designs the protection of which has been claimed on the basis of a national deposit and concerning which all formalities and acts have been complied with and accomplished.

- (2) An international deposit shall have no effect in its State of origin if the national law of that State so provides.

#### Article 8

- (1) Notwithstanding the provisions of Article 7, the national office of a Contracting State the national law of which provides that the national office may, on the basis of an administrative examination ex officio or pursuant to an opposition by a third party, refuse the protection, shall, in case of refusal, notify the International Bureau within six months that the design does not meet the requirements of its national law other than the formalities and administrative acts referred to in Article 7 (1). If no such refusal is notified within <sup>a period of</sup> six months, the effects of the international deposit shall commence in that State as from the date of this deposit. However, in a Contracting State having a novelty examination, the effects of the international deposit, while retaining its priority, shall, if no refusal is notified within six months, commence at the expiration of the six-month period unless the national law provides for an earlier date for deposits made with its national office.
- (2) The <sup>period of</sup> six months referred to in paragraph (1) shall be computed from the date on which the national office receives the issue of the periodical bulletin in which the registration of the international deposit has been published. The national office shall communicate this date to third parties at their request.
- (3) The applicant shall have the same means of recourse against the refusal of the national office referred to in paragraph (1), as if he had deposited his design in that national office; in any case, the refusal shall be subject to a re-examination or appeal. The notification of such refusal shall indicate:
1. the reasons for which it is found that the design does not meet the requirements of the domestic law;
  2. the date referred to in paragraph (2);
  3. the time allowed for a request for reconsideration or appeal;
  4. the authority to which the request or appeal may be addressed.

- (4) (a) The national offices of Contracting States the domestic laws of which are of the kind referred to in paragraph (1) and which require a statement as to who is the true creator of the design or a description of the design, may provide that, upon request and within a period not less than 60 days from the sending of such a request by the said office, the applicant shall file in the language of the application filed with the International Bureau:
  - 1. a statement as to who is the true creator of the design,
  - 2. a short description underlining the essential characteristic features of the design as shown by the photographs or other graphic representations.
- (b) No fees shall be charged by the national offices in connection with the filing of such statements or descriptions or for their possible publication by the national offices.
- (5) (a) Any Contracting State the domestic laws of which are of the kind referred to in paragraph (1) shall in due time notify to the International Bureau that it is such a State.
- (b) If a Contracting State has several systems for the protection of designs one of which provides for novelty examination, the provisions of this Agreement concerning States having a novelty examination shall apply only to the said system.

Article 9

If the international deposit of a design is made within six months of the first deposit of the same design in a State member of the International Union for the Protection of Industrial Property and if priority is claimed for the international deposit, the priority date shall be that of the first deposit.

Article 10

- (1) An international deposit may be renewed every five years by paying, during the last year of each period of five years, the renewal fees prescribed by the Regulations.

- (2) Subject to the payment of a surtax fixed by the Regulations, a period of grace of six months shall be granted for the renewal of the international deposit.
- (3) At the time of paying the renewal fees the international deposit number and, if the renewal is not to be effected for all the Contracting States which the deposit is about to expire, the Contracting States for which the renewal is to be effected must be indicated.
- (4) Renewal may be limited to less than all the designs included in a multiple deposit.
- (5) The International Bureau shall record and publish the renewals.

Article 11

- (1) (a) The term of protection granted by a Contracting State to a design for which an international deposit has been made shall not be less than:
    1. ten years from the date of the international deposit in case of one renewal of such deposit;
    2. five years from the date of the international deposit in the absence of renewal.
  - (b) However, if, according to the provisions of the national law of a Contracting State having a novelty examination, protection starts at a date later than that of the international deposit, the minimum terms provided in subparagraph (a) shall be computed from the date at which protection starts in that State. The fact that the international deposit is not renewed or is renewed only once does not affect the minimum terms of protection thus defined.
- (2) If the national law of a Contracting State provides for designs for which a national deposit has been made a protection the duration of which, with or without renewal, is longer than ten years, protection of the same duration shall, on the basis of an international deposit and <sup>its renewals,</sup> 7 be granted in that State to designs for which such an international deposit has been made.
  - (3) Any Contracting State may, by its national law, limit the minimum term of protection of designs for which an international deposit has been made to the terms provided for in paragraph (1).
  - (4) Subject to the provisions of paragraph (1b), the protection in a Contracting State shall terminate at the date of expiration of the international deposit, unless the national law of that State provides that the protection shall continue after the date of expiration of the international deposit.


Article 12

- (1) The International Bureau shall record and publish changes affecting the ownership of a design concerning which an international deposit is in effect. It is understood that the transfer of the ownership may be limited to the rights arising out of the international deposit in less than all the Contracting States and, in the case of a multiple deposit, to less than all the designs included therein.
- (2) The recording referred to in paragraph (1) shall have the same effect as if it had been made in the national offices of the Contracting States.

Article 13

- (1) The owner of an international deposit may, by means of a declaration addressed to the International Bureau, renounce his rights for all or only some of the Contracting States and, in the case of a multiple deposit, for all or some of the designs included therein.
- (2) The International Bureau shall record and publish such declarations.

Article 14

- (1) No Contracting State may, as a condition of recognition of the right to protection, require that the article incorporating the design bear an indication or mention of the deposit of the design.
- (2) If the domestic law of a Contracting State provides for a notice on the article for any other purpose, then such State shall consider the requirements of such provision fulfilled if all the copies of the article offered to the public under the authorization of the owner of the rights in the design, or a tag attached to such copies, bear the international design notice.
- (3) The international design notice shall consist of the symbol  (a capital .D in a circle) accompanied by

1. the year of the international deposit and the name or usual abbreviation of the name of the depositor, or
  2. the number of the international deposit.
- (4) The mere appearance of the international design notice on the articles or the tags shall in no case be interpreted as implying a waiver of any protection by virtue of copyright or otherwise, whenever, in the absence of such notice, a claim to such protection can be made.

Article 15.

- (1) The fees prescribed by the Regulations shall consist of:
1. fees for the International Bureau;
  2. fees for the Contracting States designated by the applicant, namely:
    - a) a fee for each Contracting State,
    - b) a special fee for each Contracting State having a novelty examination and which requires the payment of a fee for such an examination.

These supplementary fees are not cumulative.

- (2) Fees paid for a Contracting State under paragraph (1), item 2a in connection with a given deposit shall be deducted from the amount of the fee referred to in paragraph (1), item 2b, if such fee later becomes payable for the same State in connection with the same deposit.

Article 16.

- (1) The fees for Contracting States referred to in Article 15 (1), item 2 shall be collected by the International Bureau and paid over annually to the Contracting States designated by the applicant.
- (2) (a) Any Contracting State may notify the International Bureau that it waives its right to the supplementary fees referred to in Article 15 (1) item 2a in respect of international deposits of which any other Contracting State making a similar waiver is the State of origin.
- (b) It may also make a waiver in respect of international deposits of which it is itself the State of origin.

Article 17.

The Regulations shall govern the procedures concerning the implementation of this Agreement and particularly:

1. the languages and the number of the copies in which the application for deposit must be filed and the date to be supplied in the application;
2. the amount, due date and method of the payment of the fees for the International Bureau and for the States, including the limits of the fee for Contracting States having a novelty examination;
3. the number, size, and other characteristics of the photographs or other graphic representations of each design deposited;
4. the length of the description of characteristic features of the design;
5. the limits of and conditions under which samples or models of the articles incorporating the design may accompany the application;
6. the number of the designs that may be included in a multiple deposit and other conditions governing multiple deposits;
7. all matters relating to the publication and distribution of the periodical bulletin referred to in Article 6 (3 a), including the number of copies of the bulletin which shall be given free of charge to the national offices, and the number of copies which shall be sold at a reduced price to such offices;
8. the methods of notifying by the Contracting States of any refusal made under Article 8 (1), and the methods of communicating and publishing of such refusals by the International Bureau;
9. the conditions of recording and publication by the International Bureau of changes affecting the ownership of a design referred to in Article 12 (1) and of renunciations referred to in Article 13;
10. the disposal of documents and articles concerning deposits for which the possibility of renewal ceased to exist.



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Article 18.

The provisions of this Agreement shall not prevent the claiming of the application of possible wider protection resulting from the national law of a Contracting State, nor shall they affect in any way the protection which is granted to works of art or works of applied art by international copyright treaties or conventions.

Article 19.

1. The fees of the International Bureau for the services provided by the present Agreement shall be fixed in such a manner:
  - (a) that their result covers all the expenses of the International Design Service and all those necessitated by the preparation/<sup>for</sup>and holding of meetings of the International Designs Committee or conferences of revision of the present Agreement;
  - (b) that they allow for the maintenance of the reserve fund referred to in Article 20.

Article 20.

(reserve fund )

Article 21.

- (1) There is hereby established an International Designs Committee consisting of representatives of all the Contracting States.
- (2) The Committee shall have the following duties and powers:
  1. to establish its own rules of procedure;
  2. to amend the Regulations;
  3. to modify the ceiling of the reserve fund referred to in Article 20;
  4. to establish the International Design Classification;
  5. to study matters concerning the application and possible revision of the present Agreement;
  6. to study all other matters concerning the international protection of designs;
  7. to comment on the yearly administrative reports of the International Bureau and to give general directives to the International Bureau concerning the discharge of the duties entrusted to it by virtue of this Agreement;

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8. to draw up a statement on the foreseeable expenditure of the International Bureau for each three-year period to come.
- (3) The decisions of the Committee shall be taken by a majority of four fifth of its members present or represented and voting, in the case of items 1, 2, 3 and 4 of paragraph 2, and by a majority in other cases. Abstentions shall not be considered as votes.
- (4) The Committee shall be convened by the Director of the International Bureau
  1. at least once every three years,
  2. at any time on request of one third of the Contracting States,
- (5) The travel expenses and subsistence allowances of the members of the Committee shall be borne~~y~~ by their respective Governments.

Article 22.

- (1) The Regulations may be amended<sup>either</sup>/by the Committee as provided for in Article 21 (2) item 2 or by a written procedure as provided in paragraph (2) below.
- (2) In case of written procedure, amendments will be proposed by the Director of the International Bureau in a circular letter addressed to the Government of each Contracting State. The amendments will be considered as adopted if, within one year from their communication, no Contracting State has communicated an objection thereto.

Article 23

- (1) This Agreement shall remain open for signature until 31st December 1961.
- (2) It shall be ratified and the instruments of ratification shall be deposited with the Government of the Netherlands.

Article 24

- (1) States members of the International Union for the Protection of Industrial Property which do not sign this Agreement may accede thereto
- (2) Such accessions shall be notified through diplomatic channels to the Government of the Swiss Confederation, and by it to the Governments of all Contracting States.

Article 25

- (1) Each Contracting State undertakes to provide for the protection of designs and to adopt, in accordance with its constitution, the measures necessary to ensure the application of this Agreement.
- (2) At the time a Contracting State deposits its instrument of ratification or accession, it must be in a position under its national law to give effect to the terms of this Agreement.

Article 26

- (1) This Agreement shall enter into force one month after the date on which the Government of the Swiss Confederation shall have despatched a notification to the Contracting States of the deposit of ten instruments of ratification or accession at least four of which were deposited by States which, at the date of the present Agreement, are not party to the Agreement of 1925 or the Agreement of 1934.
- (2) Thereafter, the deposit of the instruments, ratifications and accessions shall be notified to the Contracting States by the Government of the Swiss Confederation. Such ratifications and accessions shall become effective one month after the date of the

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despatch of such notification unless, in the case<sup>of</sup>/accession, a subsequent date is indicated in the instrument of accession.

Article 27

Any Contracting State may at any time notify the Government of the Swiss Confederation that this Agreement shall apply also to all or any of the Territories for the international relations of which it is responsible. Thereupon the Government of the Swiss Confederation shall communicate this notification to the Contracting States and the Agreement shall apply to the said Territories at the expiration of one month after the despatch of the communication by the Government of the Swiss Confederation to the Contracting States unless a subsequent date is indicated in the notification.

Article 28

- (1) Any Contracting State may, by notification addressed to the Government of the Swiss Confederation, denounce this Agreement in its own name or on behalf of all or any of the Territories as to which a notification has been given under Article 26, Such notification shall take effect one year after its receipt by the Government of the Swiss Confederation.
- (2) Denunciation shall not relieve any Contracting State of its obligations under this Agreement in respect of designs deposited in the International Bureau before the effective date of the denunciation.

Article 29

- (1) This Agreement shall be submitted to periodical revision with a view to the improvement of the protection resulting from the international deposit of designs.
- (2) Revision conferences shall be called at the request of the International Designs Committee or of not less than half of the Contracting States.

Article 30

- (1) Two or more Contracting States may at any time notify the Government of the Swiss Confederation that, subject to the conditions indicated in the notification:

1. a common office has been substituted for their several national offices;
  2. they are to be considered as a single State for the purposes of Articles 2 to 17 of the present Agreement.
- (2) This notification shall take effect six months after the date of despatch of the communication of this notification which shall be made by the Government of the Swiss Confederation to the Contracting States.

Article 31.

- (1) Between States parties to both the present Agreement and the Agreement of 1925 or the Agreement of 1934, only the present Agreement shall be applicable. However, such States shall in their mutual relations apply the Agreement of 1925 or the Agreement of 1934, whichever is the case, to designs which were deposited in the International Bureau prior to the date at which the present Agreement became applicable between them.
- (2) (a) Any State party to both the present Agreement and the Agreement of 1925 shall continue to apply the Agreement of 1925 in its relations to States parties only to the Agreement of 1925 unless it denounced the Agreement of 1925.
- (b) Any State party to both the present Agreement and the Agreement of 1934 shall continue to apply the Agreement of 1934 in its relations to States parties only to the Agreement of 1934, unless it denounced the Agreement of 1934.
- (3) States parties to the present Agreement only shall not be bound to States parties to the Agreement of 1934 or the Agreement of 1925 only.

Article 32.

- (1) Signature and ratification of, or accession to, the present Agreement by a State party, at the date of this Agreement, to the Agreement of 1925 or the Agreement of 1934, shall be considered as including signature and ratification of, or accession to, the Protocol annexed to the present Agreement, unless such State makes at the time of signing or depositing the instrument of accession an express declaration to the

contrary effect.

(2) Any Contracting State having made the declaration referred to in paragraph (1), or any other Contracting State not party to the Agreement of 1925 or the Agreement of 1934, may sign the Protocol or accede thereto. At the time of signing or depositing its instrument of accession it may declare that it does not consider itself bound by paragraph (2a) or (2b) of the Protocol; the other States parties to the Protocol shall under no obligation apply the excluded provision in their relations to that State. The provisions of Articles 23 to 28 shall apply by analogy.

Article 33.

The present Act shall be signed in a single copy which shall be deposited in the archives of the Government of the Netherlands.

A certified copy shall be forwarded by the latter to the Government of each State which has signed the present Agreement or which has adhered to it.

In witness whereof the undersigned Plenipotentiaries,, having presented their duly recognized full powers, have affixed their signature and seal.

Done at the The Hague, the 28th November, 1960.

P r o t o c o l.

States parties to this Protocol have agreed as follows:

1. The provisions of this Protocol apply to designs having been deposited internationally and for which one of the States parties to the said Protocol is reputed to be the State of origin.
2. In respect of designs referred to in paragraph 1 above:
  - a) The term of protection granted by States parties to this Protocol to designs or models referred to in paragraph 1 above, shall be less than 15 years from the date provided for in Article 10, paragraph 1 (a) or (b) according to the case,<sup>¶</sup> (if during the last year of the first period of 5 years or, as the case may be, before the expiration of the period referred to in Article 7 para. 2, the international deposit has been renewed.)
  - b) The appearance of a notice on the articles incorporating the designs or models or on the tags attached to these articles shall in no case be required by the States parties to the Present Protocol, either for the exercise of rights on their territories arising from the international deposit or for any other purpose.

In witness whereof, the undersigned duly authorized Plenipotentiaries, have signed the Present Protocol.

Done at The Hague, the 28th November, 1960.

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<sup>¶</sup> The General Commission having postponed to a later date the examination of the Protocol will have to decide whether or not the four last lines in brackets of paragraph 2 (a) above, will be retained or not.

R e s o l u t i o n .

On setting up a provisional Committee for the preparatory work for establishing an international design classification.

1. There is set up, at the International Bureau, a Committee of Experts. This Committee shall include a representative of each State signatory to the Agreement. A representative of any other State of the International Union for the Protection of Industrial Property may participate in the work of the Committee as observer.
2. This Committee is charged with the preparation of a proposed international design classification.
3. The International Bureau is charged with the preparatory work for the Committee and with convening it.
4. The travelling and per diem expenses of the members of the Committee shall be borne by their respective governments.
5. On the coming into force of the Agreement, the International Designs Committee provided for in Article 21 of the Agreement shall decide upon the proposals referred to in paragraph 2 above.



Resolution.

The Diplomatic Conference for the revision of the Agreement of The Hague for the international deposit of industrial designs meeting at The Hague in November 1960,

Having noted the report of the Committee of Experts to study the international protection of type faces which met at Geneva from 18 to 21 July 1960 and which concluded that the provisions of the draft prepared in 1959 for the revision of the Agreement for the international deposit of industrial designs do not meet the particular requirements for an international protection of typographical designs,

Without expressing any opinion on the merits,

Expresses the wish that the Bureau of the International Union for the Protection of Industrial Property request the Governments of the States members of the Union to comment on the aforementioned report in order that it may be in a position, on the basis of the comments received, to form an opinion as to the possible measures to be taken in consequence of the studies already made.

Doc. The Hague  
No. 90 / E  
Date: 24-11-1960

CORRIGENDUM

On page 10 of the Minutes of November 23rd, 1960 (Doc.87), line 20 should read as follows :

Mr. Pochon specifies that the memo considers all cases liable to occur, with a view to showing the consequential effects of the various proposals.

In the event of one fee per deposit being considered for the territorial limitation, the mere reading of the first line of page B appended to Doc. 82/E will be sufficient.

Doc. The Hague

No. 91 /E

Date: 24-11-1960

Resolution.

The Diplomatic Conference for the revision of the Agreement of The Hague for the international deposit of industrial designs meeting at The Hague in November 1960,

Having noted the report of the Committee of Experts to study the international protection of type faces which met at Geneva from 18 to 21 July 1960 and which concluded that the provisions of the draft prepared in 1959 for the revision of the Agreement for the international deposit of industrial designs do not meet the particular requirements for an international protection of typographical designs,

Without expressing any opinion on the merits,

Expresses the wish that the Bureau of the International Union for the Protection of Industrial Property request the Governments of the States members of the Union to comment on the aforementioned report in order that it may be in a position, on the basis of the comments received, to form an opinion as to the possible measures to be taken in consequence of the studies already made.

Doc. The Hague

Nr. 93 /E

Date 24 November 1960

MINUTES OF THE SESSION ON THURSDAY 24 NOVEMBER 1960

MORNING SESSION

The Chairman, Mr. Morf, opens the last session of the Commission on Regulations at 9.00 hrs.

He gives the floor to Mr. Boutot (France) to give him the opportunity to comment on the third point of the report drawn up by the Working Group (Doc. 83/E) concerning the fees due for countries making an examination for novelty in the case of multiple deposits.

The Working Group proposes that, without changing para. 1 of Rule 9 of the Regulations, the Delegates agree to a division of multiple deposits into 5 groups of designs or models. Fees would then be charged per group of designs or models.

Nevertheless, if this division into 5 groups of designs should not be in conformity with the requirements stipulated by the National Office of a country the depositor would have to be at liberty either to renounce one or more designs or to pay an additional fee item not provided for by that Office.

The essential object of the proposal submitted by the Working Group is to allow a depositor to effect a maximum deposit of 100 designs or models divided into groups of 20 designs: however, this is merely an administrative right.

After the lapse of a period of deferment of one year the depositor chooses <sup>those</sup> designs which he really wishes to use. At the time of the deposit the International Bureau collects a fee amounting to 25 Swiss francs in order to ensure the administrative functioning of the Bureau. At the end of one year the fee will cover the expenses relating to the first 20 articles chosen (Rule 6). From the 21st onwards, a fee shall be levied of 2 Swiss francs per design or model.

Nothing will be changed with regard to the publication fee (25 Swiss francs per standard space).

An adjustment of Article 4, para. 2 of the Arrangement is to be provided for.

Mr. Morf thanks Mr. Boutet for his explanation and invites the Delegates to express their observations.

The Moroccan Delegate states that he repeats his reservations of yesterday in order that they shall appear in the General Report.

Mr. Rioscioni (Italy) points out that this proposal favours the secret and multiple deposit. In fact, if one wishes to deposit one single design even with a deferment of 12 months, one has to pay 50 Swiss francs. Pursuant to the proposal submitted by Mr. Boutet, one pays 25 Swiss francs for a deposit including 100 deposits. If one effects a deposit of 3 or 4 designs, even with deferment, one also pays the full fee, even if one wishes to make a choice later on. On the contrary, if one wishes to deposit 100 designs, one only pays half of the fee, and may withdraw as many designs as one likes, even as many as 99, at any moment.

For a year's time there will therefore be 99 ghost designs, and perhaps one single design will be published at the end of this period. This is therefore a strong incentive to the secret deposit.

In the field of fashions, for instance, the case might arise where a fashion designer depositing twice 100 models, withdraws them all at the end of one year, because they have gone out of fashion, after having enjoyed the benefits of protection at half price for a year.

Mr. Rioscioni, declares himself in agreement with the proposal submitted by the Working Group only on condition that the period of deferment shall be reduced from 12 months to 6. The Austrian Delegate expresses his objections to the proposal made by the Working Group.

Mr. Federico (U.S.) considers that if the depositor withdraws his deposits before they are published, he will not enjoy the benefit of any real protection during the period of deferment - he merely secures certain dates of priority.

As regards the reduced payment, in the case of deferred deposits the depositor ought to be permitted, whether there are 19 or 21 deposits, to pay the basic fee at the moment of deposit,

and the other fees at the time of publication.

The Moroccan Delegate opposes the proposal made by Mr. Roscioni, which would reduce the period of deferment from 12 months to 6, and he considers, in case it is adopted, exercising his right of Veto.

Mr. Roscioni (Italy) in reply to the observation made by Mr. Federico, points out that the deferred deposit of 100 designs does in fact constitute a date of priority, but in addition, it gives the depositor the right to take legal action against a bona fide infringer, on condition that the depositor selects the design copied and publishes it.

The object of the deferment of publication here is to give the depositor an opportunity of making a choice from the deposits, and a six months' period is sufficient.

The Austrian Delegation wholly supports this point of view.

Mr. Federico (U.S.) points out that the deferment of one year has been accepted in the Agreement itself, and that the matter falls under the competence of the General Commission. If this deferment is retained, it is impossible to provide for a different one for the selection of designs.

Mr. Finnis thinks he can dispose of the objections raised by Mr. Federico in stating that there is no question of changing the period of deferment of one year, but of making the fees of publication payable at the end of six months, even if the deposit still remains a secret one; the depositor could always be reimbursed if he does not retain all his designs or models.

Mr. de Haan (Netherlands) seconded by the Moroccan Delegate and by Mr. Duchemin (ALAI), points out that it is not only necessary to consider the case of depositors who have considerable financial means, but also of small artisans and creators who cannot decide within about a year which of their designs or models will be commercially successful, and hence, in respect of which of these designs or models they are going to retain their deposits.

For this reason he declares himself to be in favour of the proposal made by Mr. Boutet.

Mr. Roscioni (Italy) denies wishing to prejudice the interests of the artisans, who are so numerous in his country, but he expresses a wish that, while the deferment of one year should be retained, the selection of designs or models be required at the end of six months, without, however, the publication fee being payable yet.

The Swiss and German Delegates support Mr. de Haan's argument, and they point out that the selection made at the end of six months, but not published, offers no advantage at all.

Mr. Morf then moves that the Commission vote on the Italian proposal.

This proposal is rejected by: 8 votes against,  
2 for and  
11 abstentions

Next, the whole of the proposal submitted by the Working Group, as contained in the text of Doc. 83/E is put to the vote.

This proposal is carried by 8 votes for,  
2 against and  
12 abstentions

Mr. de Haan proposes that the benefits of the Boutet proposal be extended to open multiple deposits.

This proposal is carried unanimously.

Mr. Federico requests that the possibility be considered of granting the benefits of deferred payment of the publication fee to depositors of less than 20 designs.

Mr. Ljungman does not uphold his proposal (Doc. 88/E) after the proposal made by the Working Group has been carried, so the Chairman proposes that the problem of the fee for territorial limitation be examined.

Two viewpoints are defended:

One, submitted by the Austrian Delegate, Mr. Lorenz, requesting that payment of the fee amounting to 5 Swiss francs per group of 20 models, be made at the moment of deposit; the other one by the Delegates of the United States, Morocco,

Rumania, and the United Arab Republic, considering on the contrary, that this fee ought to be paid at the end of the period of deferment, in proportion to the number of designs or models which remain protected.

Mr. Morf explains that this deferred payment of the national fee only takes place in the case of a deposit including more than 20 models, but Mr. Ljungman (Sweden) considers that it would be preferable to link this fee to one deposit only, irrespective of whether it include 1 - 20 or 100 designs or models.

Mr. Magnin points out that when a normal deposit is made, the countries in which protection is applied for at the time of deposit must be designated.

The applicant then knows what he has to pay for the countries chosen, and is in a position to consider deferring payment of the fee for territorial limitation at the time of publication.

But if 100 articles are deposited, and if it is not known how many of these articles shall be retained, nor where it is desired that they shall be protected, it is obviously only possible to pay the fee for territorial limitation at the end of the deferment.

Mr. Lorenz (Austria), seconded by Mr. Ljungman (Sweden), objects that it is contrary to the provisions carried by the General Commission for the text of the Arrangement to allow for a choice of countries after deferment. These provisions lay down that this choice shall be made at the time of deposit. However, it is materially impossible to bring up for discussion again matters of substance before the General Commission, and here the majority vote does not allow for any amendments to be made to the text of the Arrangement.

Mr. de Haan is of the opinion that this matter falls within the competence of the Drafting Committee, but Mr. Morf insists that it is a matter of substance.

The Moroccan and Rumanian Delegates now propose to accept that the choice of countries be made at the time of deposit, and that payment be made at the time of the selection of designs.

Mr. Ulmer points out that the countries making an examination for novelty are in a special situation. If there is an application with deferred publication, this publication will



not take place until after the lapse of a year, and the examination will likewise be deferred. It is therefore necessary to provide that payment of the fee for the novelty examination may be deferred for a year, and this might be a compromise.

Mr. Morf considers that this solution might make it possible to retain immediate payment of the fee for territorial limitation, but the Moroccan Delegate insists that it is impossible to pay in advance for protection in countries where one is not sure what one wishes to be protected.

This point of view is supported by Messrs. Federico and Finnis. Mr. Lorenz again raises objections to bringing up for discussion once again the issue over principles involving the economy of the Arrangement itself.

Mr. Bogsch (United States) then proposes a compromise: because in all countries except the countries making an examination for novelty, the deposit causes protection to start for all the countries designated, the fee per country would be paid in advance.

The amount of this fee, due to the country for which it is intended, would be held in current account for that country by the International Bureau, which would pay back the amount of this fee without need for this country to take any action, if the depositor should not, at the end of the period of deferment, retain his application for protection in this country.

The proposal submitted by Mr. Bogsch and seconded by the Moroccan Delegate is put to the vote of the Commission.

According to a vote by hand : 14 votes for,  
5 against,  
3 abstentions

are counted.

Therefore the proposal is carried.

Mr. Magnin asks the Delegates if they agree to accept that the fee for territorial limitation shall be collected per group of 20 designs. No objections being raised, the proposal is considered to be accepted.

Mr. Morf notes the agreement of the Delegates on the principle

of the payment of the special fee for the countries making an examination for novelty, provided the fee for territorial limitation be deducted.

The session is closed at 11.15 hrs. The Delegates who are members of the Drafting Committee having raised objections against an additional night session, the General Commission is convened tomorrow morning at 8.30 hrs. for the purpose of examination the text prepared by the Drafting Committee.

- S U M M A R Y -

(1) The proposal of the Working Group (Doc. 83/E) carried by :

8 votes for,  
2 votes against,  
12 abstentions.

(2) Extension of this proposal to open deposits, accepted unanimously.

(3) Rejection of Mr. Roscioni's proposal to reduce the deferment of the selection of designs or models from twelve months to six, by

8 votes against,  
2 votes for,  
11 abstentions.

(4) Mr. Bogsch's proposal to pay back the fee for territorial limitation paid at the time of deposit in case of renunciation of protection in certain countries :  
carried by

14 votes for,  
5 votes against,  
3 abstentions.

- (5) Unanimous acceptance of the principle of payment of fee for territorial limitation per group of twenty designs.
- (6) Unanimous acceptance of the principle of payment of the special fee for the countries making an examination for novelty subject to the deduction of the fee for territorial limitation.

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Doc. The Hague

N° 94/ E

ADDENDUM I TO DOC. 89/E

November, 24th, 1960

DRAFT OF THE DRAFTING COMMITTEE

ARRANGEMENT

Article 31

- (1) Signature and ratification of, or accession to, the present Agreement by a State party, at the date of this Agreement, to the Agreement of 1925 or the Agreement of 1934, shall be considered as including signature and ratification of, or accession to, the Protocol annexed to the present Agreement, unless such State makes at the time of signing or depositing the instrument of accession an express declaration to the contrary effect.
- (2) Any Contracting State having made the declaration referred to in paragraph (1), or any other Contracting State not party to the Agreement of 1925 or the Agreement of 1934, may sign the Protocol or accede thereto. At the time of signing or depositing its instrument of accession it may declare that it does not consider itself bound by paragraph (2a) or (2b) of the Protocol; the other States parties to the Protocol shall under no obligation apply the excluded provision in their relations to that State. The provisions of Articles 22 to 27 shall apply by analogy.

Doc. The Hague  
No. 95 /E  
Date 25-11-1960  
Addendum II to Doc. 89/E.

DRAFT FOR THE DRAFTING COMMITTEE

ARTICLE 30

(1) Between States parties to both the present Agreement and the Agreement of 1925 or the Agreement of 1934, only the present Agreement shall be applicable. However, such States shall in their mutual relations apply the Agreement of 1925 or the Agreement of 1934, whichever is the case, to designs which were deposited in the International Bureau prior to the date at which the present Agreement became applicable between them.

(2) (a) Any State party to both the present Agreement and the Agreement of 1925 shall continue to apply the Agreement of 1925 in its relations to States parties only to the Agreement of 1925 unless it denounced the Agreement of 1925.

(b) Any State party to both the present Agreement and the Agreement of 1934 shall continue to apply the Agreement of 1934 in its relations to States parties only to the Agreement of 1934, unless it denounced the Agreement of 1934.

(3) States parties to the present Agreement only shall not be bound to States parties to the Agreement of 1934 or the Agreement of 1925 only.

Doc. The Hague

Nr. 96/E

Date: 25<sup>th</sup> Nov. 1960

PROPOSAL OF THE ITALIAN DELEGATION

The following provision should be inserted between paragraphs 1 and 2 of Article 25 of the Agreement.

" Notwith standing paragraph 1, six States at least, having ratified or acceded to the Agreement, may at any time, decide to bring into force the present Agreement in their mutual relations. Such decision shall be taken unanimously and shall take effect three months after the receipt, by the Gouvernement of the Swiss Confederation, of the communication of the States having taken such decision.



Doc. The Hague,

No. 98 /E

Date 25-11-1960

PROPOSAL BY THE MOROCCAN DELEGATION

MULTIPLE DEPOSIT

The Moroccan Delegation proposes the following compromise:

When making a multiple deposit with deferred publication, the depositor shall pay the fixed administrative fee provided for in the Regulations.

The depositor shall indicate at the time of the deposit the countries in which he wishes to claim protection.

The fee in respect of territorial limitation shall be payable at the time of publication.



Doc. The Hague

No. 99 / E

Date: 25-11-1960

PROPOSAL PRESENTED BY THE NETHERLANDS DELEGATION  
CONCERNING THE LANGUAGE OR LANGUAGES TO BE USED  
IN THE AGREEMENT

The Conference,

CONSIDERING the discussions which have dealt with the matter of languages in which the Agreement should be drawn up and signed, as well as the proposals relating to this Agreement;

EXPRESSES THE WISH :

that in the near future, and should occasion arise, at the Diplomatic Conference which, according to the "voeu" No. IV adopted at the Lisbon Conference, should be devoted to the redrafting of the text of the Paris Convention, the problem of the languages in which this Convention and the special relevant Agreements should be drawn up, be reconsidered.

Doc. The Hague

N° 100/E

Date: 25th November 1960

MINUTES OF THE SESSION OF THE GENERAL COMMISSION

OF 25th NOVEMBER 1960 (MORNING SESSION)

The Chairman, Mr. de Haan opens the session at 9.00 hrs.

He thanks the Drafting Committee and its Chairman Dr Ulmer for their strenuous work. He also thanks the Committee composed of Messrs Morf, Pointet and Magnin, who have endeavoured to insert in the text of the Regulations the provisions resulting from the conclusions arrived at by the Working Group presided by Mr. Boutet, and gives a survey of the progress achieved in respect of the texts.

The texts of the Arrangement are ready with the exception of the following Articles :

Article 15 remains in suspense, as it must contain a reference to the Regulations.

Article 21 (budgetary matters) remains in suspense pending recommendations to be made by the General Commission.

Article 30, concerning the relations between countries former adherents and countries new adherents, has been made the subject of a proposal distributed this morning under Nr 94.

Article 31 (Protocol) is the subject of Document Nr 94.

Finally, Article 32 (language problems) remains in suspense pending a decision to be reached by the General Commission.

The Chairman proceeds to the examination of the texts contained in Document 89.

Preamble : carried subject to the addition of the words "sont convenus de ce qui suit" (in the French text).

Article 1 : carried

Article 2 : the first line should read "au sens du présent Arrangement ...." (in the French text)

National deposit : Mr Ljungman considers that to refer to multiple deposits the definition of a national deposit ought to be "a deposit of one or several designs ..."

Dr Ulmer considers that it is unnecessary to make this addition to the definition, and that Article 5, para. 4 could be amended, where multiple deposits are dealt with.

Mr Bodenhausen shares Mr Ljungman's opinion. Moreover, he considers that the words "Contracting State" are too restrictive, especially with respect to priority (Article 9). Article 5, para.3 stipulates that if the applicant wishes to claim priority, he shall indicate the number of the national deposit. Now, the possibility ought to be left open for an applicant to claim priority of a national deposit emanating from a non-Contracting State. There is therefore ground either for changing the word "Contracting" in the definition of a national deposit, or for amending Article 9.

This intervention is seconded by Mr Bogsch.

The Drafting Committee will have to take these two objections into account.

State of Origin of an international deposit;

Mr Bodenhausen inquires what the function of this definition shall be.

As regards Article 4, para.2, to which among others this paragraph is applicable, he considers that it is too far-reaching, for during the debates of the General Commission the decision was taken that an enterprise having only one real and effective establishment in one country, could not be required to effect its deposits through the intermediary of the office of that country.

Dr Ulmer replies that this definition is useful in Article 4, para.2, Article 7, para. 2 and in Article 17, paras 2 a) and b).

In the case of an enterprise possessing several establishments the applicant ought to have a choice, and it must be laid down in an article that the applicant shall designate the Contracting State in which he has an industrial or commercial establishment or his residence or his nationality.

The Chairman notes there is agreement on this issue.

States having a novelty examination :

Mr Ijungman asks if the Drafting Committee considers it useful that the Spanish system be mentioned in this definition.

The Spanish Delegate explains that applications are published in the Spanish Bulletin, and that the holders of prior applications may present their objections within a period of two months.

The Office examines the grounds for opposition (e.g. the absence of novelty) and takes a decision.

Mr Finniss (France) considers it to be understood that this definition does not cover the simple procedure of appeal against objections.

The Rumanian Delegate requests that a definition be given of the minimum that shall be assumed per novelty examination, in order to avoid the possibility that countries having a novelty examination might be in a privileged position. Shall this examination be made taking into account the designs and models published in the International Bulletin prior to the deposit effected and taking into account also the national deposits effected previously in the country in question.

Mr Ulmer recalls that this examination provides for a search and ex officio examination. It would be difficult to define it more accurately.

Mr Magnin considers that in practice the question raised by the Rumanian Delegate amounts to making the definition of the term "novelty" necessary.

To Mr Labry this matter presents two aspects :

- 1°) what does the examination which involves the liability of a fee consist in;
- 2°) what shall be understood by novelty ? This point does not require definition and ought to be considered by each State.

Mr Federico also considers that the requirements are to be determined by the countries. In the United States, the examination bears on all the designs deposited previously, and also on the designs published in the catalogues.

- 5 -

In other countries the examination bears only on the designs registered previously.

The only thing that can be done would be to state that this examination bears on "the novelty of each design or model deposited".

Mr. Ulmer agrees, but proposes that the text read "the novelty of all the designs or models deposited".

The Rumanian Delegate, seconded by the Moroccan Delegate, insists that this examination, which entails certain privileges to the countries that have introduced it, should be well defined, by stating expressly that it shall take into account the designs and models registered earlier in such a country and in the International Bureau.

Mr. Ulmer<sup>then</sup> proposes that the text use the term serious examination

Mr. Federico does not see what objections can be raised against a stipulation to the effect that this examination shall be carried out at least by reference to designs and models registered earlier.

Mr. Finniss draws attention to the case of a State which has very few national deposits, e.g. some ten a year. It would be necessary that the examination be effected taking into account not only these national deposits, but also the international deposits.

Mr. Ljungman cannot accept this proposal, for in Sweden the examination takes into account only the deposits figuring on the Swedish, British, and American registers.

Mr. Bodenhausen reminds Delegates of the fact that in the United Kingdom there are two possibilities of examination among the deposited designs and models, and among those not deposited. Accordingly, one of these examinations does not fall in the definition as given by Mr. Ulmer.

Mr. Finniss considers that this definition would entail this consequence only, that the United Kingdom would collect the fee only in the event of an examination dealing with designs or models previously deposited at the International Bureau. The fee would not be collected if this examination were not to deal with the international deposit.

The Chairman then proposes to revert to the initial proposal

presented by Mr. Ulmer, referring to a serious examination. The difficulties, if any, would have to be submitted to the Advisory Committee, and the General Report would have to specify what should be understood by "serious examination."

Mr. Finniss accepts this solution, subject to a proper mention being inserted in the report, specifying that this examination will have to include an investigation, and that the earlier international deposits are to be taken into account.

Mr. van der Haeghen (Belgium) suggests that it be specified in the Arrangement that the Advisory Committee will have to make a decision with regard to the statement made by a country having novelty examination.

Mr. Finniss nevertheless considers that this Committee will not be in a position to advise as to the serious character of an examination.

Eventually, the Delegates accept the latest proposal presented by the Chairman.

Article 3 : Carried.

Article 4 : Paragraph 1.

Mr. Labry points out that the draft contains a typewriting mistake in the last line of the French version, which should read: "la r glementation" instead of : "le r glement."

Mr. de Reuse (Belgium) proposes that the word "r glementation"(rules) be superseded by the word "l gislation".

Mr. Federico (USA) explains that paragraph 1 refers to rules because this is a matter of provision of little importance, which sometimes are the subject of regulations only. On the other hand, paragraph 2 refers to legislation because these provisions have greater importance.

Mr. Labry draws the attention to the fact that, in France at least, the word "l gislation" covers the law as explicitly as does the word "regulations".

Eventually, the Delegates accept the word "législation".

Paragraph 2.

Mr. Bodenhausen reminds the Delegates of the fact that the present definition allows for more than one country of origin.

The Chairman specifies that the definition relating to the country of origin will be amended accordingly with a view to preventing any contradiction in respect of Article 4, para. 2. Subject to this reservation, paragraph 2 is carried.

Article 5 - Paragraph 1.

On proposal presented by the Chairman, and following an intervention made by Messrs. Bogsch, Ulmer, Finniss and Federico, this paragraph is amended, in this sense that only the payment by the applicant of the amount of the fees shall be made at the moment of deposit, even if this amount be received by the International Bureau a few days later.

Mr. Labry then reads the text of paragraph 2, which is carried in the following wording : "the international deposit includes an application, one or more photographs or any other graphic representation of the design or model, and the payment of the fees as provided for in the Regulations."

Article 5 - Paragraph 2 :

Carried, after cancellation of the word "national" in the third section (3); this cancellation was decided upon with a view to allowing for a remark made by Mr. Bodenhausen, who reminded the Delegates that priority based on a deposit filed in a country having not joined the Arrangement may be claimed.

Paragraph 2 :

Mr. Bogsch points out that the word "features" was omitted in the English version.

On request made by Mr. Coppieters de Gibson (Belgium), the Chairman specifies that in paragraph 3 a) 1<sup>o</sup>-, reference is made to a brief description of some characteristic features, not however of the



characteristic features; as a matter of fact, this description does not necessarily apply to all the characteristic features.

Following a remark made by Mr. Ljungman, Professor Ulmer proposes that specifications with regard to the samples or scale models referred to in Article 5, para. 3 b), be added to Article 15.

Subject to this provision, paragraph 3 is carried.

Paragraph 4 - With a view to allowing for the amendments adduced by the Commission on Regulations, Professor Ulmer proposes that section 4 of this paragraph be worded as follows:

"One single deposit may include several designs or models intended to be incorporated in objects of one and the same kind. Shall be deemed to be of one and the same kind the objects mentioned in the same class of the international classification of designs or models."

On proposal made by Mr. Bodenhausen, Mr. Ulmer specifies that a reference will be made in Article 15 to the number of objects.

Mr. Pointet reminds Delegates of the fact that the international classification is established by Article 19, section 3.

Replying to an objection formulated by Mr. van der Haeghen (Belgium) with regard to the use of the words "shall be deemed to be", Mr. Labry draws the attention on the imperative necessity for the Contracting States to submit to the classification. Accordingly, there is no need for any amendment of the text.

Subject to this, paragraph 4 is carried.

Article 6 - Paragraph 1 : Carried.

- Paragraph 2 : Mr. Morf (Switzerland) points out that the fee for preliminary examination may be the subject of a differed payment in the event of the deposit being liable to deferment. He proposes that, following the word "fees", the words "except for the fee provided for in Article 16, paragraph 2 hereafter" be added.

Mr. Ljungman prefers the wording "the fees to be paid as and when the application is filed."

Mr. Labry proposes that the expression "the fees provided for in the Regulations" be inserted. Mr. Bogsch backs the proposal made by Mr. Ljungman, and he suggests that it be specified in Article 15 that the Regulations may discriminate between the fees to be paid as and when the application is filed on the one hand, and those to be paid at a later date.

Mr. Grant (United Kingdom) approves this suggestion, and he proposes that, following the word "fees", the mention "as laid down in the Regulations" be added.

Mr. Ulmer, Chairman of the Drafting Committee, records the various suggestions, and he believes that the proposal made by Mr. Ljungman is the most appropriate.

One should wait however, for the text of the Regulations before drafting the final text of article 6 para. 2 of the Agreement. Subject to this reserve para. 2 is accepted.

Paragraph 3 :

Mr. Morf recalls the Commission on Regulations has thought it appropriate to insert in the Agreement the provision included in Article 8 para. 3 of the Regulations. This provision could be inserted in article 6 para. 3 of the Agreement under letter b: "The International Bureau shall send to the national office of each Contracting State one free copy of the Gazette. Furthermore, each national office shall, upon request, receive not more than five copies free of charge, and not more than ten copies for one third of the regular subscription fee."

Following the observations made by Messrs. Bogsch and Labry the Chairman points out that the sending of the Bulletin is something of an official act since the period of 6 months allowed for examination starts from the date of reception of the Bulletin. One might, however, limit oneself to mentioning a principle such as <sup>the</sup> International Bureau shall send to the administrations the Bulletin

without delay according to the provisions as laid down in the Regulations.

Paragraph 3 : is therefore referred back to the Drafting Committee.

Paragraph 4 : a) accepted

- b) Mr. Morf recalls that following a decision of the Commission on Regulations the words : "withdraw his deposit for all or for part in respect of either objects or States" should be added at the end of the paragraph.

This paragraph is accepted and referred back to the Drafting Committee.

- c) Replying to an objection formulated by Mr. Lorenz, Messrs. de Haan and Ulmer believe that a third party should not be given the opportunity to apply to the International Bureau with a view to examining a secret deposit, even so should that third party be a Court. It appertains to the depositor to convey the documents in support to the Court.

Mr. Magain specifies for that matter that, even in the event of the depositor conveying the documents to the Court, this is no reason for publication to be effected.

With a view to pin-pointing the case of the withdrawal of an object which is part of a multiple deposit, Mr. de Haan proposes that the last sentence be worded as follows : "these provisions apply without any restriction of duration, as much as the applicant will have withdrawn his deposit prior to the expiry of the said period."

This matter of wording is referred to the Drafting Committee.

Paragraph 5 : Carried, subject to the correction of a type-writing mistake in the French version "à l'exception des cas visés....."

Article 7 : paragraph 1 a): Mr. Uggla (Sweden) asks for the meaning of the words "administrative acts" contained in this paragraph. It would appear to him that the international deposit squares with the initial phase of a national deposit, only. The granting of a national deposit is a different thing indeed.

Messrs. Bogsch and Ulmer specify that Article 7 sets the principle implying that the international deposit replaces the administrative acts, with the exception of the case provided for in Article 8 relating to the refusal of protection. The following wording might be added to Article 7 : "Subject to the exceptions provided for in Article 8."

Mr. Ljungman (Sweden) points out the possibility of an administrative examination different from the examination for novelty.

Mr. de Haan thinks that the proposal of Messrs. Bogsch and Ulmer provides for reserve sufficiently in scope since article 8 covers any administrative examination.

On the request of Mr. Ljungman, Mr. Finniss and Mr. Coppieters de Gibson will include in their report explanations on this point.

The Delegate of Rumania requests that provision be made for reciprocity with regard to protection in the same class as certain countries may provide a number of different classes.

The Chairman notes that this proposal is contrary to the general spirit of the Union Convention and in particular art. 2 relating to the assimilation of foreigners to nationals without reciprocity.

Mr. Morf following a statement made by the Delegate of Morocco wonders what the situation will be for the owner of a deposit in a country having the novelty examination with deferred publication when, in a certain country the national deposit will have been made between the date of the international deposit and the date of its acceptance after it has been examined.

The Chairman believes that the international deposit shall enjoy a priority dating from the date of the application made with the International Bureau. The national deposit made after that date shall have to be cancelled if the international deposit is finally

accepted in that country after examination.

Mr. Ulmer indicates that this particular situation is dealt with in article 8 para. 1. The protection begins as from the expiration of the term of 6 months after publication but priority goes back to the date of deposit.

Mr. Finniss however, considers that the text of article 8 para. 1 is ambiguous because it might lead one to believe that before the expiration of the 6 months' period, the deposit is without effect.

The Chairman recalls that the discussion is on article 7 and proposals to continue the adoption of this Article 7.

Mr. Finniss proposes, in order to avoid difficulties, that an indication be annexed to the Regulations what is meant by the administrative acts referred to in Article 7 para. 1a. Article 7 para. 1a. is accepted subject to this reservation.

Paragraph 1 b) accepted.

Paragraph 2. The Chairman recalls that this paragraph implies the modification of the definition of the country of origin.

In reply to a question of Mr. Bogdanovitch, Dr. Ulmer points out that Article 7, para. 2 allows for a country of origin to exclude the protection of an international deposit in this country, whereas Article 4 para. 2 only permits that country to exclude protection to an international deposit/<sup>that</sup> has not been made through the intermediary of his Administration.

Article 7, para. 2. is accepted.

After a short break in the session, the Chairman puts up for discussion the proposal relating to languages. (Doc. Nr. 73).

The Moroccan Delegate declares his intention of withdrawing his candidature for this proposal.

The Chairman reads the draft of this proposal.

Mr. Finnis (France) recalls that the present Agreement is only drafted in the French language in compliance with the Union Convention.

Article 19 of the Union Convention in spite of its having been revised at Lisbon is opposed to the Agreement of The Hague being signed in two copies both in English and in French.

Therefore, the proposal made by the observing countries, in spite of its being of considerable interest, will meet formal opposition from the French delegation.

His Excellency, Ambassador Philip Young, U.S. delegate, recalls that the main objective of this Conference is to reach an Agreement wide in scope.

The proposal of the U.S. seconded by the United Kingdom provides that the English language shall be an official language, but this already represents an important concession, since the proposal only asks that the text be signed in English and in French, whilst recognizing that the French text shall in the case of divergency between the two texts be the authentic text.

His Excellency suggests that this proposal be considered according to its merits in relation with the Agreement and recalls that for some years, in international treaties, in the International Court of Justice and in C.E.C.E. etc. the French and English languages are used as authentic languages and as working languages.

The American proposal will not only facilitate the implementation of the Agreement by enterprises and industrial representatives who will be able to avail themselves of an English version but will also facilitate implementation of this Agreement in the English speaking countries.

Mr. Labry (France) recognizes the arguments set forth by the U.S. delegation are not without relevants, but nevertheless the proposal

appears to him to be unacceptable since it would be in contradiction with the provisions of the Union Convention.

Article 15 of the Convention provides that separate Agreements shall not contravene the stipulations of the present Convention.

Mr. Labry points out that in practice the Delegates will in fact have drawn up both an English text and a French one for that matter.

Mr. Phaf, who reminds the Delegates that in point of fact the present Conference is only an extension of the Lisbon Conference, considers that it is not possible now to take a decision deviating from the decision taken at Lisbon in Article 19 of the Union Convention.

Without expressing itself on the substance of the proposal (Doc. 73) his Delegation will therefore vote against.

Mr. Roscioni supports the arguments put forward by the French and Netherlands Delegations. In practice the Italian Delegation might be in favour of the U.S. proposal, but to him it does not seem possible to bring up certain principles of the Union Convention for discussion again.

For this reason the Italian Delegation will vote against this proposal.

Mr. Coppieters de Gibson (Belgium) declares that his Delegation will vote against the U.S. proposal for the reasons set out by the French and Netherlands Delegates.

The Swedish Delegate considers that Article 15 does not form a juridical impediment, and firmly supports the proposal made by the United States.

The Austrian Delegate states that although appreciating the practical reasons brought forward by His Excellency the United

States Ambassador, he considers nevertheless that it is impossible to over-ride the Lisbon text, and that he intends to reserve his decision.

His Excellency the Luxemburg Ambassador declares himself against this proposal for the reasons set out by the Delegations of France and the Netherlands.

The Chairman requests the Secretary-General to put the matter to the vote.

The following Delegations were against the proposal: United Arab Republic, Belgium, France, the Principality of Monaco, the Netherlands (countries members of the present Agreement)

Italy, Luxemburg, the Holy See, Turkey, Yugoslavia (countries observers)-

The following Delegations were for the proposal : Denmark, United States, Finland, Ireland, Norway, United Kingdom, Sweden (countries observers).

Abstentions : Federal Republic of Germany, Spain, Liechtenstein, Morocco, Switzerland, (countries members of the present Agreement) Austria, Rumania (observers)

Countries observers whose Delegates were absent : Hungaria, Czechoslovakia.

The President notes that therefore the proposal is rejected by :

10 votes against,

7 for and

7 abstentions

Article 8: At the request of Mr. Finniss, Dr. Ulmer and the Chairman state that it will not be necessary to explain for each State what shall be understood by "administrative acts".

It follows from Article 7 that if there is no refusal in the sense of Article 8, the protection shall be granted.



The Regulations might contain a provision on this matter.

Paragraph 1 -

At the request of Mr. Morf, Mr. Federico specifies that the priority date of an international deposit shall take precedence over a national deposit made earlier.

If the international deposit is accepted, the date of priority of the deposit is preserved, but the owner may not take legal action claiming damages for imitations produced prior to the acceptance of the international deposit.

Mr. Bodenhausen then proposes that the words "while retaining its priority date" be inserted in para. 1, Article 8, line 8, on page 5.

The Rumanian Delegate reverts to the problem he has brought forward at the beginning of the session. In his opinion it would be useful to provide for a reciprocity clause.

It ought to be provided that the countries shall protect the deposit as from the respective international deposit.

Messrs. Ulmer and de Haan declare that they are satisfied by Mr. Federico's reply. They do not consider it necessary that reciprocity shall be requested, in as much on the one hand as fundamentally the priority remains an established fact, and on the other hand, as Article 2 of the General Union Convention does not allow any reciprocity clauses to be made.

Mr. Finnis, seconded by the Moroccan Delegate, considers, however, that the observation made by the Rumanian Delegate ought to receive the attention of the Delegates, in view of the fact that certain countries grant a very liberal measure of protection, whereas other countries follow a lengthy, burdensome, and less liberal procedure.

Mr. Ljungman points out that the Agreement under consideration is only a Convention on formalities, and that there is no question of amending national legislations.

Mr. de Haan supports this remark, reminding the Delegates that if any obligations constituting material amendments to the domestic laws of certain States were incorporated in the Agreement, such States would not be able to adhere. Now, national deposits would be far more expensive, and the applicant would encounter the same difficulties in the domestic laws anyway.

The Rumanian Delegate, supported by the Moroccan Delegate, considers, however, that certain countries might adjust their legislation in the sense indicated in the Arrangement.

The Chairman notes that this is not the object of the Arrangement, and that consequently Article 8, para. 1, ought to be accepted.

This article 8, para. 1, is therefore carried.

Paragraph 2 : carried.

Paragraph 3 : The Moroccan Delegate considers that the fourth line of para. 3 ought to stipulate that the decision of a refusal may be subject to a request for reconsideration as well as appeal, and not reconsideration or appeal.

Mr. Ulmer replies that certain States only provide for the possibility of reconsideration, which justifies the reading proposed by the Drafting Committee.

The Moroccan Delegate does not insist.

Paragraph 3 is therefore carried.

Paragraph 4 : carried.

Paragraph 5 a) : Mr. Boutet proposes that in the sense indicated, with reference to the administrative acts, each State shall indicate what, in the national procedure, shall come under administrative acts.

Mr. Ulmer does not consider it important to know these administrative acts. It is only useful to be acquainted with the various cases of refusal in the various countries.

Mr. Haertel considers it important for the applicant to be informed of these data.

Following an statement made by Mr. Coppiclers de Gibson, the Chairman recommends that information be communicated also with respect to countries, which should the occasion arise, have a system of refusal for reasons other than novelty.

Article 8, para 5a) is carried in this sense and referred to the Drafting Committee.

Paragraph 5 b) : carried

The session is dissolved at 13.00 hrs.

#### S u m m a r y.

Preamble : carried with addition (see Minutes)

Article 1 : carried

Article 2 : carried, with the exception of the following:  
national deposit, State of origin of an international deposit, and State having a novelty examination.

Article 3 : carried.

Article 4 : Para. 1 : Carried after replacing the word "rules" by the word "legislation."

Para. 2 : Carried.

- Article 5 :
- Para. 1 : Carried in a new wording (see the Minutes)
  - Para. 2 : Carried after deletion of the word "national" in the third section.
  - Para. 3 : Carried, subject to specifications to be inserted in Article 15 with regard to the specimen or scale models of the object incorporating the design or model.
  - Para. 4 : Carried in a new wording (see the Minutes), subject to mentioning the number of objects in Article 15.

- Article 6 :
- Para. 1 : Carried.
  - Para. 2 : Hold in abeyance (see the Minutes).
  - Para. 3 : Carried, subject to adding a section b) submitted to the Drafting Committee (see the Minutes, page 10).
  - Para. 4 :
    - a) Carried.
    - b) Carried, subject to adding the words "in part or in whole, either in respect of the objects or in respect of the States."
    - c) Referred to the Drafting Committee (see the Minutes).
  - Para. 5 : Carried.

- Article 7 :
- Para. 1 :
    - a) Carried, subject to specifying in the Appendix to the Regulations what shall be understood by the expression : "administrative acts".
    - b) Carried.
  - Para. 2 : Carried.

Proposal concerning the languages (Doc. Nr. 73) : Rejected.

Article 8 : Para. 1 : Carried, subject to adding the words :  
"whilst retaining its date of priority",  
these words to follow the words "the inter-  
national deposit", section 2, 4th line.

Para. 2 : Carried.

Para. 3 : Carried.

Para. 4 : Carried.

Para. 5 : a) Carried and referred to the Drafting  
Committee (Information of the depositors  
to be provided for).

b) Carried.

.....

Doc. The Hague  
No. 101 / E  
Date: 25-11-1960

CORRECTION TO MINUTES OF THE SESSION ON THURSDAY 24-11-1960

Doc. No. 93 / E

Page 3, first paragraph.

The Moroccan Delegate's statement should read as follows :

The Moroccan Delegate opposes the proposal of Mr. Roscioni aimed at reducing the period of deferment from 12 to 6 months. He points out that the proposal of the Working Committee of Mr. Boutet represented the only facility which might enable Morocco to apply the Agreement, and if that proposal were rejected, Morocco would avail itself of the provisions of Article 8 of the Rules of the present Conference.

Doc. The Hague

N° . 102 / E

Date: 26th November 1960

PROTOCOL

States parties to this Protocol have agreed as follows :

1. The provisions of this Protocol apply to designs having been deposited internationally and for which one of the States parties to the said Protocol is reputed to be the State of origin.
2. In respect of designs referred to in paragraph 1 above :
  - a) The term of protection granted by States parties to this Protocol to designs or models referred to in paragraph 1 above, shall be less than 15 years from the date provided for in Article 10, paragraph 1 (a) or (b) according to the case,\*  
  
(if during the last year of the first period of 5 years or, as the case may be, before the expiration of the period referred to in Article 7 para. 2, the international deposit has been renewed.
  - b) The appearance of a notice on the articles incorporating the designs or models or on the tags attached to these articles shall in no case be required by the States parties to the Present Protocol, either for the exercise of rights on their territories arising from the international deposit or for any other purpose.

\* The General Commission having postponed to a later date the examination of the Protocol will have to decide whether or not the four last lines in brackets of paragraph 2 a) above, will be retained or not.

Doc. The Hague  
No. 103 / E  
Date: 25-11-1960

CORRECTION

to the Minutes of the Session of Thursday 24th November 1960

Doc. No. 93 / E

Page 1, para. 5 should read as follows :

The essential object of the proposal as a whole of the Working Group is to allow for an applicant to effect a deposit including a maximum of 100 designs or models under the most favourable conditions from a financial point of view. With regard to the division into groups of 20 designs, this may be considered as an administrative facility.

Page 1, para. 6 should read as follows :

Referring back to the provisions submitted by the Working Group, M. Boutet recalls that after the lapse ..... etc.



Doc. The Hague  
 No. 104 / E  
 Date: 25 November 1960

MINUTES

MEETING OF THE GENERAL COMMISSION OF 25 NOVEMBER 1960 (AFTERNOON)

The President, Mr de Haan, opens the meeting at 15 hrs.

The proposal of Mr Finniss (France), to single out the essential questions contained in the text of the Drafting Committee which are to be decided immediately in the General Commission, is unanimously adopted.

The President proceeds therefore to read articles 9 to 32, asking members to present their fundamental objections for each article.

Article 9: No comment

Article 10: No comment

Article 11:

Par. 2 : The proposal by Mr Morf (Switzerland) to delete the words "sur la base de ce dernier dépôt" ("by virtue of an international deposit ..... such .....") is not adopted.

Par. 3: Mr Coppieters de Gibson (Belgium) thinks that this stipulation contradicts that of par. 2.  
 Mr Ulmer (Federal Republic of Germany) supported by Mr Labry (France) considers on the contrary that it is necessary exception to par. 2. A country like France which gives a protection of 50 years to deposits and models should not necessarily be obliged to give the same length of protection to countries which only give 10 years.  
 Mr Coppieters de Gibson accepts this explanation.

Article 12: The amendment proposed by Mr Morf (Switzerland) to par. 2 is accepted. It will read "The recording referred to in par. 1".

Article 13: No observation

Article 14: Following a proposal by Mr Morf (Switzerland) it is decided that the symbol D indicated by par. 3 will be in a circle rather than in parentheses (D) and that par. 4 will read "....by virtue of copyright or to any other protection".

Article 15: Reserved until the text of the Regulations becomes available.

Article 16: Mr Ljungman (Sweden) proposes to delete in par. 2b) the words "not coming under letter a) above".

Mr Federico (United States) is not opposed to this deletion but observes that the principle of Article 16 is to avoid that a country could charge two fees, for examination and for territorial limitation, the difference being mainly of a practical nature, since in any case the fee for the territorial limitation will be deducted from the fee for examination, even if it is paid at the same time.

Mr Ljungman (Sweden), after an intervention by Mr Labry (France) stresses that his proposal concerned only the date of payment of the fee.

Mr Pointet (Switzerland), approved by Mr Boutet (France) thinks that it would be well to specify that the fee for territorial limitation is to be deducted from the fee for prior examination; this fundamental question being one to be decided in the General Commission.

This idea is approved and submitted to the Drafting Committee.

Article 17:

Mr Phaf (Netherlands) suggests introducing a third possibility of waiving fees between States having contracted bilateral or multilateral agreements and not wishing the benefit of this waiver to be extended automatically to all other countries members to the Arrangement.

The Moroccan Delegate opposes this discrimination, which in his opinion runs counter to the text of article 17, par. 2, which provides that each State may avail itself of a waiver.

Messrs. Boutet and Labry on the contrary support the proposal by Mr Phaf stressing that the text of the motion carried subsequent to the proposal on territorial limitation already made it possible to waive the fee in favour of those countries with which there already were bilateral or multilateral agreements. There is no discrimination here; it is a situation existing in practice, i.e. economic agreements contracted between certain States such as Benelux.

If these States choose to waive providing for certain fees among each other they cannot be prevented from doing so.

The Moroccan Delegate points out that there is no question of banning such multilateral agreements. The question is whether the advantage

of the waiver shall extend to the other countries member to the Arrangement.

Mr de Haan distinguishes between the general waiver of which Morocco expects to take advantage under conditions of reciprocity and the waiver between certain States which will not apply to Morocco; that latter however, added Mr Labry, will not preclude a general waiver with reciprocity.

The Moroccan Delegate considers that, if this possibility of limited mutual agreement were admitted, general renunciation would become redundant.

Mr Labry points out that, in no case, the renunciation is more than an optional right which the States cannot be constrained to use.

Mr de Haan then proposes that Messrs Labry (France) and Bennani (Morocco) try to find a basis of agreement, and he proceeds with the reading of the Draft Articles.

Article 18: No comment

Article 19: On proposal presented by Mr Morf (Switzerland), Mr Magnin suggests that a provision be added, specifying that it appertains to the International Committee to establish the classification of the designs and models. This proposal raises no objection.

Following an intervention made by Mr Finnis (France), it is decided that the words "in agreement with the Government of the Swiss Confederation" shall be deleted from paragraph 4.

Article 20: No comment

Article 21: Mr Finnis proposes that Documents 85 and 86, the first of which is presented as the drafting of an Article intended to be inserted at this point of the Arrangement, the second as a resolution, be examined.

Document 85: As for the Reserve Fund, it is fixed at 250.000 Swiss francs and it shall consist of the initial contribution made by each State, the amount of which is determined according to the class to which this State belongs, as provided in Article 13 of the Union Convention.

After the Arrangement has come into force any receipts in excess of

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250.000 Swiss Francs shall be reimbursed to the Contracting States in proportion to their contributions. This is the "loans" system, but presented in a juridically acceptable form.

After interventions made by Mr Grant (U.K.) and Mr Bogsch (U.S.), Mr Finniss (France) specifies that the surplus will be paid back when a fairly considerable amount in excess of 250.000 Swiss francs has been obtained. In any case, these figures are merely rough estimates, an ad-hoc Committee being entrusted with the task of determining the real figures.

Doc. 85 is then considered carried and passed on to the Drafting Committee.

Mr Finniss explains that the Draft Resolution (Doc. 86) takes into account the claim the States parties to the Arrangement of Madrid have with regard to the General Union Convention, and the possibility of balancing this claim to the amount of the debt proceeding from the initial contribution to the new Arrangement of The Hague.

In reply to an objection made by Mr Grant (U.K.) Mr Finniss, seconded by Mr Pochon (Switzerland), states that there will be a plan for the paying off of the claim on the Union of Paris. Each year the amounts corresponding to this payment plan will be blocked by the Swiss Office.

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Mr Federico (United States) then opposes insertion of such a stipulation in a new Arrangement prepared in order to make it possible for new States to join, which have nothing to do with these questions of debts to be settled.

Mr Labry (France) supports this point of view and thinks that the contents of the resolution should be the subject of an agreement between the representatives of the Contracting States of the Madrid Arrangement and the Swiss Confederation.

Mr Morf (Switzerland) added that this agreement might be made at the next Diplomatic Conference which the Swiss Government intends to convene for increasing the rates of fees at present applied under the present Arrangement of The Hague.

The President Mr de Haan, then continues reading the articles of the text of the Drafting Committee.

Article 22 : no comment

Article 23 : " "

Article 24 : " "

Article 25 : Mr Phaf (Netherlands) proposes to examine here the Italian proposal (doc. 96/E) which is for insertion between paragraphs 1 and 2.

Mr Roscioni stressed that the Italian Delegation considers this addition a very important one, which must not mean to modify para. 1. It should facilitate international protection in case ratification by 12 member countries, including 5 new members, should retard the coming into force of the Arrangement.

doc. 104/E

Yet, if a seventh State should express the wish to join the Agreement after the Agreement between the 6 will have come into effect, this State would have to wait for the terms stipulated in Article 1 (12 States, including 5 new ones) to be fulfilled.

It may be thought that the financial independence will be achieved anyhow with a reduced number of Contracting States, since the receipts are not dependant on this number only, but on the number of deposits effected.

Mr. Bogsch (USA) approves this proposal.

Replying to Mr. Morf (Switzerland), Mr. Roscioni specifies that the financial provisions to which Article 21 refers, would be endorsed by the 6 countries if this were necessary to ensure the start, if limited only, of the Convention.

Mr. Finniss (France) considers that it will prove difficult to reconcile the Italian proposal both with the financial system as provided for and with the decision made by the General Commission in respect of the enforcement of the Agreement.

The Moroccan Delegate asks what would be the position of the 5 countries wishing to join the agreement of the 6 countries provided for in the Italian proposal.

Mr. Roscioni (Italy) explains that unanimity of the 6 countries will be required for the admission of new members, until the conditions laid down in para. 1 of Article 5 have been fulfilled. But if a seventh country does not wish to join the community of the 6, it may wait until these conditions are fulfilled.

Mr. Finniss points out that this runs counter to the principle, adopted last week according to which 12 adhesions, among which the adhesions of 5<sup>new</sup> members, were necessary. He stresses the danger involved in a "ratification race" run by 6 countries, which would result in their being able to form a club for the purpose of enforcing the Agreement and of establishing the conditions required of others if they wish to accede.

Mr. Bogsch considers that the right of a seventh or eight country to join this club until 12 adhesions are collected ought to be clearly specified.

Mr. Pointet (Switzerland) suggests that the possibility should be left open for a State to make its adhesion dependent on the adhesion of another State of its choosing.

Mr. Phaf (Netherlands) and Mr. Haertel (Federal Republic of Germany) declare themselves in favour of the Italian proposal, for they consider that several countries having ratified the agreement, ought to be allowed to bring it into force among each other, even if the conditions of Article 25, para. 1, have not been fulfilled.

However, it would be dangerous to allow the new Agreement to come into force if not a single new country has acceded.

Provision ought also to be made with regard to the financial consequences of a ratification by 6 countries only.

Mr. de Haan proposes that the Delegates consider the Italian proposal, and continue the examination of the articles.

Article 26 : No comment.

Article 27 : No comment.

Article 28 : No comment.

Article 29 : No comment.

Article 30 : Doc. 95 /E.

No objection. The text is considered<sup>as</sup>/carried.

Mr. Finniss points out the dangers involved in the Italian proposal with respect to para. 2.

Article 31 :

The discussion of Article 31 is deferred.

Article 32:

Mr. de Haan, seconded by Mr. Bogsch (U.S.), proposes that this Article be deleted, and be replaced by a statement to the effect that the text shall be signed at The Hague, deposited with the Netherlands Government, etc.

The matter is referred to the Drafting Committee.

The session is adjourned till tomorrow-morning at 18.15 hrs.

S u m m a r y.

- Article 9 : Carried
- Article 10: Carried
- Article 11: Carried
- Article 12 : Carried with an alteration to the draft  
of para. 2 which should read:  
"The recording referred to in para. 1."
- Article 13: Carried.
- Article 14: Symbol D- para. 4, should read: "by virtue of  
copyright or by any other virtue."
- Article 15: Reserved.
- Article 16: Carried, subject to a new wording.
- Article 17 : Reserved with a view to discussion of Mr. Phaf's  
proposal (limited renunciation).
- Article 18: Carried.
- Article 19: Carried, subject to adding that the power to  
establish the international classification of  
designs and models rests with the International  
Committee, and subject to deleting in para. 4.  
the words: "with the agreement of the Government  
of the Swiss Confederation."
- Article 20: Carried.
- Article 21: Doc. 85 - carried and submitted to the  
Drafting Committee.
- Article 22: Carried.
- Article 23: Carried.
- Article 24: Carried.
- Article 25: The Italian proposal (Doc. 96/E) is under  
consideration.
- Article 26: Carried.
- Article 27: Carried.
- Article 28: Carried.
- Article 29: Carried.
- Article 30: Carried
- Article 31: Discussion deferred.
- Article 32: Submitted to the Drafting Committee.



## MINUTES OF THE SESSION OF THE GENERAL COMMISSION ON

26 NOVEMBER 1950 ( MORNING SESSION)

The Chairman opens the session at 9.30 hrs., and explains that in spite of long night sessions the Drafting Commission has not been able to work out texts on the principle of the fees, inasmuch as there are certain contradictions and illogicalities brought about by the decisions of the General Commission on this subject.

He proposes that the General Commission shall meet at 15.00 hrs. in order to give the Drafting Committee an opportunity of finishing its work.

If the Delegates cannot arrive at an agreement on matters of principle this afternoon the Conference will be adjourned.

On the other hand, if this afternoon, as the Chairman hopes, the Delegates come to an agreement on the principles of the Regulations, Mr. Ulmer and his Drafting Committee are willing to work out the texts of the Regulations, which will be distributed on Monday morning.

In this case the Delegates might meet at 13.00 hrs., examine the texts, and if they are approved, the Arrangement could be signed.

Mr. Finniss urges the Delegates not to give up their work while there is no way of being sure whether there is a possibility that the Conference be successful or not.

He announces that yesterday a number of Delegations made an effort to reduce the number of subjects on which there is disagreement.

Thus Italy and France have reached an agreement on the clause regarding the enforcement of the Arrangement. Italy withdraws its proposal, and France will accept the adhesion of 10 countries, among which 4 new ones.

Moreover, the Delegations of Morocco and Austria have made an effort towards bringing together their points of view with regard to the subject of fees.

Mr. Ulmer states further that he cannot propose a complete text for inclusion in the Regulations regarding the problem of fees. A list of fees has been drawn up by Mr. Bogsch, who has worked all night. This list will be a logical, though complicated, system of fees. If this list is accepted the Regulations will be drafted on Sunday, and it could be signed on Monday or Tuesday.

The Moroccan Delegate inquires as to the difficulties encountered in drafting the Regulations and the Arrangement.

In reply to the Moroccan Delegate and a question put up by Mr. Finniss, the Chairman explains that the system proposed by the Committee presided over by Mr. Boutet is the basis of the work of the Drafting Committee. The principle of the 100 secret deposits is not questioned again, but this proposal has repercussions involving other Rules.

On being invited to do so the Moroccan Delegate will join the Committee.

On behalf of ALAI, LICCD and IAPIP Mr. Duchemin declares that like Morocco he attaches great importance to the possibility to deposit 100 models.

Mr. Phaf proposes that the Drafting Committee await only the end of this session before meeting.

Mr. Bogsch considers it useless that the General Commission should a second time this morning, express its opinion on the text of the Agreement, which must be revised anyway in order to adjust it to certain amendments that have been made in the Regulations.

Mr. Ulmer seconds this remark: it is necessary that the Drafting Committee be allowed to work all morning.

On a proposal made by Mr. Finniss the General Commission yet examines the text of Article 25.

#### Article 25.

The Chairman explains that this text was adopted in the General Commission. Subsequently, the Italian Delegation has proposed a new para. 2.

This Italian proposal is withdrawn, and the French Delegation accepts that in para. 1 the adhesion of only 10 States, among which 4 new adherents, be mentioned.

Thus amended, the text of Article 25 is carried unanimously.

Messrs. Ulmer and Bodenhausen remind Delegates of three items which are still open:

- bilateral or multilateral contracts to renounce the fees.
- the Protocol
- the definition of the country of origin.

Mr. Coppeters de Gibson inquires about the state of affairs with regard to Article 15.

In reply, the Chairman states that this Article cannot be drafted so long as the Regulations will not have been established.

Mr. Bogdanovitch asks why it is specified in Article 31, para. 2, that at the time of signing the Protocol, countries are constrained to state whether or not they consider themselves to be bound by the provisions of this paragraph 2 a) or by those of paragraph 2b) of the Protocol. It would appear preferable to him to replace the word "signature" by the word "ratification".

Mr. Ulmer specifies that this provision applies to the old member countries. If these countries should not be prepared to accept the Protocol, it will be necessary that these countries make a formal statement to that effect. This statement may be made either at the time of signing or at the time of adhesion. It would not be sufficient if a statement of this nature were made at the time of ratification, since the signature only can be ratified.

Dr. Ulmer adds that para. 2 of Article 31 contains in fine the following sentence : "the provisions of Articles 22 up to and including 27 apply analogously"

If a new country should wish to sign either the Protocol or point 2a) respectively point 2b) only, it should make a statement to that effect at the time of signing, and this signature will be ratified at a later date.

State of origin:

Mr. Ulmer reads the text of the new definition:

"the Contracting State where the depositor runs a real and serious  
"industrial or commercial company or, if he does not run such a  
"company in any Contracting State, the Contracting State where the  
"depositor resides or, if he has no residence in any Contracting  
"State, the Contracting State of which he is a national; if the de-  
"positor runs companies in several Contracting States, one of these  
"States which he has referred to by name in his application."

Mr. van der Haeghen(Belgium) inquires what will happen in the event of the depositor, who runs several companies in several States, making no statement whatever.

Dr. Ulmer replies that, under the terms of Rule 1 of the Draft Regulations, the depositor is bound to indicate one Contracting State, where he runs a real and serious company.

Mr. Lorenz enquires whether a foreign firm running a real and serious company in Austria without that company being a true daughter company may choose Austria as the country of origin.

Dr. Ulmer specifies that, according to this definition, a firm such as referred to by Mr. Lorenz would have this possibility indeed.

Article 17:

On proposal presented by Mr. Finniss, the Chairman decides to take up Article 17 for discussion.

In agreement with the Moroccan Delegate, Mr. Finniss specifies that he attaches a certain importance to the retaining of this Article in the wording as proposed by the Drafting Committee (Doc. 89, page 13).

Mr. Ulmer announces that the Drafting Committee is planning to add a sentence to Article 17 concerning bilateral or multi-lateral agreements.

The Moroccan Delegate considers that the introduction of such a sentence would empty Article 17, para 2. of its meaning.

Messrs. Bogsch and Labry declare themselves in favour of leaving the text proposed by the Drafting Committee as it is.

This text is finally accepted subject to reservations made by the Netherlands Delegation.

Protocol:

To an inquiry made by Mr. Coppieters de Gibson Mr. Ulmer replies that the Drafting Committee will prepare an alternative solution to the Protocol.

The session is adjourned at 10.30 hrs.

S u m m a r y:

Article 15 : in suspense

Article 31:  
para. 2 : carried

Article 25 : carried in amended form (10 States, among which 4 new ones).

Article 2 :  
State of origin : ( new draft ) carried.

Article 17 : (Doc. 89) carried

Protocol : in suspense.

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PROPOSAL OF THE DRAFTING COMMITTEE.

Doc. The Hague

Nr. 106 /E

Date: 26-11-1960

## F E E    S Y S T E M

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1. single deposit (1 design)
2. multiple deposit (2 to 20 designs)

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## II. RENEWAL FEES

1. single deposit (1 design)
2. multiple deposit (2 to 20 designs)

- 2 -

## I.

DEPOSIT FEESA. No request for deferred publication1. Single deposit :

- (a) international administrative fee: 25 Francs
- (b) international publication fee: 25 Francs per standard space
- (c) State fee: 5 Francs per designated State
- (d) State novelty examination supplement:  $\frac{3}{4}$  of domestic fee but not more than 50 Francs <sup>1)</sup>

2. Multiple deposit (2 to 20 designs) :

- (a) international administrative fees: <sup>3)</sup>
  - 25 Francs for the first design
  - 15 " " " second "
  - 10 " " " third "
  - 5 " " " fourth "
  - 2 " per design for the fifth to the 20th design
- (b) international publication fee: 25 Francs per standard space (one space cannot contain more than four pictures)
- (c) State fee: 5 Francs per State for the deposit (not per design)
- (d) State novelty examination supplement <sup>1)</sup>:  $\frac{3}{4}$  of domestic fee but not more than 50 Francs :
  - per groups of 5 designs each if the designs within the group: (i) are variations of the same design, or (ii) are the same designs applied to different articles,
  - per design (not per deposit and not per groups) in all other cases <sup>2)</sup>.

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1. The applicant shall deduct from the State examination supplement the State fee which he would owe under (c)

Footnote 2 appears on page 6.

3. If, on the same day, the applicant deposits a maximum of five multiple deposits, he shall pay according to the schedule only after one of the multiple deposits, whereas he shall pay 2 Francs per design after all the other multiple deposits.

B. With request for deferred publication

In case of deposits with deferred publication, some of the fees must be paid at the time of the deposit ("initial fees") and others only before the end of the period of deferral ("deferred fees"). Deferred fees shall not be due if the applicant withdraws his application before the expiration of the period of deferment. If the deposit is a multiple deposit, the applicant may withdraw his application either in toto or in part. ~~If he withdraws it in part, the deferred fees shall not be due for the withdrawn part.~~ <sup>If he withdraws in toto, no deferred fees are due.</sup>

If, by the end of the period of deferred publication, the applicant has neither withdrawn his deposit nor paid the "deferred fees", the consequences will be the following:

- (a) if he failed to pay the international publication fee, his application will be considered as withdrawn and the registration will be cancelled ex officio by the International Bureau,
- (b) if, in the case of multiple deposits, he failed to pay the international administrative supplement, his application will be considered as withdrawn and the registration will be cancelled ex officio by the International Bureau,
- (c) if he did not pay the State novelty examination supplement for a designated State with novelty examination, his deposit shall not be examined and shall have no effect in that State.

These principles require express mention in the Agreement since, according to the present draft, a deposit made subject to a deferred publication is, unless withdrawn, automatically published at the end of the period of deferment.



1. Single deposit:

To be paid at time of deposit :

- (a) international administrative fee : 25 Francs
- (b) State fee : 5 Francs per designated State

To be paid before the expiration of the deferment :

- (c) international publication fee : 25 Francs per standard space
- (d) State novelty examination supplement : three quarters of domestic fee but not more than 50 Francs.<sup>1</sup>

2. Multiple deposit (2 to 20 designs):

To be paid at the time of deposit :

- (a) international administrative fee : 25 Francs
- (b) State fee : 5 Francs per State for the deposit (not per design)<sup>2</sup>

To be paid before the expiration of the deferment :

- (c) international administrative supplements :
  - 25 Francs for the first design
  - 15 " " " " second " "
  - 10 " " " " third " "
  - 5 " " " " fourth " "
  - 2 " " per design for fifth to twentieth design.
- (d) international publication fee : 25 Francs per standard space
- (e) State novelty examination supplement<sup>1</sup> : three quarters of domestic fee but not more than 50 Francs :

-per groups of 5 designs each if the designs within the group (i) are variations of the same design or (ii) are the same designs applied to different articles;

-per design (not per deposit and not per group) in all other cases.<sup>2</sup>

1, .Footnotes 1, 2 appear on page 6.

3. Giant multiple deposit (21 to 100 designs):

-To be paid at time of deposit:

- (a) international administrative fee : 25 Francs for the giant deposit (not per design, and not per group of 20 designs)
- (b) State fee : 5 Francs per State

-To be paid before the expiration of the deferment :

- (c) international administrative supplement :

25 Francs for the first design

15 " " " second "

10 " " " third "

5 " " " fourth "

2 " per design for the 5th to 100th design.

- (d) international publication fee : 25 Francs per standard space
- (e) Supplemental State fee for designs exceeding the first 20:  
2.50 Francs per State and per group of 20 designs or fractions thereof.
- (f) State novelty examination Supplement<sup>1</sup> : three quarters of the domestic fee but not more than 50 Francs :

- per group of 5 designs each if the designer within the group : (i) are variations of the same design or (ii) are the same design applied to different articles.

- per design (not per deposit and not per group) in all other cases<sup>2</sup>.

Footnotes 1 and 2 appear on page 6.

FOOTNOTES TO PAGES 4 AND 5

1. Observation : The applicant shall deduct the State supplement from the amount of the State examination due for the design, or, if there were several designs, then from the amount of the State examination fee due for the first design.
  
2. Time of payment of State novelty examination fee in case of deferred publication : Before the expiration of the deferment it shall be sufficient to pay the State examination fee per groups of 5 if the applicant groups not more than 5 designs in each group on one of the two bases indicated above.  
If, in the course of the examination, the national Office finds that the grouping was inadmissible, it shall request the applicant to pay the difference within not less than 60 days. If, in the course of the examination, the national office finds that the applicant failed to make use of the possibility of grouping the national office shall make the grouping ex officio and shall reimburse the difference to the applicant.

II.

RENEWAL FEES

1. Single deposit :
  - (a) international renewal fee : 50 Francs
  - (b) State supplement : 10 Francs per State
  
2. Multiple deposit (2 to 20 designs )<sup>4</sup>:
  - (a) International renewal fee :
    - for the first design renewed : 50 Francs
    - for each additional design renewed : 10 Francs
  - (b) State supplement : 10 Francs/per State for the deposit (not per design )

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Footnote.

4. it is understood that the giant multiple deposit has been divided into ordinary multiple deposits before publication.

CORRECTIONS TO MINUTESSUBMITTED BY THE SWEDISH DELEGATIONI. MINUTES OF THE MORNING SESSION OF WEDNESDAY 16 th. NOVEMBER 1960

(Doc. Nr 37/E) :

Page 12, 4th paragraph - second sentence - to read as follows:

"To a remark of the Delegate of Monaco, that it would be too expensive for the applicant to pay an additional fee for each country, where he wanted to be protected, the Swedish Delegate adds that in any case the applicant would save the cost of a patent agent in each country. This saving seemed to amount to many times the fee."

II. MINUTES OF THE AFTERNOON SESSION OF WEDNESDAY 16th NOVEMBER1960 (Doc. Nr. 39/E) :Page 6, 4th paragraph - first line : to read as follows :

"The Swedish Delegate will do his best to convince ...etc."

III. MINUTES OF THE AFTERNOON SESSION OF TUESDAY 22nd. NOVEMBER 1960(Doc. Nr. 79/E) :Page 11, paragraph one should read as follows:

" Mr. Ljungman (Sweden) announces that his delegation can see no reason to give up the principle, that the whole cost of national examination should be covered by the fee. However, as this view is not supported by a majority of countries, he will abstain from voting on the question. The Chairman thanks the Swedish Delegate and notes that the Delegates agree to uphold the decision taken yesterday concerning a 3/4 maximum of the national fee".

IV. MINUTES OF THE MORNING SESSION OF THE GENERAL COMMISSION OF  
FRIDAY THE 25th. NOVEMBER 1960 - (Doc. Nr. 100/E) :

Page 3, last but one paragraph should read as follows:

" Mr. Ljungman asks if the Drafting Committee had intended to cover the Spanish system of opposition in this definition"

Page 5, paragraph 8 should read as follows :

"Mr. Ljungman cannot accept the proposal that the international design register always should be examined. The coming Swedish legislation might very well prescribe, that the examination should take into account only the deposits appearing on the Swedish, British and American registers" .

Page 9, line one should read as follows:

"Mr. Ljungman prefers the wording "the fees payable when the application is filed".

Page 11, paragraph 4, line one should read as follows:

"On the request of Mr. Ljungman, Mr. Finniss ... etc."

MINUTES OF THE SESSION OF THE GENERAL COMMISSION ON SATURDAY26th NOVEMBER 1960 (AFTERNOON SESSION)

The Chairman, Mr de Haan, opens this session at 15.30 hrs, and submits for examination by the Delegates the text drawn up by the Drafting Committee, Doc. 106/E in English.

M. Bogsch (United States) gives some explanations with regard to this text. It will necessitate some alterations to be made later, as it is an explanatory document rather than a draft to be incorporated in the Regulations. The Drafting Committee has made efforts to interpret the principles adopted by the Commission on Regulations, but this text presents a considerable number of explanations by way of examples, which will not appear in the final text. If an agreement is reached on the principles here set forth, the Regulations will reflect these decisions much more clearly and simply.

Certain problems have not been worked out, which will have to be dealt with in the final text, e.g. the consequences of the failure to pay the publication fee at the end of the period of deferment. The International Bureau must not be obliged to publish deposits for which the publication fees have not been paid. A stipulation might be laid down providing for the automatic withdrawal or renunciation of deposits in case of non-payment of these fees.

- 2 -

The text contains two chapters, one on the initial fees, the other on renewal fees. Under each heading there are two sub-categories: the fees to be paid at the moment of deposit, which will be retained even if the deposit is withdrawn, and the fees to be paid before the expiration of the period of deferment.

Mr. Ulmer (Federal Republic of Germany) considers that this text contains a sufficient number of elements to make it possible to draft the Regulations.

Mr Finniss (France) expresses the approbation of the French Delegation on this text, and proposes that all the Delegations be asked whether they agree with its general lines.

Successively Messrs. Phaf (Netherlands), Lorenz (Austria), Coppieters de Gibson (Belgium), Morf (Switzerland), Hoffmann (Luxemburg), Ulmer (Federal Republic of Germany), Bogdanovitch (Yugoslavia), and the Representative of the Holy See, express their agreement.

As a representative of the United States, Mr Bogsch makes some reservations as to the form of the proposed text, which is unnecessarily complicated, but he declares himself in agreement as to the substance. He is seconded by Mr Ljungman (Sweden).

Mr Grant (United Kingdom) shares Mr Bogsch's reservations as to the difficulties involved in the practical application of this text (in particular the provision contained in the last line but one of page 6), but he likewise expresses his agreement with the substance.

Mr Bogsch considers that the word "shall" might be replaced by "may" in the last line but one of page 6 (of the English text).



The Norwegian Delegate also declares himself in agreement with the text as a whole, but asks for some explanations on points of detail, in particular page 2, para. 2 d). He proposes that to this paragraph (ii) : ... "different articles belonging to the same category " be added.

Mr de Haan and Mr Bogsch point out that the principle that these articles shall belong to the same category is laid down in the Arrangement, and the Norwegian Delegate declares himself satisfied.

Mr Finniss now makes the remark that in any international negotiation each thinks that the solution which he proposes is the best ... Therefore an attempt should be made to reach a compromise.

As the drafter of this text Mr Bogsch believes that he has faithfully rendered the decisions made by the Commission on Regulations. But as a representative of the United States, he would like to have some explanations on the meaning of the stipulation appearing on page 2, para. 2 d) (ii) : "same designs applied to different articles". Is it necessary to register the same designs several times ?

Mr Fedrico (United States) explains that it is not necessary to register the same design several times; one or two typical representations ought to be enough. The main thing is, in the countries which make an examination/<sup>for</sup> novelty , to reduce the fee to be paid by the applicant by allowing him to group either the variations of one design or the designs of articles belonging to the same category.

For this reason the Drafting Committee has proposed this formula in order to reduce the fee due for the novelty examination, without, however, allowing that too great a number of designs

of designs be incorporated in one and the same deposit.

Mr Ljungman (Sweden) reverts to the question as to the consequences of non-payment of the fee for publication at the end of the period of deferment. He proposes that a provision be drawn up whereby the applicant shall be obliged to take a decision, for example, as to making available to the public any deposit for which the fee has not been paid in due time.

Mr Bogsch (United States) points out that the reply to this proposal is included in the Arrangement. The secret of the International Bureau shall be preserved until the time of withdrawal or until the period of deferment is expired. If the fee is not paid and if the application is not withdrawn it will be published in the Archives of the Bureau, but not in the Bulletin.

Mr Finniss (France) then proposes that the Delegations be further invited to express their agreement with the text.

The Delegates of Turkey, Monaco, Liechtenstein, and of the United Arab Republic declare themselves in agreement.

The Spanish Delegation refrains from expressing its opinion, but does not make any objections, neither does the Irish Delegate

The Rumanian Delegate also agrees with the text, which he has been assured is logical, although he would have preferred to express his opinion on the French text.

The preliminary draft of the Regulations submitted by the Drafting Committee is therefore considered as carried.

The Chairman, Mr de Haan, now expresses his warm personal thanks to the Delegates for their spirit of international cooperation, and

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for the help that they have given him in the performance of his task as Chairman,

He cordially thanks Professor Ulmer for his very efficient cooperation in his capacity as Chairman of the Drafting Committee, as well as the indefatigable "motors" of this Committee Messrs Bogsch, Labry, and Haertel. In particular, he thanks Mr Bogsch, who has worked all night to work out the text on which the Commission has just expressed its agreement. (Applause).

The Chairman also thanks Mr Lorenz for his industrious collaboration with the Drafting Committee, while being at the same time the usual spokesman of this Delegation in the Commissions.

He next addresses Mr Boutet, whose wisdom, patience, and sense of law have made it possible to reach a compromise on two very delicate matters : territorial limitation and multiple deposits. (Applause).

Finally, Mr de Haan repeats his thanks to all the Delegates.

Mr Ulmer appreciates the kind words of Mr de Haan and adds his thanks to two other members of the Drafting Committee : Messrs van der Haeghen and Bouly.

It is decided that the texts drafted by the Drafting Committee shall be examined in the General Commission at 9.30 hrs on Monday 28th November. A plenary session is scheduled at 14.30 hrs, in the afternoon, after Messrs Grant and Finniss have come to an agreement that the Council of Europe shall, with all courtesy, be requested to postpone its session scheduled at 15.00 hrs, for one hour.

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#### S U M M A R Y

The substance of the Regulations is accepted.

Doc. The Hague  
No. 109 / E  
Date: 27-11-1960

DRAFT OF THE DRAFTING COMMITTEE

REGULATIONS

Rule 1

- (1) The applications referred to in Article 5 of the Agreement shall be written in English or French on forms distributed by the International Bureau and filed in three copies.
- (2) The application shall contain:
  - (a) the name or the trade name and the address of the applicant; if there is an agent, his name and address; if several addresses are given, the address to which the International Bureau should send its communications;
  - (b) the designation of the Contracting State in which the applicant has a real and effective industrial or commercial establishment or, if <sup>the applicant</sup> has such establishments in several Contracting States, the Contracting State which he has indicated in the application. If the applicant does not have such an establishment in any Contracting State, the Contracting State in which he is domiciled; if he has no domicile in a Contracting State, the Contracting State of which he is a national;
  - (c) the designation of the article or articles in which it is intended to incorporate the design;
  - (d) the list of the documents, and of the samples or models, if any, accompanying the application, and a statement of the amount of fees transmitted to the International Bureau;
  - (e) the list of the Contracting States in which the applicant requests the international deposit to be effective;
  - (f) if the applicant wishes to claim the priority provided for in Article 9 of the Agreement, a statement of the date, the State, and the number of the deposit which gives rise to the right of priority;

- (g) the signature of the applicant or his agent.
- (3) In addition, the application may contain:
  - (a) a short description of characteristic features of the design, including colours; this description cannot exceed one hundred words;
  - (b) a statement as to who is the true creator of the design;
  - (c) a request for publication in colour;
  - (d) a request for the deferment of the publication under Article 6 (4) of the Agreement.
- (4) The application may be accompanied by :
  - (a) documents supporting the priority claim;
  - (b) samples or models of the article incorporating the design; such samples or models shall not exceed 30 centimeters (12 inches) in any dimension; articles made from perishable materials are not acceptable.

Rule 2

- (1) (a) The number of the designs an applicant may include in a multiple deposit shall not exceed :
  - 1. twenty, if he does not request deferment of publication,
  - 2. one hundred, if he requests that publication be deferred according to Article 6 (4a) of the Agreement.
- (b) Multiple deposits including not more than twenty designs shall hereinafter be referred to as "ordinary multiple deposits," and multiple deposits including more than twenty designs shall hereinafter be referred to as "special multiple deposits".
- (2) All designs included in a multiple deposit must be intended to be incorporated in articles of the same kind. Articles belonging to the same class of International Design Classification shall be deemed to be of the same kind.
- (3) Each design included in a multiple deposit must be identified by a different number indicated both in the application and on the photographs or other graphic representations accompanying the application.

- (4) The list of the Contracting States in which the applicant requests the international deposit to be effective must be the same for each design included in a multiple deposit.
- (5) If the applicant wishes to request the deferment of the publication under Article 6 (4) of the Agreement, he must ask for the same period of deferment in respect of all the designs included in a multiple deposit.

Rule 3

- (1) (a) If the applicant wishes that the publication of the registration in the International Design Gazette be deferred, he must indicate in his application the period for which he requests such deferment.
  - (b) The period of deferment may not exceed twelve months computed from the date of the international deposit or, if priority is claimed, from the priority date.
  - (c) If the applicant does not indicate the period, the International Bureau shall treat the request as if it indicated the maximum permissible period.
- (2) At any time during the period of the deferment of the publication, the applicant may, by simple letter addressed to the International Bureau, request immediate publication. Such request may be limited to one or more Contracting States and, in the case of a multiple deposit, to only some of the designs included therein.
- (3) At any time during the period of the deferment of the publication, the applicant may, by simple letter addressed to the International Bureau, withdraw his deposit. Withdrawal may be limited to one or more Contracting States and, in the case of a multiple deposit, to only some of the designs included therein.
- (4) (a) If, before the expiration of the period of deferment, the applicant pays all the required fees referred to in Rule 7, the International Bureau shall proceed to the publication in the International Design Gazette immediately after the expiration of the period of deferment.

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- (b) If the applicant fails to pay the said fees the International Bureau shall not proceed to the publication and shall cancel the deposit.

#### Rule 4

- (1) For publication in black and white, a photograph or other graphic representation of 9 by 12 centimeters ( $3\frac{1}{2}$  by 5 inches) shall be attached to each of the three copies of the application.
- (2) For publication in colour, one positive transparency ("diapositive" film) and three colour prints thereof, these prints being 9 by 12 centimeters ( $3\frac{1}{2}$  by 5 inches), shall be attached to the application
- (3) The same design may be photographed or graphically represented from several angles.

#### Rule 5

- (1) When action is taken before the International Bureau through an agent, it shall be necessary to file a power of attorney. Formal attestation of the power shall not be required.
- (2) Interested parties who, under Article 12 (1) of the Agreement, request the registration of changes affecting the ownership of a design shall furnish to the International Bureau the necessary supporting documents.

#### Rule 6

- (1) Six months before the starting date of each possible renewal period of an international deposit, the International Bureau shall, by simple letter, call this date to the attention of the owner of the deposit, and if he has an agent whose name is recorded in connection with that deposit, of the agent. Failure to send such notification shall have no legal consequences.
- (2) (a) Renewal is effected by the payment, during the last year of the five-year period about to expire, of the international and State renewal fees.

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- (b) If renewal was not effected during the period prescribed by subparagraph (a), the applicant may, during the period of grace referred to in Article 10 (2) of the Agreement, effect renewal if, in addition to the international and State renewal fees he pays the surtax provided to this effect. The renewal fees and the surtax must be paid at the same time.
- (c) At the time of paying the international and State renewal fees, the international deposit numbers and, if the renewal is not to be effected for all the Contracting States for which the deposit is about to expire, the Contracting States for which the renewal is <sup>to be</sup> effected must be indicated.

#### Rule 7

- (1) The nature and the amounts of the fees are set forth in the schedule of fees attached to the present Regulations and forming part thereof.
- (2) For a deposit made without a request for deferred publication, the applicant shall pay at the time of filing :
1. the international basic fee;
  2. the international supplemental fee if the deposit is an ordinary multiple deposit; if he makes two, three four or five ordinary multiple deposits on the same day, he shall pay the international administrative fee provided for special multiple deposits;
  3. the international publication fee;
  4. the State fees;
  5. the State novelty examination fee for each State requiring the payment of such fee and designated in the application; the State fee for the same State shall be deducted from this fee.
- (3) For a deposit made subject to a request for deferred publication, the applicant shall pay:
- (a) at the time of filing:
1. the international basic fee;
  2. the State fees;



- (b) before the expiration of the period of the deferment of the publication:
1. the international supplemental fee, in case of a multiple deposit
  2. the international publication fee;
  3. the State supplemental fees, in case of an special multiple deposit;
  4. the State examination fee for each State requiring the payment of such fee and designated in the application; the State fee for the same State shall be deducted from this fee.
- (4) All fees shall be payable in Swiss Francs.

Rule 8

- (1) As soon as the International Bureau has received the application in due form, the fees payable with the application, and the photograph or photographs or other graphic representations of the design, the date of the international deposit and the deposit number shall be written and the seal of the International Bureau shall be stamped on each of the three copies of the application and on each of the photographs. Each copy of the application shall be signed by the Director of the International Bureau or his representative designated by him for this purpose. One of the copies shall become part of the International Design Register as the official act of registration; another copy shall be returned to the applicant as the certificate of deposit; the third copy shall be loaned by the International Bureau to any national office which may request it.
- (2) Refusals referred to in Article 8 of the Agreement, renewals, changes affecting the ownership of a design, changes in the name or address of the owner of the deposit or his agent, declarations of renunciations, withdrawals by virtue of Article 6 (4b) of the Agreement and cancellations by virtue of Article 6 (4c) of the Agreement, shall be recorded and published by the International Bureau.

Rule 9

- (1) The International Bureau shall publish a periodical entitled "Bulletin international des dessins ou modèles: International Design Gazette."
- (2) The Gazette shall contain, for each registered deposit: reproductions of the deposited photographs or other graphic representations; indications of the date of the international deposit and of the international deposit number; the name or the trade name and the address of the applicant; the designation of the State of origin of the deposit; the designation of the article or articles in which it is intended to incorporate the design; the list of the Contracting States in which the applicant requests the international deposit be effective; indication of the date, the State, and the number of the deposit invoked for the priority right, if such right is claimed; the description of characteristic features of the design if such is contained in the application; the statement as to who is the true creator of the design if such statement is contained in the application; any other data that the circumstances of the case may require.
- (3) Furthermore, the Gazette shall contain full information as to the recordations referred to in Rule 8 (2).
- (4) The Gazette may contain indexes, statistical data and general information.
- (5) Data concerning particular deposits shall be published in the language in which the application accompanying the deposit was made. General information shall be published in both English and French.
- (6) The International Bureau shall send as soon as possible to the national office of each Contracting State one free copy of the Gazette. Furthermore, each national office shall, upon request, receive not more than five copies free of charge, and not more than ten copies at one third of the regular subscription fee.

Rule 10

Notifications of refusal by national offices referred to in Article 9 (1) of the Agreement shall be sent in three copies to the International Bureau. If the notification was made within the term provided for in Article 8 (1 and 2) of the Agreement, it shall be communicated to the person shown by the International Register as the owner of the deposit and, if the deposit has been made through the intermediary of a national office, so such office if it so wishes. The fact of such notification, and the later reversal, if any, of the refusal, shall be published in the International Design Gazette. If the notification of refusal was sent after the expiration of the said term, the International Bureau shall call this fact to the attention of the national office which sent said notification.

Rule 11

The International Bureau may dispose of the samples and models referred to in Article 5 (3b) of the Agreement, and may destroy the files, five years after the date on which the possibility of renewal ceases to exist or on which the deposit was withdrawn or cancelled, unless the person shown by the International Design Register as the last owner of the deposit has requested that they be returned to him at his expense.

Rule 12

These Regulations shall enter into force simultaneously with the Agreement.

SCHEDULE OF FEES

International basic fee ..... 25 Francs per deposit whether single, ordinary multiple, or special multiple

International supplemental fee:

- in case of ordinary multiple deposit without deferred

publication .....	15 Francs for the second design
	10 " " " third "
	5 " " " fourth "
	2 " per design for the 5th to the 20th design

- in case of an ordinary multiple deposit with deferred

publication .....	25 Francs for the first design
	15 " " " second "
	10 " " " third "
	5 " " " fourth "
	2 " per design for the 5th to the 20th design

- in case of special multiple deposit (always with deferred

publication .....	25 Francs for the first design
	15 " " " second "
	10 " " " third "
	5 " " " fourth "
	2 " per design for the 5th to 100th design

International publication fee:

- for publication in black and white ..... 25 Francs per standard space
- for publication in colour ..... 100 Francs per standard space

A standard space is a space of 6 by 9 centimeters (2½ by 3½ inches). A standard space shall not include more than four figures; the figures may show the same design viewed from different angles or they may relate to different designs.

State fees:

- for a single deposit .....5 Francs per designated State
- for an ordinary multiple deposit.....5 Francs " " "
- for the first 20 designs in a  
special multiple deposit .....5 Francs " " "

State supplemental fee in case of a

special multiple deposit : .....2.50 Francs per designated State  
for each group of 20 designs or  
fraction thereof, except the first  
20 designs.

State novelty examination fee: the fee fixed by the national office of  
the State having a novelty examination. This fee may not exceed  
neither three fourths of the fee for designs deposited with the  
national office, nor 50 Francs:

- per groups of five designs each in a multiple deposit if the  
designs within the group (1) are variations of the same design  
or (2) are the same design applied to different articles
- per design in all other cases.

If, in the course of the examination, the national office finds that the  
groups referred to above do not satisfy the said conditions, it shall  
notify the applicant and shall allow him at least 60 days for the payment  
of the resulting difference in the fee. On the other hand, if the applicant,  
after payment of the fee discovers that he did not take full advantage of  
the possibility of the grouping referred to above, he may request the  
national office to reimburse the resulting difference in fee.

International renewal fee:

- for a deposit containing one design ..... 50 Francs
- for the first design in an ordinary  
multiple deposit ..... 50 Francs
- for each additional design in an  
ordinary multiple deposit ..... 10 Francs
- surtax referred to in Rule 6  
(2b) per deposit ..... 10 Francs

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For the sole purpose of computing the renewal fee, the special multiple deposit shall be divided in deposits containing not more than twenty designs each.

State renewal fee:

- for a deposit containing one design.... 10 Francs per designated State
- for an ordinary multiple deposit ..... 10 Francs per designated State

For the sole purpose of computing the renewal fee, the special multiple deposit shall be divided in deposits containing not more than twenty designs each.

For the filing and publication of the description  
referred to in Rule 1 (3a) if it contains from  
41 to 100 words .....10 Francs

For the recording and publication of changes  
affecting the ownership of a design in one or  
more States, some or all the proprietary rights,  
in respect to one design, or more designs con-  
tained in the same multiple deposit .....25 Francs

For the recording and publication of changes  
in names or addresses in respect to one design,  
or more designs contained in the same multiple  
deposit ..... 5 Francs

For furnishing of extracts of the Register  
or of the file ..... 15 Francs per page or  
fraction thereof

For furnishing a copy of the certificate  
of deposit ..... 15 Francs

For the furnishing of information ..... 15 Francs per hour or  
fraction thereof required  
for the furnishing of the  
information.

For a certificate certifying the identity of a photograph, other graphic representation, sample of model, furnished by the person requesting the certificate, with the photograph, other graphic representation, sample or model which is in the files of the International Bureau . . . . . 10 Francs

Doc. The Hague

No. 110 / E

Date: 27-11-1960

Addendum to the Minutes of the Session of the General  
Commission held on Friday 25th November 1960

On page 5 of the English text insert between paras 7  
and 8 :

"Mr Ulmer then proposes that a stipulation be inserted  
which would meet the desires of Messrs. Federico and  
Finniss: "..... taking into account at least all  
national and international deposits ".



Doc. The Hague  
No. 112 / E  
Date: 28-11-1960

Correction to the Minutes of the Session of  
Friday afternoon, 25th November 1960 - Doc.Nr.104/E

Page 5, paragraph 3 should read as follows :

"Mr. Morf (Switzerland) underlines that this agreement might well take place at a future Diplomatic Conference which, in the opinion of the Swiss Government, should be convened for the purpose of increasing the rates of fees at present applied under the present Arrangement of The Hague".

MINUTES OF THE SESSION OF THE GENERAL COMMISSION ON MONDAY  
29th NOVEMBER 1960 (MORNING SESSION).

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The Chairman opens the session at 10.00 hrs. He pays homage to Messrs. Bogsch, Labry, Morf, Haertel, van der Haeghen, Lorenz, Federico, and to the Secretary-General, Mr. Magnin, who have made every effort to draft all the texts Sunday and the following night. He moves a vote of thanks to the Secretariat, which has shown exceptional devotion and efficiency in carrying out its duties (brisk applause).

Examination of the Regulations

Rule 1 : Para. 1 carried  
Para. 2a carried

Para. 2b : Mr. Labry points out that the last words "le national" ought to be replaced by "ressortissant".

In reply to a remark made by Mr. Phaf, Messrs Morf and Bogsch explain that the text does not refer to bodies corporate, for this does not seem necessary, nor, for that matter, does this term appear in the text now in force, which is all the same being applied without any difficulty.

Mr. Lorenz notes that the phrase used to define the country of origin does not quite satisfy the Austrian Delegation. This text may allow a body corporate, which has its Head Office in one country, and a real and effective establishment in another country, to choose between these countries in order to dodge the national provisions of law. On the other hand, he does not oppose the acceptance of this text, but he insists on making reservations.

However, the Chairman considers that this case will be quite rare in practice, especially in connection with designs or models.

In answer to a question put by Mr. Phaf, the Chairman adds that a body corporate having its Head Office in the Netherlands is a Netherlands national.

Para. 2b is carried.

Para. 2c is carried.

Para. 2d :

In reply to a question put by Mr. Bogdanovitch, Mr. Labry and the Chairman state that they do not consider it possible to take into account the delay caused by the National Clearing Institutes in effecting the transfer of funds to the International Bureau. The fees cannot be considered to have been paid to the International Bureau until the moment when the International Bureau has received the assurance that these amounts are at its disposal.

For that matter, Mr. Phaf reminds the Delegates that these difficulties can be avoided by opening an account with the International Bureau.

The text carried reads as follows after a rectification has been made by Mr. Labry :

"d - The list of the documents and of samples or models, if any, accompanying the application, and a statement of the amount of the fees remitted to the International Bureau".

Para. 2 c) f) g) is carried.

Para. 3 a) b) is carried.

Para. 3 c) is carried after the word "application" has been replaced by the word "request " as proposed by Mr. Phaf.

Para. 3 d) is carried after deletion of the words "de la disposition" as proposed by Mr. Labry.

Para. 4 a) is carried. On an inquiry made by Mr. Bogdanovitch the Chairman explains that the Courts or the National Offices may require that a certified copy be produced corresponding to the deposit on which the priority claim is based.

Para. 4 b) is carried with the addition of the words "or dangerous", as proposed by Mr. Coppeters de Gibson.

#### Rule 2

Para. 1 a) is carried after the word "différée" is replaced by "ajournée" in the second paragraph, as proposed by Mr. Phaf.

Para. 1 b) is carried.

Para. 2 : Mr. Lorenz notes that this provision shows up a gap, for it does not exclude the possibility that articles are of the same kind even while they do not belong to the same class.

The Chairman and Mr. Labry explain that the text is in no way exhaustive. It merely provides the certainty that articles belonging to the same class shall be of the same kind; but other articles may also be considered to be of the same kind.

Messrs. Bogsch, Phaf and Coppeters de Gibson consider it necessary in that case to give a restricted meaning to this provision.

This Rule is amended as follows :

All designs included in a multiple deposit must be intended to be incorporated in articles included in the same class of the International Design Classification.

Consequently this entails an identical amendment to Article 5, para. 4 of the Arrangement.

Thus amended para. 2 is carried.

Paras. 3 and 4 are carried.

Para. 5 is carried after the addition of a specification that reference is made to the deferment of publication laid down sub a) in Article 6, para. 4, which specification already appears in Rule 1, para. 3d) and in Rule 2, Para. 1 a) 2.

Rule 3

Para 1. is carried after the addition of the word "computed" in paragraph b) in the last line before the words "from the priority date", as proposed by Mr. Labry. Although Mr. Labry considers the provision laid down in para. b) to be superfluous, this provision is yet retained for the sake of greater clarity at the request of Mr. Bogsch and the Chairman.

Para. 2 is accepted after deletion of the word "simple (letter)" in the second line, as proposed by Mr. Phaf for the sake of avoiding misunderstandings. It is indeed necessary to enclose in this letter payment of the fees provided for.

Para. 3 is carried. The Chairman observes that it is unnecessary to delete the word "simple", withdrawal being free of charge.

Para. 4 is carried after being amended as follows : If the applicant fails to pay the fees provided for in Rule 7, para. 3 b) the International Bureau . . . .", as proposed by Mr. Bogsch.

Rule 4

Carried after deletion of the words "du dessin ou modèle" in para. 1, for these words are not included in the English text and are not necessary in view of the wording of para. 3.

Rule 5

Para. 1 is carried.

Para. 2. Mr. Lorenz notes that the provision laid down in Article 12, para. 2 of the Arrangement is a dangerous one, as according to Rule 5, para. 2 of the Regulations it is the International Bureau that shall receive the supporting documents relative to changes affecting the ownership of a design or model. In his opinion it would therefore be preferable to suppress para. 2 of Article 12 of the Arrangement. However, the Chairman considers that this Article, which has been accepted, does not affect the Regulations.

Para. 2 of Rule 5 is carried.

Rule 6

Para. 1 is carried after the word "simple" has been deleted in the third line, as proposed by the Chairman.

Para. 2 a) is carried after the words "by the payment" have been replaced by "simply by the payment" subsequent to a remark made by Mr. Coppeters de Gibson, and a proposal made to this effect by the Chairman. The same alteration will be made in Article 10, para. 1 of the Arrangement. In addition Mr. Gajac points out that the term "taxes de renouvellement dues aux Etats" ought to be used instead of "la taxe de renouvellement due.." This alteration is accepted in view of the fact that there is no inclusive fee, but a fee per State, as Mr. Bogsch points out. Para. 2, b) and c) is accepted after the words "de la taxe" have been replaced by "des taxes".

Rule 7.

Para. 1 is accepted.

Para. 2 1) is accepted after the words "taxe initiale" have been replaced by "taxe internationale".

Para. 2 2) is accepted after the words "taxe administrative internationale" have been replaced by "international supplemental fee" as requested by Mr. Bogsch.

Para. 2 3) is carried.

Para. 2 4) is carried after the word "ordinary" (ordinary State fees) has been added, as proposed by the Chairman, in order to comply with Mr. Bogsch' wish for a more accurate terminology.

Para. 2 5). Mr. Bogsch proposes that in the French text the expression "la taxe de nouveauté" be used, which would be in greater conformity with the English text. It would be better to say "la taxe d'examen de nouveauté due aux Etats". On the other hand, this paragraph is not very clear, and Mr. Labry proposes the following wording: "The State novelty examination fees for States requiring the payment of such fees, which are designated in the application ; the ordinary State fee paid, shall be deducted from the novelty examination fee required by this same State".

Para. 3. Mr. de Haan and Mr. Phaf point out that the word "ordinary" ought to be added in para. 3 a), 2 and in para. 3 b) 3.

The session is adjourned for 15 minutes in order to complete the drafting of Rule 7.

When the session is resumed Mr. Labry reads the new text of Rule 7, which he has drafted with Mr. Bogsch.

Rule 7, para. 2 4) the ordinary State fees;

Rule 7, para. 2 5) the State novelty examination fees; the ordinary State fee paid for a State shall be deducted from the State novelty examination fee required by the same State.

Para. 3 a) 2. The ordinary State fees.

b) 3. The supplemental ordinary State fees, in case of a special multiple deposit ;

b) 4. The State novelty examination fees; the ordinary State fee paid for a State shall be deducted from the State novelty examination fee required by the same State.

This draft is carried.

Rule 8

Para. 1 is carried after the words "or graphic representations" have been added at the end of the 7th line, as proposed by Mr. Phaf.

Para. 2 is carried after the word "renouvellements" has been substituted for the word "renonciations", which is a typing error.

Rule 9

Mr. Labry observes that the second paragraph ought to refer to "la déclaration indiquant le nom du véritable auteur, as this formula has been used before.

Mr. Bogsch states that the French text is incomplete.

Mr. Gajac proposes that in para. 2 the wording "des photographies ou des autres représentations graphiques déposées" be used, as in this way the text would read better.

Mr. Labry then reads the amended and completed text of para. 2:

" The Gazette shall contain, for each registered deposit: reproductions of the deposited photographs or other graphic representations; indication of the date of the international deposit and of the international deposit number; the name or the trade name and the address of the applicant; the designation of the State of origin of the deposit; the designation of the article or articles in which it is intended to incorporate the design; the list of the Contracting States in which the applicant requests the international deposit be effective; indication of the date, the State, and the number of the deposit invoked for the priority right, if such right is claimed; the description of characteristic features of the design if such is contained in the application; the statement as to who is the true creator of the design if such statement is contained in the application; any other necessary data."

Rule 9 is carried.

Rule 10

Carried after Mr. Morf has explained that in Doc. 109/F the seventh line from the bottom should read "... elle est envoyée à cette administration si celle-ci en exprime le désir".

Rule 11

Carried after the article "the" in the last line but one has been deleted (as last owner of the deposit).

In reply to a question put by Mr. Phaf, Mr. Bogsch explains that in case there are several joint owners of a deposit, they will all together be considered to be one single owner; then their signatures as well as their common agreement will be required.

Rule 12

Carried.

Schedule of fees

The Chairman explains that this schedule is an exact reproduction of the document accepted on Saturday by the General Commission, but for a few slight alterations.

Mr. Labry points out that twice, on pages 11 and 12 (of the French text) it is necessary to correct the text. Indeed, the amount of 2 francs is due per design or model for the 5th to the 20th and not for the 6th to the 20th.

In addition the words "State fee" ought to be replaced by "ordinary State fee", and "State supplemental fee" by "supplemental ordinary State fee" on page 10. On page 13 (of the French text) "taxe due aux Etats qui procèdent à un examen de nouveauté" should be replaced by "taxe étatique d'examen de nouveauté". This paragraph should begin with the words: "une taxe dont le montant est fixé par l'Administration nationale....".

Finally, "la taxe étatique de renouvellement" ought to be substituted for "la taxe de renouvellement due aux Etats" on page 14.

Mr. Roscioni considers that the fee for the furnishing of information referred to on page 11, will be a source of difficulties, for it must be prepaid, and nobody can assess what it will amount to, because this depends on the time required for the furnishing of such information. It would be necessary to make a preliminary inquiry, in order that the International Bureau may determine the time required for the furnishing of the information requested, but will this preliminary inquiry be subject to the payment of a certain fee ?

Mr. Roscioni would prefer a lump sum to be fixed as fee, e.g. 10 Swiss francs up to 30 francs according to the extent of the inquiry. Anyway, it would be necessary to specify that this fee does not concern the information requested by a National Office on its own account.

Mr. Magnin explains that this fee concerns only the furnishing of information contained in the Register.

Of course the Offices will not accept to pay this fee when they request the International Bureau to furnish information required by their services.

As for the method by which the fee shall be calculated, Mr. Magnin considers it possible to give an approximate estimate of the amount required for the information to be furnished, but on the other hand, he does not see any objection to fixing a minimum and a maximum, as it would be fixed allowing a good margin.

In reply to an additional question put by Mr. Roscioni the Chairman explains that if a National Office requests the International Bureau to make an inquiry on behalf of a private individual, or of an industrial or commercial establishment, such a National Office would of course have to pay the fee.

The International Bureau will not require the payment of the fee only in case a request for information should be made by the National Office for the protection of industrial property for the sake of the good functioning of its administration.

Mr. Coppeters de Gibson proposes that it be expressly stated that this fee shall be understood to be payable for the furnishing of information contained in the Register, to persons other than National Offices.

Mr. Bogsch proposes simply to add at the bottom of page 11 that no fee of this kind shall be charged to the National Offices if such information be requested by the National Office for its own requirements.

This proposal is accepted by Mr. Coppeters de Gibson, who proposes the following draft:

"for the furnishing of information contained in the Register, except in the case of information requested by a National Office for the requirements of its own administration."

Mr. Lorenz considers that the furnishing of information requested by the National Offices, which ought to be done free of charge, also extends to extracts and certificates of deposit.

Messrs. Bogsch and de Haan cannot accept this proposal, for this would open the possibility that National Offices might request the International Bureau to furnish free copies of all its archives.

Mr. Magnin explains that the International Bureau has always furnished any information required to the National Offices free of charge. However, a National Office might undertake to apply for a copy of the archives of the International Bureau, e.g. of its card index. This work would entail considerable costs, which the National Office would surely not refuse to pay. Mr. Magnin considers that a stipulation referring to the free nature of this furnishing of information might be an inconveniency.

The Delegates may rest assured that even if no such stipulation is inserted, the International Bureau shall continue to furnish free of charge, the information contained in the Register requested by the National Offices for the Protection of Industrial Property, for the requirements of their administration.

Mr. Roscioni takes note of the statements made by Mr. Magnin and expresses a wish that the practice followed in this field by the International Bureau be continued in the future, even if no provisions be made stipulating that information furnished to the National Offices for the Protection of Industrial Property for the requirements of their administrations be free of charge.

As for work of considerable consequence, as e.g. a copy of the card index files of the International Bureau referred to by Mr. Magnin, Mr. Roscioni fully agrees that the National Office requesting such a copy to be furnished should pay for it at cost price.

Mr. Labry points out that the past paragraph on page 15 of the French text should read as follows : "pour la certification conforme d'une photographie, d'une représentation graphique, d'un exemplaire ou d'une maquette, fournies par toute personne demandant une telle certification".



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Mr. Labry points out that the second line of page 14 of the French text should read "à la seule fin du calcul" instead of "pour le seul calcul". The same correction ought to be made in the last line of the paragraph concerning the Stato renewal fee.

In reply to a question put by Mr. Gajac, Mr. Labry explains that the provision concerning the registration and the publication of changes affecting the ownership of a design or model refers to transfers. The same text appears in Article 12, para. 1 of the Arrangement, for that matter.

In view of the fact that Mr. Roscioni has expressed his satisfaction at the statements made by Mr. Magnin, the fee for the furnishing of information (page 11) is accepted without any exceptions being made, but with the following qualification added: "for the furnishing of information contained in the Register".

The Chairman notes that the Regulations have just been carried subject to a few alterations, and cordially thanks the Delegates for their work. He proposes that the same evening the signing be proceeded to at the Castle of Wassenaar, after the text of the Arrangement itself has been examined in the afternoon.

Mr. Bogsch points out the importance of certain provisions introduced into the Regulations and into the Arrangement, which provisions will remain in force for at least 10 years. For this reason he deems it necessary that another 24 hours be devoted to the study of these texts in order that they may be read at leisure. It would therefore be preferable to proceed to the signing in the afternoon on Tuesday the 29th of November, or Tuesday night, e.g. at 6. p.m.

Mr. Grant (United Kingdom) reminds the Delegates that the extension of our Conference has already hindered the meeting of the Council of Europe; for this reason he considers it to be preferred, if it were decided to proceed to the signing on Tuesday, that the Ceremonial Session be held in the evening.

After interventions made by Messrs. Phaf, Bogsch, Coppeters de Gibson, and Bogdanovitch, the Chairman proposes that the General Commission vote on a motion to the effect that the Plenary Session followed by the signing ceremony be deferred till Tuesday 29th November, and that the President of the Conference, His Excellency Mr. Veldkamp decide if this is possible, taking into account the fact that certain personalities, viz. the Belgian Ambassador will not be in a position to attend the Ceremonial Signing Session on Tuesday 29th November.

The Chairman closes the session at 13.30 hrs, convening the General Commission at 15.00 hrs.

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MINUTES OF THE PLENARY SESSION ON MONDAY 28th NOVEMBER 1960.

The President, Mr. Veldkamp opens the session at 17.30 hrs, and proposes to proceed to the Ceremonial Signing Session at the Castle of Wassenaar the same evening.

Mr. Finniss considers it unnecessary that in his general report he makes comments separately on each Article in succession, and he proposes that he shall present these comments subsequently.

Mr. Bogsch states that in his opinion it would be a great mistake that, for the sake of gaining 24 hours, a text should be adopted which the Delegates do not have before their eyes, in view of the importance of this text, which will be in force for 10 or 20 years. He begs the President to reconsider his decision.

The President explains that he personally be prevented from attending the session on Tuesday 29th November, for he has to take the Chair at a meeting of the E.E.C. at Luxemburg. For this reason he will not be in a position to sign the Convention if the Ceremonial Signing Session is deferred until Tuesday the 29th of November. On the other hand, Mr. Ambassador Talamo Atenolfi has to return to Rome, nor will the Ambassadors posted at The Hague be able to sign on Tuesday, for they have a meeting of considerable importance to attend. The President considers that it would be useful to have another 24 hours or two days in order to make the last corrections of detail in the texts, but he notes that this is not possible.

Mr. Finniss and His Excellency the Ambassador Talamo do not fail to recognize the pertinency of the arguments put forward by Mr. Bogsch, but in spite of this they propose to proceed to the vote and the signing this very evening.

Mr. Morf (Switzerland) expresses his great regret that it should not be possible to defer the vote till the time when the final text is available, and he entirely shares the view taken by Mr. Bogsch.

Mr. Lorenz (Austria) notes that in a spirit of cooperation solutions have been found to many points of controversy. He considers that agreement might yet be reached on points that are still being opposed by some Delegations. He regrets being obliged to abstain if the voting takes place on Monday night.

Mr. Bogsch states that he does not ask that the Arrangement be amended in any way whatever, but that he would consider it incorrect to vote for or against a text that he has not got before his eyes. Consequently, the U.S. Delegation will abstain.

Mr. Haertel notes that the unusual procedure followed is due to special circumstances, and he considers that it would be very useful if the Delegates could receive a complete text this very evening, just before the signing.

The President adjourned the Plenary Conference until 21:30 hours at the Castle of Wassenaar. The texts will be distributed in advance of the meeting and each delegate will receive a copy. Delegates will be given an hour to study the texts and the plenary will open not sooner than one hour before the distribution of the texts. The Plenary Conference will adopt the texts and will be followed by their signature.



TO DOCUMENT NO.114/E

Page 3

Replace lines 20 and 21, that is the entire paragraph which now reads: "On the proposal of Mr. Bogsch the President asks the Delegates if they agree that the texts need not be read" by the following text:

The President announces that, to his great regret, it was not possible to follow the original plan of distributing the final texts to each delegate. Due to technical reasons, the final texts exist only in one typewritten copy. He asks the Secretary General to read the texts in their entirety.

Mr. Bogsch (U.S.A.) says that he had proposed the 24-hour adjournment because he wanted to be able to study the final texts. Such a study could not be replaced by the oral delivery of a text which the delegates do not have before them. Consequently, he is of the opinion that the reading of the texts by the Secretary General would be superfluous.

On the other hand it carries its philosophy further than may be apparent; a certain basis of supranational law will show itself also in other respects besides in the provisions themselves, and it will encourage legislators to amend laws in the sense that the Arrangement has introduced.

In conclusion Mr. Finniss announces that this new Arrangement constitutes a signal for a new evolution of supranational law and marks a new departure.

(Brisk applause)

The President gives the floor to the Ambassador, Mr. Talamo, Chairman of the Credentials Committee.

His Excellency, Mr. G. Talamo Atonolfi Brancaccio, Marquis of Castelnuovo, Italian Ambassador, then reads his report distributed as Doc. 113/F. The credentials of the following countries have been found valid:

Federal Republic of Germany - United Arab Republic - Austria - Belgium - France - Italy - Liechtenstein - Grand-Duchy of Luxemburg - Morocco - Monaco - Netherlands - Holy See - Switzerland - Yugoslavia.

The credentials of the other Delegations presented have been found valid only for their attendance at the Conference.

[On the proposal of Mr. Bogsch the President asks the Delegates if they agree that the texts need not be read.

On their reply to the affirmative the President then directs the Secretary-General to proceed to the vote. This vote yields the following results: The following Delegations declare that they accept the texts:

Federal Republic of Germany - Belgium - France - Italy - Liechtenstein - Luxemburg - Monaco - Netherlands - Rumania - Holy See - Switzerland - Yugoslavia.

Abstentions were recorded by:

Austria - United States of America.

The Delegations of the following countries were absent

United Arab Republic - Denmark - Dominican Republic - Spain - Finland - Hungary - Ireland - Morocco - Norway - United Kingdom - Sweden - Turkey.

The Secretary-General announces that the texts have been carried by 12 votes, 2 abstentions, and without any opposition.

The President expresses his satisfaction at the results obtained, thanks the Delegations, and delivers the address reproduced in the appendix, attached to this document.

On behalf of the Delegations Mr. Finniss, chief of the French Delegation, expresses his gratitude towards His Excellency Mr. Veldkamp and the Netherlands authorities: in particular he congratulates the President of the Octrooiraad, Mr. de Haan, who has directed the work of the General Commission with an ability to which he is pleased to pay homage.

Then the Vice-Director of the International Bureau takes the floor and on behalf of Professor Jacques Secrétain, summoned back to Geneva by urgent duties, and who apologizes for not being able to be present at the Closing Session, he thanks, in his turn, His Excellency Mr. Veldkamp and the Netherlands Authorities for all they have done for the success of the Conference.

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His Excellency Mr. Veldkamp, he says, had already saved the Industrial Union at the time of the Conference of Lisbon, allowing a unanimous Conference to agree on a proposal for which he had taken the initiative. And again this time, in spite of the difficulties which arose during the last few days, an agreement has been possible and this is largely due to his courteous authority, as well as to the spirit of cooperation displayed by all the Delegations. It is true, the new Arrangement is born in the midst of certain disturbances, but it is well constructed and will certainly be destined for a development of considerable importance.

In this connection the Vice-Director of the International Bureau calls to mind in his conclusion the lines of poetry written by Victor Hugo, who speaks of the Eaglet, which shoots up towards the sun only through the storms.

Then the President declares the Conference of The Hague closed.

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Doc. The Hague  
No. 115 / E  
Date: 29-11-1960

MINUTES OF THE GENERAL COMMISSION ON MONDAY 28th NOVEMBER 1960  
(Afternoon session)

The Chairman, Dr. C. J. de Haan, opens the session at 15.30 hrs. He announces that contrary to the motion carried in the morning the signing of the texts will take place this evening at the Castle of Wassenaar.

The President of the Conference, His Excellency Mr. Veldkamp and the Ambassadors, chiefs of Delegations in fact have obligations which would prevent them from proceeding to the signing on Tuesday evening.

Mr. Finniss, Chief of the French Delegation, as well as His Excellency the Ambassador Talamo Atenolfi, Chief of the Italian Delegation, second this proposal, which is carried.

Therefore the Chairman proceeds to the examination of the Arrangement reading the Articles that have been altered:

Article 1.

No alterations. Carried.

Article 2 (definitions)

The Chairman reads the new drafting of the definition concerning the State of origin of an international deposit, made subsequent to the intervention made by Mr. Bodenhausen, last Saturday.

Mr. Phaf (Netherlands) declares himself in agreement with this new drafting.

Mr. Lorenz (Austria) recalls his intervention of this morning. This definition would allow a certain group of nationals, in particular certain Companies to circumvent the national legislation; but Mr. Lorenz notes the impossibility of turning back on this definition now, for it would be difficult at this stage to make considered changes in it.

Article 2 is adopted.

Article 3.

No modification; carried.

Article 4.

The only alteration consists in the replacing of the word "rules" in para. 1 2nd, by "law".  
This article is carried.



Article 5

The only alteration is found in para. 4, which now uses the expression "a multiple deposit" (may include) instead of the expression "a single deposit". For that matter, this paragraph has to be amended as follows, taking into account on the one hand the addition "decided in the morning", and on the other hand the reference in Article 19, para. 2 item 3, introduced last Saturday:

"A multiple deposit may include several designs intended to be incorporated in articles of the same kind. Articles belonging to the same class of the International Design Classification referred to in Article 19, 2 item 3, shall be deemed to be of the same kind."

Article 6

In para. 3 b) of this Article the words "subject to the provisions laid down in the Regulations" are suppressed. This deletion will again be found in the Arrangement a number of times, taking into account the more detailed new draft of article 17.

In addition, a new stipulation has been inserted in para. 4 c), and Mr. Labry points out to the Delegates that this addition was considered indispensable, for the new schedule of fees submitted by Mr. Bogsch entailed an alteration of the original appearance of the draft.

This paragraph contains a typing error. It should read: "if the applicant fails to pay within the time prescribed the fees ..."

Article 6 is carried.

Article 7

On a proposal made by Mr. Bogsch, seconded by Mr. Labry, the word "tous" is added in the 5th line, before the words "les actes administratifs", in spite of a remark made by Mr. Finniss as to the redundancy of this addition.

Article 7 is thus carried.

Article 8 (page 5 of the revised Doc. 89)

The only alteration **is** found in para. 4 a). The new draft provides for a delay which must not be less than 60 days from the sending of a request to this effect by the Office, whereas the earlier text provided for a delay of at least 30 days from the receipt by the applicant of a request to this effect.

Article 8 is carried.

Article 9

No alterations; carried.

Article 10

Mr. de Haan explains that the only alteration is the substitution of the words "simply by paying" for the words "by paying".

Article 10 is carried.

Article 11

Mr. Labry sets forth that the new draft is superior to the old one, which did not express clearly what was intended. The point is to specify that it is not necessary to effect a national renewal, and that the international renewal shall be sufficient.

Mr. Finniss asks if the addition of the words "and of these renewals" was motivated by the wish to provide a protection on the basis of the longest period.

Mr. Labry replies that the object of the new draft is to state with greater clarity the principle accepted in the General Commission, i.e. that the protection resulting from the international registration shall be maintained during the whole period granted by the national law, without its being necessary in a given country, to proceed to the renewals which might be prescribed in such a country by the national law.  
Article 11 is carried.

Article 12

Mr. Lorenz notes that Article 12 fixes the effect caused by a certain category of entries in the International Register, and observes that Article 7 already contains the rule that registration in the International Bureau shall have the same effect in each of the Contracting States designated by the applicant in his application as if all the formalities required by the national law for the grant of protection had been complied with by the applicant, and as if all administrative acts required to this end had been accomplished by the Administration of such State.

Mr. Lorenz asks why in Article 12 the effect is defined which the entry of changes in the International Register shall involve, and not the effect of other entries. This Article is superfluous if it has the same consequences as Article 7, but the Austrian Delegate considers that it might have other effects and requests that it be deleted.

Mr. Phaf explains that Article 7 refers to the registration of deposits, and that Article 12 concerns changes of ownership.

Mr. Finniss proposes that to satisfy Mr. Lorenz Article 7 be amended as follows:

"any deposit and any changes affecting such deposit registered in the International Bureau shall have the same effect ...."

Mr. Finniss states that in his opinion the intention of the Delegates is indeed, to provide that any international deposit and all the vicissitudes encountered by such deposits, shall have the same effect as if there had been entries in the National Registers.

The Chairman approves this interpretation and proposes in consequence that para . 2 be retained.

Thus Article 12 is carried, the Austrian Delegate being satisfied with accepting that his reservations are taken note of.

Article 13

Carried ; no alterations.

Article 14

Carried.

Article 15

The suggestion made by Mr. Finniss is not retained, that it be specified that the fees shall be charged for the administration of the designs and models service run by the International Bureau as regards para. 1 a), and that they shall be charged for the Contracting States designated by the applicant as regards para. 1 2).

Mr. Morf and the Chairman consider in fact that this specification is not necessary, as it follows from the other Articles that the whole financial system is for the benefit of and at the risk of the service of international designs and models.

Article 15 is carried.

Article 16

Mr. Lofenz requests the Chairman to note that the Austrian Delegation greatly regrets that the possibility which appeared sub letter c) has not been retained. This provision in fact granted the States the possibility to waive among themselves their right to the supplemental fee. The Chairman takes note of this declaration and recalls that Mr. Lorenz had already made an identical declaration on Saturday the 26th of November.

Article 16 is carried.

Article 17

The Chairman proceeds to announce two purely formal corrections:  
In the first line read : "The Regulations shall govern...."  
In the fourth line read: "the data to be supplied with ....."

At the request of Mr. Lofenz, Mr. Magnin explains that the International Bureau may produce an edition printed on one side only of the International Design Gazette without its being necessary that the text make mention of this publication.

Article 17 is carried.

Article 18

Mr. Labry explains that this Article now contains the same provision that it used to contain, but in one single sentence. Article 18 is carried.

Article 19

Mr. Labry explains that the Drafting Committee has seen fit to divide into two Articles the proposal submitted by Mr. Finniss. Article 19 deals with the fees, Article 20 deals with the Reserve Fund.

Article 19 is carried.

Article 20

Mr. Labry states that the draft of Article 20, which has just been distributed has not been made by the Drafting Committee; however, it has become evident to the Drafting Committee that agreement had come about on the principles underlying Article 20 ;

- a reserve fund shall be established.
- it shall amount to Swiss francs 250.000.-
- its ceiling may be modified by the Committee referred to in Article 21.
- the contributions of the States and the surplus receipts of the International Design Service shall be credited to this fund.
- it is necessary to compute the amount of the sole initial contributions.
- it will be necessary to provide for a mode of computing the sole initial contributions to be paid by the States adhering to the Arrangement.
- it would be necessary to provide for a distribution among those who have contributed funds.
- finally the International Design Committee might suspend the application of this provision when the need to apply it should no longer make itself felt.

Mr. Finness observes that the draft distributed provides in para. 3 that the reserve fund shall be kept up from the contributions of the States and the surplus receipts, while in his proposal the contributions to be made by the States would be paid once and for all in order to get the service started. Para. 3 might create the impression that in future the reserve fund will be operated on the contributions of the States and on the surplus receipts, whereas it is understood that the initial contributions shall be paid back if possible, and that the States shall not pay any other contributions.

Mr. Grant declares that he cannot make a statement, as he has no English translation before his eyes.

Mr. Bogsch suggests that para. 1 be worded as follows : the initial amount shall be Swiss francs 250.000.-.

In para. 4 an addition might be made to line 3 : ("from the moment when the present Arrangement comes into force the reserve fund referred to in para. 1 hereabove shall be entirely established by the payment to this effect, by each of the States parties) to the present Arrangement, at the date of its coming into force, of a sole contribution computed....."

In fact the word "initial" ought to disappear, for the term "a sole contribution" ought to be used.

In para. 7 too reference should be made to sole contributions, and not to initial contributions.

Mr. Finness does not like the word sole very much and he would prefer the word initial, but he agrees with the sense of the alteration, which is that the contribution will be prevented from being made a periodical one.

Mr. Finniss proposes that paras 1 and 2 be linked. Para. 3 will then become para. 2 "the surplus receipts of the International Design Service shall be credited to the reserve fund".

Para. 4 would become para. 3 and would begin with the word "however" in order to show that it is an exceptional provision:  
"However, at the time of the coming into force of this Agreement, the reserve fund shall be constituted by a sole payment computed ...."

After an exchange of views among the Delegates of the United States, France, Rumania, Belgium, Luxemburg, and the Netherlands, the Commission finally carries the text appended herewith, which takes up again the proposal submitted by Mr. Finniss with the amendment proposed by Mr. Bogsch. In this text the words "new State" have been suppressed, for they have been considered to be lacking in precision. Para. 5 becomes letter b) of para. 3:

"States which become party to the present Agreement after its coming into force shall also pay a sole contribution. This shall be computed...."  
Para. 6 becomes letter c) of para. 3, and para. 7 becomes para. 4.

Article 21.

Carried.

Article 22.

Mr. Morf points out that para. 2 now provides that amendments shall be communicated direct to the States members by the Director of the International Bureau, without having to pass through the Swiss Government.

Article 22 is carried.

Articles 23, 24, 25, 26, and 27 are carried

Article 28 is carried after correction of a typing error in para. 2:  
"La dénonciation du présent Arrangement par un Etat contractant ne le relève pas des obligations...."

Article 29 is carried.

Article 30 after being completed in para. 1 2) by the addition of a reference to Articles 2 to 17, is carried.

Article 31 is carried

Article 32.

Carried after a correction is made in the 4th line of the second paragraph subsequent to an observation made by Mr. Gajac:

"..... may sign or accede to the Protocol annexed to this Agreement."

This Article is then carried.

Article 33.

Carried.

Protocol

On an observation made by Mr. Coppeters de Gibson the sentence between brackets in para. 2 a) is suppressed, for this provision already appears in a general Article.

Mr. Grant points out that para. 2 a) of the English text the word "not" has been omitted. It should read "shall not be less"....

The Protocol is carried.

Resolution

At the request of His Excellency the Ambassador of Luxemburg, Mr. Labry explains that the Committee of Experts referred to in this Resolution has nothing to do with the Committee referred to in Article 21.

Mr. Federico points out that it would be necessary to define more accurately the word "Arrangement" in mentioning the precise title of the Arrangement.

The Resolution is then carried.

Voeu

Carried.

The session is closed at 17.30 hrs. after the Chairman has noted that the work of the General Commission is finished.

annexe

ARTICLE 20

- (1) There is hereby established a reserve fund of two hundred fifty thousand Swiss Francs. The amount of the reserve fund may be modified by the International Designs Committee referred to in Article 21.
- (2) The surplus receipts of the International Design Service shall be credited to the reserve fund.
- (3) (a) However, at the time of the coming into force of this Agreement, the reserve fund shall be constituted by each Contracting State paying a sole contribution computed in proportion to the number of units corresponding to the class to which it belongs by virtue of Article 13 (8) of the Paris Convention for the Protection of Industrial Property.  
(b) States which become party to the present Agreement after its coming into force shall also pay a sole contribution. This shall be computed according to the principles referred to in the preceding subparagraph in such a manner that all States, whatever the date of their becoming party to the Agreement, pay the same contribution for each unit.
- (4) When the amount of the reserve fund exceeds the established ceiling, the surplus shall be periodically distributed among the Contracting States in proportion to the sole contribution of each until the amount of each contribution is reached.
- (5) When the sole contributions shall have been fully reimbursed, the International Designs Committee may decide that States subsequently becoming party to the Agreement are not required to pay the sole contribution.

Conference of The Hague  
28th November 1960

CLOSING ADDRESS HELD BY THE PRESIDENT OF THE CONFERENCE OF THE HAGUE

Gentlemen,

Now that the debates of this Conference have been terminated with the adoption of a final text, both as regards the Revision of the Arrangement for the International Registration of Designs or Models, and as regards the Regulations for carrying out this Arrangement the agreeable duty falls on me as President of this Conference, to proceed to close it.

It is indeed thanks to your spirit of cooperation and of good will, Gentlemen, that we have been able to complete this task, which might well seem a desperate one; for you have managed to overcome the difficulties in spite of everything, and you have done so even in the short period of time at your disposal. At the moments when the success of the Conference seemed seriously jeopardized, you have not hesitated .... you have sacrificed the agreeable leisure hours you were entitled to, in order to place all your energies, once more, in the service of this Conference !

It gives me great pleasure to express my sincere and deep-felt gratitude for this devotion, on behalf of the Netherlands Government!

I am convinced that the results of your work will prove to be a valuable contribution to cooperation in the field of industrial designs and models.

So I should like to express the hope that a considerable number of the States assembled here will be able to adopt the revision of the Arrangement of The Hague as it has been conceived in the course of this Conference. This adoption will mark an important step on the road to the unification of law in the field of industrial property.

I have no intention of passing over in silence the meritorious efforts of any of the collaborators in expressing my great appreciation of the efficient management of this Conference exercised by the Vice-Presidents. In particular I should like to thank the Chairmen, Messrs. de Haan - Morf - Talamo and Ulmer, who have presided over the Working Sub-Committees, as well as Mr. Finniss, who as Rapporteur-Général, had to discharge the arduous task of drawing up a general report.

I must make special mention of the members of the Drafting Committee (among whom Messrs Bogsch and Labry), who have displayed an almost superhuman devotion to the task of bringing this Conference to a successful issue. I hope that the next few days will give them the rest they have so richly deserved.





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