ARANJAMENTUL DE LA HAGA REFERITOR LA DEPOZITUL INTERNAȚIONAL AL DESENELOR SAU MODELELOR INDUSTRIALE*

ADOPTAT LA 6 NOIEMBRIE 1925
CU MODIFICĂRILE ȘI COMPLETĂRILE ULTERIOARE

THE HAGUE AGREEMENT CONCERNING THE INTERNATIONAL DEPOSIT OF INDUSTRIAL DESIGNS

ADOPTED ON NOVEMBER 6, 1925
WITH AMENDMENTS AND ULTERIOR COMPLETIONS

* *În vigoare pentru Republica Moldova din 14 martie 1994.*

Article 1

(1) The contracting States constitute a Special 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 Agreement.

Article 2

For the purposes of this Agreement:

"Aranjamentul of 1925" shall mean the Hague Agreement concerning the International Deposit of Industrial Designs of November 6, 1925;

"1934 Agreement" shall mean the Hague Agreement concerning the International Deposit of Industrial Designs of November 6, 1925, as revised at London on June 2, 1934;

"this Agreement" or *"the present Agreement"* shall mean the Hague Agreement concerning the International Deposit of Industrial Designs as established by the present Act;

"Regulations" shall mean the Regulations for carrying out this Agreement;

"International Bureau" shall mean the Bureau of the International Union for the Protection of Industrial Property;

"international deposit" shall mean a deposit made at the International Bureau;

"national deposit" shall mean a deposit made at the national Office of a contracting State;

"multiple deposit" shall mean a deposit including several designs;

"State of origin of an international deposit" shall mean the contracting State in which the applicant has a real and effective industrial or commercial establishment or, if the applicant has such establishments in several contracting States, the contracting State which he has indicated in his application; if the applicant has no such establishment in any contracting State, the contracting State in which he has his domicile; if he has no domicile in a contracting State, the contracting State of which he is a national;

"State having a novelty examination" shall mean a contracting State the

domestic 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 contracting States and persons who, without being nationals of any contracting State, are domiciled or have a real and effective industrial or commercial establishment in the territory of a contracting State may deposit designs at the International Bureau.

Article 4

(1) International deposit may be made at the International Bureau:

(i) direct, or

(ii) through the intermediary of the national Office of a contracting State if the law of that State so permits.

(2) The domestic law of any contracting State may require that international deposits of which it is deemed to be the State of origin shall be made through its national Office. Non-compliance with this requirement shall not prejudice the effects of the international deposit in the other contracting States.

Article 5

(1) The international deposit shall consist of an application and one or more photographs or other graphic representations of the design, and shall involve payment of the fees prescribed by the Regulations.

(2) The application shall contain:

(i) a list of the contracting States in which the applicant requests that the international deposit shall have effect;

(ii) the designation of the article or articles in which it is intended to incorporate the design;

(iii) if the applicant wishes to claim the priority provided for in Article 9, an indication of the date, the State, and the number of the deposit giving rise to the right of priority;

(iv) such other particulars as the Regulations may prescribe.

(3) (a)In addition, the application may contain:

(i) a short description of characteristic features of the design; uopasidufoi aposi

(ii) a declaration as to who is the true creator of the design;

(iii) a request for deferment of publication as provided 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 included in the same class of the International Design Classification referred to in Article 21(2) *(iv)* .

Article 6

(1) The International Bureau shall maintain the International Design Register and shall register international deposits therein.

(2) The international deposit shall be deemed to have been made on the date on which the International Bureau received 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 received them on different dates, on 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:

(i) reproductions in black and white or, at the request of the applicant, in color of the deposited photographs or other graphic representations;

(ii) the date of the international deposit;

(iii) the particulars prescribed by the Regulations.

(b) The International Bureau shall send the periodical bulletin to the national Offices as soon as possible.

(4) (a)The publication referred to in paragraph (3)(a) shall, at the request of the applicant, be deferred for such period as he may request. The said period may not exceed twelve months from the date of the international deposit. However, if priority is claimed, the starting date of such 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. Withdrawal of the deposit may be limited to one or a few only of the contracting States and, in the case of a multiple deposit, to some only of the designs included therein.

(c) If the applicant fails to pay within the proper 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 articles concerning such deposits. These provisions shall apply without limitation as to time if the applicant has withdrawn his deposit before the expiration of the said period.

(5) Except as provided in paragraph (4), the Register and all documents and articles filed with the International Bureau shall be open to inspection by the public.

Article 7

(1) (a) A deposit registered at 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 domestic law for the grant of protection had been complied with by the applicant and as if all administrative acts required to that end had been accomplished by the Office of such State.

(b) Subject to the provisions of Article 11, the protection of designs the deposit of which has been registered at the International Bureau is governed in each contracting State by those provisions of the domestic law which are applicable in that State to designs for which protection has been claimed on the basis of a national deposit and in respect of which all formalities and administrative acts have been complied with and accomplished.

(2) An international deposit shall have no effect in the State of origin if the laws of that State so provide.

Article 8

(1) Notwithstanding the provisions of Article 7, the national Office of a contracting State whose domestic law provides that the national Office may, on the basis of an administrative ex officio examination or pursuant to an opposition by a third party, refuse protection shall, in case of refusal, notify the International Bureau within six months that the design does not meet the requirements of its domestic law other than the formalities and administrative acts referred to in Article 7(1). If no such refusal is notified within a period of six months the international deposit shall become effective in that State as from the date of that deposit. However, in a contracting State having a novelty examination, the international deposit, while retaining its priority, shall, if no refusal is notified within a period of six months, become effective from the expiration of the said period unless the domestic law provides for an earlier date for deposits made with its national Office.

(2) The period of 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 that date to any person so requesting.

(3) The applicant shall have the same remedies against the refusal of the national Office referred to in paragraph (1) as if he had deposited his design in that Office; in any case, the refusal shall be subject to a request for re-examination or appeal.

Notification of such refusal shall indicate:

(i) the reasons for which it has been found that the design does not meet the requirements of the domestic law;

(ii) the date referred to in paragraph (2);

(iii) the time allowed for a request for re-examination or appeal;

iv) the authority to which such request or appeal may be addressed.

(4) (a) The national Office of a contracting State whose domestic law contains provisions of the kind referred to in paragraph (1) requiring a declaration 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 of not less than sixty days from the dispatch of such a request by the said Office, the applicant shall file in the language of the application filed with the International Bureau:

(i) a declaration as to who is the true creator of the design;

(ii) a short description emphasizing the essential characteristic features of the design as shown by the photographs or other graphic representations.

(b) No fees shall be charged by a national Office in connection with the filing of such declarations or descriptions, or for their possible publication by that national Office.

(5) (a) Any contracting State whose domestic law contains provisions of the kind referred to in paragraph (1) shall notify the International Bureau accordingly.

(b) If, under its legislation, 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. Next page123

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 payment only, during the last year of each period of five years, of the renewal fees prescribed by the Regulations.

(2) Subject to the payment of a surcharge fixed by the Regulations, a period of grace of six months shall be granted for renewal of the international deposit.

(3) At the time of paying the renewal fees, the international deposit number must be indicated and also, if renewal is not to be effected for all the contracting States for which the deposit is about to expire, those of the contracting States for which the renewal is to be effected.

(4) Renewal may be limited to some only of the designs included in a multiple deposit.

(5) The International Bureau shall record and publish renewals.

Article 11

(1) (a) The term of protection granted by a contracting State to designs which ha ve been the subject of an international deposit shall not be less than:

(i) ten years from the date of the international deposit if the deposit has been renewed;

(ii) five years from the date of the international deposit in the absence of renewal.

(b) However, if, under the provisions of the domestic law of a contracting State having a novelty examination, protection commences at a date later than that of the international deposit, the minimum terms provided for in subparagraph (a) shall be computed from the date at which protection commences in that State. The fact that the international deposit is not renewed or is renewed only once shall in no way affect the minimum terms of protection thus defined.

(2) If the domestic law of a contracting State provides, in respect of designs which have been the subject of a national deposit, for protection whose duration, with or without renewal, is longer than ten years, protection of the same duration shall, on the basis of the international deposit and its renewals, be granted in that State to designs which have been the subject of an international deposit.

(3) A contracting State may, under its domestic law, limit the term of protection of designs which have been the subject of an international deposit to the terms provided for in paragraph (1).

(4) Subject to the provisions of paragraph (1)(b), protection in a contracting State shall terminate at the date of expiration of the international deposit, unless the domestic law of that State provides that protection shall continue after the date of expiration of the international deposit.

Article 12

(1) The International Bureau shall record and publish changes affecting ownership of a design which is the subject of an international deposit in force. It is understood that transfer of ownership may be limited to the rights arising from the international deposit in one or a few only of the contracting States and, in the case of a multiple deposit, to some only of 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 in respect of all or some only of the contracting States and, in the case of a multiple deposit, in respect of some only of the designs included therein.

(2) The International Bureau shall record and publish such declaration.

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 a sign or notice concerning 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, such State shall regard such requirement as satisfied if all the articles offered to the public with the authorization of the owner of the rights in the design, or the tags attached to such articles, bear the international design notice.

(3) The international design notice shall consist of the symbol (D) (a capital D in a circle) accompanied by:

(i) the year of the international deposit and the name, or the usual abbreviation of the name, of the depositor, or

(*ii*) the number of the international deposit.

(4) The mere appearance of the international design notice on the article or the tags shall in no case be interpreted as implying a waiver of protection by virtue of copyright or on any other grounds, whenever, in the absence of such notice, such protection may be claimed.

Article 15

(1) The fees prescribed by the Regulations shall consist of:

(*i*) fees for the International Bureau;

(*ii*) fees for the contracting States designated by the applicant, namely: ofoi

(a) a fee for each contracting State;

(b) a fee for each contracting State having a novelty examination and requiring the payment of a fee for such examination.

(2) Any fees paid in respect of one and the same deposit for a contracting State under paragraph (1) (*ii*) (a), shall be deducted from the amount of the fee referred to in paragraph (1) (*ii*) (b), if the latter fee becomes payable for the same State.

Article 16

(1) The fees for contracting States referred to in Article 15(1)(*ii*), 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) (*ii*) (a), in respect of international deposits of which any other contracting State making a similar waiver is deemed to be the State of origin.

(b) Such State may make a similar waiver in respect of international deposits of which it is itself deemed to be the State of origin.

Article 17

The Regulations shall govern the details concerning the implementation of this Agreement and in particular:

(*i*) the languages and the number of copies in which the application for deposit must be filed, and the data to be supplied in the application;

(*ii*) the amounts and the dates and method of payment of the fees for the International Bureau and for the States, including the limits imposed on the fee for contracting States having a novelty examination;

(iii) the number, size, and other characteristics, of the photographs or other graphic representations of each design deposited;

(iv) the length of the description of characteristic features of the design; ao

(v) the limits within which and conditions under which samples or models of the articles incorporating the design may accompany the application;

(vi) the number of designs that may be included in a multiple deposit and other conditions governing multiple deposits;

(vii) 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 may be sold at a reduced price to such Offices;

(viii) the procedure for notification by contracting States of any refusal provided for under Article 8(1), and the procedure for communication and publication of such refusals by the International Bureau;

(ix) the conditions for recording and publication by the International Bureau of the changes affecting the ownership of a design referred to in Article 12(1), and for the renunciations referred to in Article 13;

(x) the disposal of documents and articles concerning deposits for which the possibility of renewal has ceased to exist.

Article 18

The provisions of this Agreement shall not preclude the making of a claim to the benefit of any greater protection which may be granted by domestic legislation in a contracting State, nor shall they affect in any way the protection accorded to works of art and works of applied art by international copyright treaties and conventions.

Article 19

The fees of the International Bureau for services provided for by this Agreement shall be fixed in such a manner:

(a) that the proceeds therefrom cover all the expenses of the International Design Service and all those necessitated by the preparation and holding of meetings of the International Design Committee or conferences for the revision of this Agreement;

(b) that they allow for the maintenance of the reserve fund referred to in Article 20.

Article 20

(1) There shall be a reserve fund of 250,000 Swiss francs. The amount of

the reserve fund may be modified by the International Design Committee referred to in Article 21.

(2) The reserve fund shall be replenished by the surplus receipts of the International Design Service.

(3) (a) However, at the time of the entry into force of this Agreement, the reserve fund shall be constituted by a single contribution paid by each contracting State and 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 this Agreement after it enters into force shall also pay a single contribution. The contribution shall be computed according to the principles formulated in the preceding subparagraph, so that all States, whatever the date of their becoming party to the Agreement, shall pay the same contribution per unit.

(4) When the amount of the reserve fund exceeds the fixed ceiling, the surplus shall be periodically distributed among the contracting States, in proportion to the single contribution paid by each, up to the maximum amount of that contribution.

(5) When the single contributions have been fully reimbursed, the International Design Committee may decide that States subsequently becoming party to the Agreement shall not be required to pay the single contribution.

Article 21

(1) There shall be an International Design Committee consisting of representatives of all the contracting States.

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

(i) to draw up its own rules of procedure;

(ii) to amend the Regulations;

(iii) to modify the ceiling of the reserve fund referred to in Article 20;

(iv) to establish the International Design Classification;

(v) to study matters concerning the application and possible revision of this Agreement;

(vi) to study all other matters concerning the international protection of designs;

(vii) to approve the yearly management reports of the International Bureau and to give general instructions to the International Bureau concerning the discharge of the duties assigned to it under this Agreement;

(viii) to draw up a report on the foreseeable expenditure of the International Bureau for each triennial period to come.

(3) The decisions of the Committee shall require four-fifths of the votes of its members present or represented and voting in the case of items (2)*(i)*, (2)*(ii)*, (2)*(iii)*, and (2)*(iv)*, and a simple majority in all other cases. Abstentions shall not be considered as votes.

(4) The Committee shall be convened by the Director of the International Bureau:

(i) at least once every three years;

(ii) at any time at the request of one-third of the contracting States, or, if deemed necessary, upon the initiative of the Director of the International Bureau or the Government of the Swiss Confederation.

(5) The travel expenses and subsistence allowances of members of the Committee shall be borne by their respective Governments. Prev pageNext page123

Article 22

(1) The Regulations may be amended either by the Committee as prescribed in Article 21(2)*(ii)*, or in accordance with the written procedure provided for in paragraph (2), below.

(2) In the case of written procedure, amendments shall be proposed by the Director of the International Bureau in a circular letter addressed to the Government of each contracting State. The amendments shall be regarded as adopted if, within one year from their communication, no contracting State has raised an objection.

Article 23

(1) This Agreement shall remain open for signature until December 31, 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 have not signed this Agreement may accede thereto.

(2) Such accessions shall be notified through diplomatic channels to the Government of the Swiss Confederation, and by the latter to the Governments of all contracting States.

Article 25

(1) Each contracting State undertakes to provide for the protection of industrial 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 domestic law to give effect to the provisions 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 has dispatched a notification to the contracting States of the deposit of ten instruments of ratification or accession, at least four of which are those of States which, at the date of the present Agreement, are not party either to the 1925 Agreement or to the 1934 Agreement.

(2) Thereafter, the deposit of instruments of ratification and accession 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 of accession, a later 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 also apply to all or part of those territories for the external relations of which it is responsible. Thereupon, the Government of the Swiss Confederation shall communicate such notification to the contracting States and the Agreement shall apply also to the said territories one month after the dispatch of the communication by the Government of the Swiss Confederation to the contracting States unless a later 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 and on behalf of all or part of the territories designated in the notification under Article 27. 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 at the International Bureau prior to the date on which the denunciation takes effect.

Article 29

(1) This Agreement shall be submitted to periodical revision with a view to the introduction of amendments designed to improve the protection resulting from the international deposit of designs.

(2) Revision conferences shall be called at the request of the International Design Committee or of not less than one-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:

(i) a common Office shall be substituted for the national Office of each of them;

(ii) they shall be deemed to be a single State for the purposes of the application of Articles 2 to 17 of this Agreement.

(2) Such notification shall not take effect until six months after the date of dispatch of the communication thereof by the Government of the Swiss Confederation to the other contracting States.

Article 31

(1) This Agreement alone shall be applicable as regards the mutual relations of States party to both the present Agreement and the 1925 Agreement or the 1934 Agreement. However, such States shall, in their mutual relations, apply the 1925 Agreement or the 1934 Agreement, as the case may be, to designs deposited at the International Bureau prior to the date on which the present Agreement becomes applicable as regards their mutual relations.

(2) (a) Any State party to both the present Agreement and the 1925 Agreement shall continue to apply the 1925 Agreement in its relations with States party only to the 1925 Agreement, unless the said State has denounced the 1925 Agreement.

(b) Any State party to both the present Agreement and the 1934 Agreement shall continue to apply the 1934 Agreement in its relations with States party only to the 1934 Agreement, unless the said State has denounced the 1934 Agreement.

(3) States party to the present Agreement only shall not be bound to States which, without being party to the present Agreement, are party to the 1925 Agreement or the 1934 Agreement.

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 1925 Agreement or the

1934 Agreement shall be deemed to include signature and ratification of, or accession to, the Protocol annexed to the present Agreement, unless such State makes an express declaration to the contrary at the time of signing or depositing its instrument of accession.

(2) Any contracting State having made the declaration referred to in paragraph (1), or any other contracting State not party to the 1925 Agreement or the 1934 Agreement, may sign or accede to the Protocol annexed to this Agreement. At the time of signing or depositing its instrument of accession, it may declare that it does not consider itself bound by the provisions of paragraphs 1(2)(a) or 1(2)(b) of the Protocol; in such case, the other States party to the Protocol shall be under no obligation to apply, in their relations with that State, the provisions mentioned in such declaration. The provisions of Articles 23 to 28 inclusive shall apply by analogy.

Article 33

This 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 transmitted by the latter to the Government of each State which has signed or acceded to this Agreement.