# ARANJAMENTUL DE LA NISA PRIVIND CLASIFICAREA INTERNAȚIONALĂ A PRODUSELOR ȘI SERVICIILOR ÎN VEDEREA ÎNREGISTRĂRII MĂRCILOR*

ADOPTAT LA 15 IUNIE 1957, REVIZUIT LA STOCKHOLM LA 14 IULIE 1967, LA GENEVA LA 13 MAI 1977 ȘI MODIFICAT LA 28 SEPTEMBRIE 1979

# NICE AGREEMENT CONCERNING THE INTERNATIONAL CLASSIFICATION OF GOODS AND SERVICES FOR THE PURPOSES OF THE REGISTRATION OF MARKS

DONE ON JUNE 15, 1957, AS REVISED AT STOCKHOLM ON JULY 14, 1967, AT GENEVA ON MAY 13, 1977, AND AMMENDED ON SEPTEMBER 28, 1979

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* *În vigoare pentru Republica Moldova din 1 decembrie 1997*

*Article 1*

**Establishment of a Special Union; Adoption of an International Classification; Definition and Languages of the Classification**

(1) The countries to which this Agreement applies constitute a Special Union and adopt a common classification of goods and services for the purposes of the registration of marks (hereinafter designated as "the Classification").

(2) The Classification consists of:

*(i)* a list of classes, together with, as the case may be, explanatory notes;

*(ii)* an alphabetical list of goods and services (herein-after designated as "the alphabetical list") with an indication of the class into which each of the goods or services falls.

(3) The Classification comprises:

*(i)* the classification published in 1971 by the International Bureau of Intellectual Property (hereinafter designated as "the International Bureau") referred to in the Convention Establishing the World Intellectual Property Organization, it being understood, however, that the explanatory notes to the list of classes included in that publication shall be regarded as provisional and as recommendations until such time as explanatory notes to the list of classes are established by the Committee of Experts referred to in Article 3;

*(ii)* the amendments and additions which have entered into force, pursuant to Article 4(1) of the Nice Agreement of June 15, 1957, and of the Stockholm Act of July 14, 1967, of that Agreement, prior to the entry into force of the present Act;

*(iii)* any changes to be made in accordance with Article 3 of this Act and which enter into force pursuant to Article 4(1) of this Act.

(4) The Classification shall be in the English and French languages, both texts being equally authentic.

(5)(a) The classification referred to in paragraph (3)*(i)*, together with those amendments and additions referred to in paragraph (3)*(ii)* which have entered into force prior to the date this Act is opened for signature, is contained in one authentic copy, in the French language, deposited with the Director General of the World Intellectual Property Organization (hereinafter designated respectively "the Director General" and "the Organization").

Those amendments and additions referred to in paragraph (3)*(ii)* which enter into force after the date this Act is opened for signature shall also be deposited in one authentic copy, in the French language, with the Director General.

(b) The English version of the texts referred to in subparagraph (a) shall be established by the Committee of Experts referred to in Article 3 promptly after the entry into force of this Act. Its authentic copy shall be deposited with the Director General.

(c) The changes referred to in paragraph (3)*(iii)* shall be deposited in one authentic copy, in the English and French languages, with the Director General.

(6) Official texts of the Classification, in Arabic, German, Italian, Portuguese, Russian, Spanish and in such other languages as the Assembly referred to in Article 5 may designate, shall be established by the Director General, after consultation with the interested Governments and either on the basis of a translation submitted by those Governments or by any other means which do not entail financial implications for the budget of the Special Union or for the Organization.

(7) The alphabetical list shall mention, opposite each indication of goods or services, a serial number that is specific to the language in which the said list is established, together with:

*(i)* in the case of the alphabetical list established in English, the serial number mentioned in respect of the same indication in the alphabetical list established in French, and vice versa;

*(ii)* in the case of any alphabetical list established pursuant to paragraph (6), the serial number mentioned in respect of the same indication in the alphabetical list established in English or in the alphabetical list established in French.

*Article 2*

**Legal Effect and Use of the Classification**

(1) Subject to the requirements prescribed by this Agreement, the effect of the Classification shall be that attributed to it by each country of the Special Union. In particular, the Classification shall not bind the countries of the Special Union in respect of either the evaluation of the extent of the protection afforded to any given mark or the recognition of service marks.

(2) Each of the countries of the Special Union reserves the right to use the Classification either as a principal or as a subsidiary system.

(3) The competent Office of the countries of the Special Union shall include in the official documents and publications relating to registrations of marks the numbers of the classes of the Classification to which the goods or services for which the mark is registered belong.

(4) The fact that a term is included in the alphabetical list in no way affects any rights which might subsist in such a term.

*Article 3*
**Committee of Experts**

(1) A Committee of Experts shall be set up in which each country of the Special Union shall be represented.

(2)(a) The Director General may, and, if requested by the Committee of Experts, shall, invite countries outside the Special Union which are members of the Organization or party to the Paris Convention for the Protection of Industrial Property to be represented by observers at meetings of the Committee of Experts.

(b) The Director General shall invite intergovernmental organizations specialized in the field of marks, of which at least one of the member countries is a country of the Special Union, to be represented by observers at meetings of the Committee of Experts.

(c) The Director General may, and if requested by the Committee of Experts, shall, invite representatives of other intergovernmental organizations and international non-governmental organizations to participate in discussions of interest to them.

(3) The Committee of Experts shall:

*(i)* decide on changes in the Classification;

*(ii)* address recommendations to the countries of the Special Union for the purpose of facilitating the use of the Classification and promoting its uniform application;

*(iii)* take all other measures which, without entailing financial implications for the budget of the Special Union or for the Organization, contribute towards facilitating the application of the Classification by developing countries;

*(iv)* have the right to establish subcommittees and working groups.

(4) The Committee of Experts shall adopt its own rules of procedure. The latter shall provide for the possibility of participation in meetings of the subcommittees and working groups of the Committee of Experts by those intergovernmental organizations referred to in paragraph (2)(b) which can make a substantial contribution to the development of the Classification.

(5) Proposals for changes in the Classification may be made by the competent Office of any country of the Special Union, the International Bureau, any intergovernmental organization represented in the Committee of Experts pursuant to paragraph (2)(b) and any country or organization specially invited by the Committee of Experts to submit such proposals. The proposals shall be communicated to the International Bureau, which shall

submit them to the members of the Committee of Experts and to the observers not later than two months before the session of the Committee of Experts at which the said proposals are to be considered.

(6) Each country of the Special Union shall have one vote.

(7) (a)Subject to subparagraph (b), the decisions of the Committee of Experts shall require a simple majority of the countries of the Special Union represented and voting.

(b) Decisions concerning the adoption of amendments to the Classification shall require a majority of four-fifths of the countries of the Special Union represented and voting. "Amendment" shall mean any transfer of goods or services from one class to another or the creation of any new class.

(c) The rules of procedure referred to in paragraph (4) shall provide that, except in special cases, amendments to the Classification shall be adopted at the end of specified periods; the length of each period shall be determined by the Committee of Experts.

(8) Abstentions shall not be considered as votes.

*Article 4*

**Notification, Entry Into Force and Publication of Changes**

(1) Changes decided upon by the Committee of Experts and recommendations of the Committee of Experts shall be notified to the competent Offices of the countries of the Special Union by the International Bureau. Amendments shall enter into force six months after the date of dispatch of the notification. Any other change shall enter into force on a date to be specified by the Committee of Experts at the time the change is adopted.

(2) The International Bureau shall incorporate in the Classification the changes which have entered into force. Announcements of those changes shall be published in such periodicals as may be designated by the Assembly referred to in Article 5.

*Article 5*

**Assembly of the Special Union**

(1) (a) The Special Union shall have an Assembly consisting of those countries which have ratified or acceded to this Act.

(b) The Government of each country shall be represented by one delegate, who may be assisted by alternate delegates, advisors, and experts.

(c) The expenses of each delegation shall be borne by the Government which has appointed it.

(2) (a) Subject to the provisions of Articles 3 and 4, the Assembly shall:

(i) deal with all matters concerning the maintenance and development of the Special Union and the implementation of this Agreement;

(ii) give directions to the International Bureau concerning the preparation for conferences of revision, due account being taken of any comments made by those countries of the Special Union which have not ratified or acceded to this Act;

(iii) review and approve the reports and activities of the Director General of the Organization (hereinafter designated as "the Director General") concerning the Special Union, and give him all necessary instructions concerning matters within the competence of the Special Union;

(iv) determine the program and adopt the biennial budget of the Special Union, and approve its final accounts;

(v) adopt the financial regulations of the Special Union;

(vi) establish, in addition to the Committee of Experts referred to in Article 3, such other committees of experts and working groups as it may deem necessary to achieve the objectives of the Special Union;

(vii) determine which countries not members of the Special Union and which intergovernmental and international non-governmental organizations shall be admitted to its meetings as observers;

(viii) adopt amendments to Articles 5 to 8;

(ix) take any other appropriate action designed to further the objectives of the Special Union;

(x) perform such other functions as are appropriate under this Agreement.

(b) With respect to matters which are of interest also to other Unions administered by the Organization, the Assembly shall make its decisions after having heard the advice of the Coordination Committee of the Organization.

(3) (a) Each country member of the Assembly shall have one vote.

(b) One-half of the countries members of the Assembly shall constitute a quorum.

(c) Notwithstanding the provisions of subparagraph (b), if, in any session, the number of countries represented is less than one-half but equal to or more than one-third of the countries members of the Assembly, the Assembly may make decisions but, with the exception of decisions concerning its own procedure, all such decisions shall take effect only if the conditions set forth hereinafter are fulfilled. The International Bureau shall communicate the said decisions to the countries members of the Assembly which were not represented and shall invite them to express in writing their vote or abstention within a period of three months from the date of the communication. If, at the expiration of this period, the number of countries having thus ex-

pressed their vote or abstention attains the number of countries which was lacking for attaining the quorum in the session itself, such decisions shall take effect provided that at the same time the required majority still obtains.

(d) Subject to the provisions of Article 8(2), the decisions of the Assembly shall require two-thirds of the votes cast.

(e) Abstentions shall not be considered as votes.

(f) A delegate may represent, and vote in the name of, one country only.

(g) Countries of the Special Union not members of the Assembly shall be admitted to the meetings of the latter as observers.

(4) (a) The Assembly shall meet once in every second calendar year in ordinary session upon convocation by the Director General and, in the absence of exceptional circumstances, during the same period and at the same place as the General Assembly of the Organization.

(b) The Assembly shall meet in extraordinary session upon convocation by the Director General, at the request of one-fourth of the countries members of the Assembly.

(c) The agenda of each session shall be prepared by the Director General.

(5) The Assembly shall adopt its own rules of procedure.

*Article 6*

**International Bureau**

(1) (a) Administrative tasks concerning the Special Union shall be performed by the International Bureau.

(b) In particular, the International Bureau shall prepare the meetings and provide the secretariat of the Assembly, the Committee of Experts, and such other committees of experts and working groups as may have been established by the Assembly or the Committee of Experts.

(c) The Director General shall be the chief executive of the Special Union and shall represent the Special Union.

(2) The Director General and any staff member designated by him shall participate, without the right to vote, in all meetings of the Assembly, the Committee of Experts, and such other committees of experts or working groups as may have been established by the Assembly or the Committee of Experts. The Director General, or a staff member designated by him, shall be ex officio secretary of those bodies.

(3) (a) The International Bureau shall, in accordance with the directions of the Assembly, make the preparations for the conferences of revision of the provisions of the Agreement other than Articles 5 to 8.

(b) The International Bureau may consult with intergovernmental and international non-governmental organizations concerning preparations for conferences of revision.

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

(4) The International Bureau shall carry out any other tasks assigned to it.

*Article 7*
**Finances**

(1) (a) The Special Union shall have a budget.

(b) The budget of the Special Union shall include the income and expenses proper to the Special Union, its contribution to the budget of expenses common to the Unions, and, where applicable, the sum made available to the budget of the Conference of the Organization.

(c) Expenses not attributable exclusively to the Special Union but also to one or more other Unions administered by the Organization shall be considered as expenses common to the Unions. The share of the Special Union in such common expenses shall be in proportion to the interest the Special Union has in them.

(2) The budget of the Special Union shall be established with due regard to the requirements of coordination with the budgets of the other Unions administered by the Organization.

(3) The budget of the Special Union shall be financed from the following sources:

*(i)* contributions of the countries of the Special Union;

*(ii)* fees and charges due for services rendered by the International Bureau in relation to the Special Union;

*(iii)* sale of, or royalties on, the publications of the International Bureau concerning the Special Union;

*(iv)* gifts, bequests, and subventions;

*(v)* rents, interests, and other miscellaneous income.

(4) (a) For the purpose of establishing its contribution referred to in paragraph (3)*(i)*, each country of the Special Union shall belong to the same class as it belongs to in the Paris Union for the Protection of Industrial Property, and shall pay its annual contributions on the basis of the same number of units as is fixed for that class in that Union.

(b) The annual contribution of each country of the Special Union shall be an amount in the same proportion to the total sum to be contributed to the budget of the Special Union by all countries as the number of its units is to the total of the units of all contributing countries.

(c) Contributions shall become due on the first of January of each year.

(d) A country which is in arrears in the payment of its contributions may not exercise its right to vote in any organ of the Special Union if the amount of its arrears equals or exceeds the amount of the contributions due from it for the preceding two full years. However, any organ of the Special Union may allow such a country to continue to exercise its right to vote in that organ if, and as long as, it is satisfied that the delay in payment is due to exceptional and unavoidable circumstances.

(e) If the budget is not adopted before the beginning of a new financial period, it shall be at the same level as the budget of the previous year, as provided in the financial regulations.

(5) The amount of the fees and charges due for services rendered by the International Bureau in relation to the Special Union shall be established, and shall be reported to the Assembly, by the Director General.

(6) (a) The Special Union shall have a working capital fund which shall be constituted by a single payment made by each country of the Special Union. If the fund becomes insufficient, the Assembly shall decide to increase it.

(b) The amount of the initial payment of each country to the said fund or of its participation in the increase thereof shall be a proportion of the contribution of that country for the year in which the fund is established or the decision to increase it is made.

(c) The proportion and the terms of payment shall be fixed by the Assembly on the proposal of the Director General and after it has heard the advice of the Coordination Committee of the Organization.

(7) (a) In the headquarters agreement concluded with the country on the territory of which the Organization has its headquarters, it shall be provided that, whenever the working capital fund is insufficient, such country shall grant advances. The amount of those advances and the conditions on which they are granted shall be the subject of separate agreements, in each case, between such country and the Organization.

(b) The country referred to in subparagraph (a) and the Organization shall each have the right to denounce the obligation to grant advances, by written notification. Denunciation shall take effect three years after the end of the year in which it has been notified.

(8) The auditing of the accounts shall be effected by one or more of the countries of the Special Union or by external auditors, as provided in the financial regulations. They shall be designated, with their agreement, by the Assembly.

*Article 8*

**Amendment of Articles 5 to 8**

(1) Proposals for the amendment of Articles 5, 6, 7, and the present Article, may be initiated by any country member of the Assembly, or by the Director General. Such proposals shall be communicated by the Director General to the member countries of the Assembly at least six months in advance of their consideration by the Assembly.

(2) Amendments to the Articles referred to in paragraph (1) shall be adopted by the Assembly. Adoption shall require three-fourths of the votes cast, provided that any amendment to Article 5, and to the present paragraph, shall require four-fifths of the votes cast.

(3) Any amendment to the Articles referred to in paragraph (1) shall enter into force one month after written notifications of acceptance, effected in accordance with their respective constitutional processes, have been received by the Director General from three-fourths of the countries members of the Assembly at the time it adopted the amendment. Any amendment to the said Articles thus accepted shall bind all the countries which are members of the Assembly at the time the amendment enters into force, or which become members thereof at a subsequent date, provided that any amendment increasing the financial obligations of countries of the Special Union shall bind only those countries which have notified their acceptance of such amendment.

*Article 9*

**Ratification and Accession; Entry Into Force**

(1) Any country of the Special Union which has signed this Act may ratify it, and, if it has not signed it, may accede to it.

(2) Any country outside the Special Union which is party to the Paris Convention for the Protection of Industrial Property may accede to this Act and thereby become a country of the Special Union.

(3) Instruments of ratification and accession shall be deposited with the Director General.

(4) (a) This Act shall enter into force three months after both of the following conditions are fulfilled:

*(i)* six or more countries have deposited their instruments of ratification or accession;

*(ii)* at least three of the said countries are countries which, on the date this Act is opened for signature, are countries of the Special Union.

(b) The entry into force referred to in subparagraph (a) shall apply to those countries which, at least three months before the said entry into force, have deposited instruments of ratification or accession.

(c) With respect to any country not covered by subparagraph (b), this Act

shall enter into force three months after the date on which its ratification or accession was notified by the Director General, unless a subsequent date has been indicated in the instrument of ratification or accession. In the latter case, this Act shall enter into force with respect to that country on the date thus indicated.

(5) Ratification or accession shall automatically entail acceptance of all the clauses and admission to all the advantages of this Act.

(6) After the entry into force of this Act, no country may ratify or accede to an earlier Act of this Agreement.

*Article 10*
**Duration**

This Agreement shall have the same duration as the Paris Convention for the Protection of Industrial Property.

*Article 11*
**Revision**

(1) This Agreement may be revised from time to time by a conference of the countries of the Special Union.

(2) The convocation of any revision conference shall be decided upon by the Assembly.

(3) Articles 5 to 8 may be amended either by a revision conference or according to Article 8.

*Article 12*
**Denunciation**

(1) Any country may denounce this Act by notification addressed to the Director General. Such denunciation shall constitute also denunciation of the earlier Act or Acts of this Agreement which the country denouncing this Act may have ratified or acceded to, and shall affect only the country making it, the Agreement remaining in full force and effect as regards the other countries of the Special Union.

(2) Denunciation shall take effect one year after the day on which the Director General has received the notification.

(3) The right of denunciation provided by this Article shall not be exercised by any country before the expiration of five years from the date upon which it becomes a country of the Special Union.

*Article 13*
**Reference to Article 24 of the Paris Convention**

The provisions of Article 24 of the Stockholm Act of 1967 of the Paris

Convention for the Protection of Industrial Property shall apply to this Agreement, provided that, if those provisions are amended in the future, the latest amendment shall apply to this Agreement with respect to those countries of the Special Union which are bound by such amendment.

*Article 14*

**Signature; Languages; Depositary Functions; Notifications**

(1) (a) This Act shall be signed in a single original in the English and French languages, both texts being equally authentic, and shall be deposited with the Director General.

(b) Official texts of this Act shall be established by the Director General, after consultation with the interested Governments and within two months from the date of signature of this Act, in the two other languages, Russian and Spanish, in which, together with the languages referred to in subparagraph (a), authentic texts of the Convention Establishing the World Intellectual Property Organization were signed.

(c) Official texts of this Act shall be established by the Director General, after consultation with the interested Governments, in the Arabic, German, Italian and Portuguese languages, and such other languages as the Assembly may designate.

(2) This Act shall remain open for signature until December 31, 1977.

(3) (a) The Director General shall transmit two copies, certified by him, of the signed text of this Act to the Governments of all countries of the Special Union and, on request, to the Government of any other country.

(b) The Director General shall transmit two copies, certified by him, of any amendment to this Act to the Governments of all countries of the Special Union and, on request, to the Government of any other country.

(4) The Director General shall register this Act with the Secretariat of the United Nations.

(5) The Director General shall notify the Governments of all countries party to the Paris Convention for the Protection of Industrial Property of:

*(i)* signatures under paragraph (1);

*(ii)* deposits of instruments of ratification or accession under Article 9(3);

*(iii)* the date of entry into force of this Act under Article 9(4)(a);

*(iv)* acceptances of amendments to this Act under Article 8(3);

*(v)* the dates on which such amendments enter into force;

*(vi)* denunciations received under Article 12.