ARANJAMENTUL DE LA VIENA PRIVIND INSTITUIREA CLASIFICĂRII INTERNAȚIONALE A ELEMENTELOR FIGURATIVE ALE MĂRCILOR*

ÎNTOCMIT LA 12 IUNIE 1973 ȘI MODIFICAT LA 1 OCTOMBRIE 1985

VIENNA AGREEMENT ESTABLISHING AN INTERNATIONAL CLASIFICATION OF THE FIGURATIVE ELEMENTS OF MARKS,

DONE ON JUNE 12, 1973 AND MODIFIED ON OCTOBER 1, 1985

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

Article 1

Establishment of a Special Union; Adoption of an International Classification

The countries to which this Agreement applies constitute a Special Union and adopt a common classification for the figurative elements of marks (hereinafter designated as "the Classification of Figurative Elements").

Article 2

Definition and Deposit of the Classification of Figurative Elements

(1) The Classification of Figurative Elements comprises a list of categories, divisions and sections in which the figurative elements of marks are classified, together with, as the case may be, explanatory notes.

(2) The Classification of Figurative Elements is contained in one authentic copy, in the English and French languages, signed by the Director General of the World Intellectual Property Organization (hereinafter designated respectively as "the Director General" and "the Organization") and deposited with him at the time that this Agreement is opened for signature.

(3) The amendments and additions referred to in Article 5(3)*(i)* shall also be contained in one authentic copy, in the English and French languages, signed by the Director General and deposited with him.

Article 3

Languages of the Classification of Figurative Elements

(1) The Classification of Figurative Elements shall be established in the English and French languages, both texts being equally authentic.

(2) The International Bureau of the Organization (hereinafter designated as "the International Bureau") shall establish, in consultation with the interested Governments, official texts of the Classification of Figurative Elements in the languages which the Assembly referred to in Article 7 may designate in accordance with paragraph (2)(a)*(vi)* of that Article.

Article 4

Use of the Classification of Figurative Elements

(1) Subject to the requirements prescribed by this Agreement, the scope

of the Classification of Figurative Elements shall be that attributed to it by each country of the Special Union. In particular, the Classification of Figurative Elements shall not bind the countries of the Special Union in respect of the extent of the protection afforded to the mark.

(2) The competent Offices of the countries of the Special Union shall have the right to use the Classification of Figurative Elements either as a principal or as a subsidiary system.

(3) The competent Offices of the countries of the Special Union shall include in the official documents and publications relating to registrations and renewals of marks the numbers of the categories, divisions and sections in which the figurative elements of those marks are to be placed.

(4) The said numbers shall be preceded by the words "Classification of Figurative Elements" or an abbreviation thereof to be determined by the Committee of Experts referred to in Article 5.

(5) Any country may, at the time of its signature or of the deposit of its instrument of ratification or accession, declare that it does not undertake to include the numbers of all or some of the sections in official documents and publications relating to registrations and renewals of marks.

(6) If any country of the Special Union entrusts the registration of marks to an intergovernmental authority, it shall take all possible measures to ensure that that authority uses the Classification of Figurative Elements in accordance with this Article.

Article 5

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 not members of 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 party to this Agreement, 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 and international non-governmental organizations to participate in discussions of interest to them.

(3) The Committee of Experts shall:

(i) make amendments and additions to the Classification of Figurative Elements;

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

(iii) take all the 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 of Figurative Elements 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 of Figurative Elements.

(5) Proposals for amendments or additions to the Classification of Figurative Elements 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) (a) Each country member of the Committee of Experts shall have one vote.

(b) The decisions of the Committee of Experts shall require a simple majority of the countries represented and voting.

(c) Any decision which is regarded by one-fifth of the countries represented and voting as giving rise to a modification of the basic structure of the Classification of Figurative Elements or as entailing a substantial amount of reclassification shall require a majority of three-fourths of the countries represented and voting.

(d) Abstentions shall not be considered as votes.

Article 6

Notification, Entry Into Force and Publication of Amendments and Additions and of Other Decisions

(1) Every decision of the Committee of Experts concerning the adoption

of amendments and additions to the Classification of Figurative Elements, and the recommendations of the Committee of Experts, shall be notified by the International Bureau to the competent Offices of the countries of the Special Union. The amendments and additions shall enter into force six months after the date of dispatch of the notifications.

(2) The International Bureau shall incorporate in the Classification of Figurative Elements amendments and additions which have entered into force. Announcements of the amendments and additions shall be published in such periodicals as may be designated by the Assembly referred to in Article 7.

Article 7
Assembly of the Special Union

(1)(a) The Special Union shall have an Assembly consisting of the countries of the Special Union.

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

(c) Any intergovernmental organization referred to in Article 5(2)(b) may be represented by an observer in the meetings of the Assembly, and, if the Assembly so decides, in those of such committees or working groups as may have been established by the Assembly.

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

(2)(a) Subject to the provisions of Article 5, 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 revision conferences;

(iii) review and approve the reports and activities of 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) decide on the establishment of official texts of the Classification of Figurative Elements in languages other than English and French;

(vii) establish such committees and working groups as it deems appropriate to achieve the objectives of the Special Union;

(viii) determine, subject to paragraph (l)(c), which countries not members of the Special Union and which intergovernmental and international non-governmental organizations shall be admitted as observers to its meetings, and to those of any committee or working group established by it;

(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 decision 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) In the absence of the quorum, 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 expressed 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 11(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.

(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 8
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 or 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 of vote, in all meetings of the Assembly, the Committee of Experts and such other committees 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 revision conferences.

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

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

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

Article 9
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 administered by the Organization 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 contribution 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 was notified.

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

Article 10

Revision of the Agreement

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

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

(3) Articles 7, 8, 9 and 11 may be amended either by a revision conference of according to the provisions of Article 11.

Article 11

Amendment of Certain Provisions of the Agreement

(1) Proposals for the amendment of Articles 7, 8, 9 and of the present Article may be initiated by any country of the Special Union or by the Director General. Such proposals shall be communicated by the Director General to the countries of the Special Union 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-fourth of the votes cast, provided that any amendment to Article 7 and to the present paragraph shall require four-fifth of the votes cast.

(3)(a) Any amendment to the Articles referred to in paragraph (1) shall enter into force one month after written notification of acceptance, effected in accordance with their respective constitutional process, have been received by the Director General from three-fourth of the countries members of the Special Union at the time the amendment was adopted.

(b) Any amendment to the said Articles thus accepted shall bind all the countries which are members of the Special Union at the time the amendment enters into force, 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.

(c) Any amendment accepted in accordance with the provisions of subparagraph (a) shall bind all countries which the amendment entered into force in accordance with the provisions of subparagraph (a).

Article 12

Becoming Party to the Agreement

(1) Any country party to the Paris Convention for the Protection of Industrial Property may become party to this Agreement by:

(i) signature followed by the deposit of an instrument of ratification, or

(ii) deposit of an instrument of accession.

(2) Instrument of ratification or accession shall be deposited with the Director General.

(3) The provisions of Article 24 of the Stockholm Act of the Paris Convention for the Protection of Industrial Property shall apply to this Agreement.

(4) Paragraph (3) shall in no way be understood as implying the recognition or tacit acceptance by a country of the Special Union of the factual situation concerning a territory to which this Agreement is made applicable by another country by virtue of the said paragraph.

Article 13

Entry Into Force of the Agreement

(1) With respect to the first five countries which have deposited their instruments of ratification or accession, this Agreement shall enter into force three months after the fifth instrument of ratification or accession has been deposited.

(2) With respect to any country other than those for which this Agreement has entered into force in accordance with paragraph (1), it 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 Agreement shall enter into force with respect to that country on the date thus indicated.

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

Article 14
Duration of the Agreement

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

Article 15
Denunciation

(1) Any country of the Special Union may denounce this Agreement by notification addressed to the Director General.

(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 member of the Special Union.

Article 16
Disputes

(1) Any dispute between two or more countries of the Special Union concerning the interpretation or application of this Agreement, not settled by negotiation, may, by any one of the countries concerned, be brought before the International Court of Justice by application in conformity with the Statute of the Court, unless the countries concerned agree on some other method of settlement. The country bringing the dispute before the Court shall inform the International Bureau; the International Bureau shall bring the matter to the attention of the other countries of the Special Union.

(2) Each country may, at the time it signs this Agreement or deposits its instrument of ratification or accession, declare that it does not consider itself bound by the provisions of paragraph (1). With regard to any dispute between any country having made such a declaration and any other country of the Special Union, the provisions of paragraph (1) shall not apply.

(3) Any country having made a declaration in accordance with the provisions of paragraph (2) may, at any time, withdraw its declaration by notification addressed to the Director General.

Article 17

Signature, Languages, Depositary Functions, Notifications

(1) (a) This Agreement shall be signed in a single original in the English and French languages, both texts being equally authentic.

(b) This Agreement shall remain open for signature at Vienna until December 31, 1973.

(c) The original of this Agreement, when no longer open for signature, shall be deposited with the Director General.

(2) Official texts shall be established by the Director General, after consultation with the interested Governments, in such other languages as the Assembly may designate.

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

(c) The Director General shall, on request, furnish the Government of any country that has signed this Agreement, or that accedes to it, with two copies of the Classification of Figurative Elements, certified by him, in the English or French language.

(4) The Director General shall register this Agreement 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 12(2);

(iii) the date of entry into force of this Agreement under Article 13(1);

(iv) declarations made under Article 4(5);

(v) declarations and notifications made in accordance with Article 12(3);

(vi) declarations made under Article 16(2);

(vii) withdrawals of any declarations, notified under Article 16(3);

(viii) acceptances of amendments to this Agreement under Article 11(3);

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

(x) denunciations received under Article 15.