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The International
Design System

Legislative Key Points for Acceding to the Geneva (1999) Act; Possible Declarations under the 1999 Act and the Common Regulations

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**LEGISLATIVE KEY POINTS FOR
ACCEDING TO THE GENEVA (1999) ACT;
BASIC POINTS FOR IMPLEMENTING LEGISLATION**

Basic Points for Implementing Legislation

■ Recognizing Effects of an International Registration

Article 14(1) – Effect as application;

Article 14(2) – Effect as grant of protection

■ Refusal Possible But in Line with the Hague System

Article 12(1) – No refusal possible based on formal grounds;

Rule 18(1) – Time limit (6 or 12 months)

■ Use of the Official Language(s)

Rule 6 – English, French or Spanish

Basic Points for Implementing Legislation

■ Recognizing Effect of the recording of a change

Article 16(2) – Same as in the national register

■ Duration of Protection

Article 17(3)(a) – Minimum 15 years;

Article 17(3)(b) – Same as for national registrations

■ Accepting Indirect Filings

Article 4 – May prohibit through a declaration under Article 4(1)(b)

DECLARATIONS UNDER THE 1999 ACT AND THE COMMON REGULATIONS

Types of Possible Declarations

- Type A: obligatory; Article 17(3)(c)
- Type B: no condition; Article 4(1)(b)
- Type C: only if the national law so provides
Articles 11(1)(a), 11(1)(b), 13(1), 16(2),
Rules 8(1), 9(3)(a), 13(4)
- Type D: only if certain conditions are met
Articles 5(2)(a), 7(2)(+R12(3) as option), 14(3)(a)
Rules 12(1)(c)(i), 18(1)(b) (+1)(c) as option)

Type A: Obligatory

■ Article 17(3)(c)

Maximum duration of protection provided for by the national law.

Notes:

- must be counted from the date of international registration (Article 17(3)(a));
- must be at least 15 years (Article 17(3)(a)).

Type B: No condition

■ Article 4(1)(b)

Prohibition of filing international applications through the Office of the applicant's Contracting Party.

Notes:

- useful if the Office does not wish to handle international applications;
- can limit the language of filing to one or two of the three official languages, without making this declaration.

Type C: If the national law so provides

- Article 11(1)(a)

If the deferment period is shorter than 30 months.

- Article 11(1)(b)

If deferment of publication is not possible.

Notes:

- these declarations are optional, but normally opted for in line with the national law.

Type C: If the national law so provides

■ Article 13(1)

If there is a certain requirement, such as “unity of design”, “unity of use”, “set items”, in order for several designs to be included in a single application.

■ Rule 9(3)(a)

If certain specific “views” of the product are required (but not more than one view for a two-dimensional product, not more than six views for a three-dimensional product).

Notes:

- these declarations are optional.

Type C: If the national law so provides

■ Rule 8(1)

If the application must be filed in the name of the creator of the design, or the law requires the submission of an oath or declaration of the creator.

Notes:

- this declaration is optional;
- should specify the form and contents (but strongly recommended to follow the standard text).

Type C: If the national law so provides

■ Article 16(2)

If the new owner must submit a certain document for him/her to be recorded as such in the national register where the application/registration is assigned.

Notes:

- this declaration is optional;
- not recommended for the sake of the users of the system.

Type D: If certain conditions are met

- Main Condition; “Examining Office” (Article 1(xvii))
 - must perform ex-officio examination, and
 - must examine the condition of novelty.

Notes:

- must satisfy both criteria;
- must perform novelty search which should be beyond checking similarity with prior registrations and applications.

Type D: if certain conditions are met

■ Article 14(3)(a)

Prohibition of a self-designation (where “the applicant’s Contracting Party” is designated).

Conditions: “Examining Office”

Notes:

- this declaration is optional;
- not recommended for the sake of the users of the system (none of the present CPs, no potential CP expected).

Type D: If certain conditions are met

■ Article 5(2)(a)

If the application must contain any of the following items referred to in Article 5(2)(b):

- (i) identity of the creator of the design;
- (ii) description of the reproduction or of the design;
- (iii) claim.

Conditions:

- “Examining Office”, and
- the item in question is required to obtain a filing date.

Notes:

- this declaration is optional;
- must specify the item in question;
- both conditions must apply under the national law at the time of ratification/accession.

Type D: If certain conditions are met

■ Rule 18(1)(b)

Extension of the refusal period from 6 months to 12 months.

Conditions:

- “Examining Office”, or
- opposition procedure.

Notes:

- this declaration is optional;
- invalidation or post-grant opposition system is not relevant;
- additional declaration is possible under Rule 18(1)(c)(i) or (ii).

Type D: If certain conditions are met

■ Article 7(2)

Individual designation Fee (for international applications and for renewal), instead of standard designation fees.

Conditions:

- “Examining Office”, or
- “Intergovernmental Organization”.

Notes:

- this declaration is optional;
- may not ask an amount higher than the amount applicable for a national application/registration, that amount being diminished by the savings resulting from the IB’s work;
- additional declaration is possible under Rule 12(3).

Type D: If certain conditions are met

■ Rule 12(1)(c)(i)

Level 2 or 3 of the standard designation fee (for international applications):

- level 1: 42 CHF for first design + 2 CHF for each additional design
- level 2: 60 CHF for first design +20 CHF for each additional design
- level 3: 90 CHF for first design +50 CHF for each additional design

Conditions:

- for level 2; performing examination on substantive grounds other than novelty;
- for level 3; performing novelty examination, *ex-officio*, or following opposition by third parties.

Notes:

- this declaration is optional;
- novelty examination for level 3 may be limited novelty examination.

Formality and tips

- Must be signed by either of:
 - Head of State,
 - Head of Government, or
 - Minister of Foreign Affairs

- Tips:
 - preferably in a separate sheet annexed to the instrument of ratification / accession

 - advance consultation with the IB



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THANK YOU!