



ARISE+

ASEAN Intellectual Property Rights



A practical guide for
Cambodian design creators
& entrepreneurs

THE HAGUE SYSTEM

BRINGING
CAMBODIAN DESIGN
TO THE WORLD



Funded by the European Union





THE HAGUE SYSTEM

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ABOUT ARISE+ IPR

The ARISE Plus Intellectual Property Rights (ARISE+ IPR) programme is one of the components under the Enhanced ASEAN Regional Integration Support from the European Union (EU), or ARISE Plus. The five year, €5.5 million ARISE+ IPR programme supports regional integration through intellectual property (IP) cooperation and aims to upgrade the IP systems for creation, protection, utilisation, administration and enforcement, in line with international best practices and standards and the strategic objectives of the ASEAN IPR Action Plan 2016-2025.

ARISE+ IPR aims to:

- Enhance participation of ASEAN Member States in international IP treaties and global systems
- Contribute to institutional capacity building towards more efficient ASEAN IP offices
- Increase political and public awareness of the importance of IP protection and enforcement
- Reinforce the capacity of ASEAN businesses to commercialise and protect their IP rights
- Provide tailor-made support to Cambodia, Lao PDR and Myanmar

Working closely with the ASEAN Member States and the ASEAN Secretariat, the ARISE+ IPR programme further consolidates the benefits of strong IP protections in the region. Through a series of capacity building initiatives, development of information tools, exchange of best practices, adoption of international standards, and awareness-raising campaigns to promote the use, protection, and enforcement of IP rights, the programme foresees improved outcomes for EU and ASEAN IP administrations, enforcement agencies, local and international businesses, as well as the general public.

ARISE+ IPR works towards establishing a highly developed IP regime across ASEAN Member States that fosters innovation, trade and investment in the region.

FOREWORD FROM THE AMBASSADOR OF THE EUROPEAN UNION TO CAMBODIA

The European Union (EU) places the highest importance on its relations with the Association of Southeast Asian Nations (ASEAN), which is reflected in our development cooperation, at the regional level and at the bilateral level with Cambodia. By funding the flagship programme "ASEAN Regional Integration Support from the EU" (ARISE Plus) for a total amount of EUR 40 million we support greater economic integration, in line with the ASEAN Economic Community (AEC) Blueprint 2025.

ARISE Plus is structured to reflect AEC priorities, including the protection of intellectual property rights (IPR) through a dedicated programme. ARISE Plus IPR is implemented by the EU Intellectual Property Office (EUIPO) and supports regional integration of intellectual property practices and standards amongst ASEAN Member States. This regional programme is complemented by national components such as Arise Plus Cambodia, which supports greater connectivity and economic integration between Cambodia and the rest of ASEAN.

Intellectual property rights and their enforcement are key to furthering the EU-ASEAN bilateral trade in goods, which reached EUR 201.1 billion in 2017. Indeed, a strong intellectual property protection system encourages innovation, guarantees economic incentives for creators, fosters investor confidence and leads to increased economic growth and employment. Industrial design is one of the important intellectual property rights in the ASEAN region and in Cambodia, which prides itself on the creativity of its people.

One of the key considerations for designers worldwide is how to register and protect their designs overseas, in the most cost-effective way. The Hague System provides a simple, convenient and cost-effective means to register up to 100 designs in 70 contracting parties, using a single application in one language for multiple countries and paying one set of fees. Cambodia joined the Hague System in 2017.

This booklet, "The Hague System: Bringing Cambodian Design to the World", is a comprehensive guide for businesses and designers in Cambodia wishing to protect their industrial designs internationally, detailing the advantages of the Hague System, procedures and fees, and domestic requirements, among many other useful aspects of design registration.

A dedicated chapter on protecting industrial designs in the European Union highlights the benefits of Registered Community Design registration, which provides protection in all 28 EU Member States. Better understanding the Hague system and its application process should encourage businesses to register their designs, ensuring that they are protected and can reap the full benefits of their creations. This will stimulate continued innovation, as well as further investments.

"The Madrid Protocol: A Route to Global Branding", a comprehensive guide for businesses in Cambodia wishing to protect their trademarks internationally, is being published simultaneously and may also be of interest to designers looking for additional protection for their trading name and brands.

The EU looks forward to continuing its cooperation with Cambodia and ASEAN to positively influence the business environment, and to promote protection, guarantees and incentives for businesses and creators.

George Edgar
Ambassador of the European Union to the Kingdom of Cambodia

■ MESSAGE FROM THE MINISTRY OF INDUSTRY & HANDICRAFT OF THE KINGDOM OF CAMBODIA

The Ministry of Industry & Handicraft of Cambodia is pleased to see this publication on the Hague System, which includes important information on Cambodian designs. It is prepared by the ARISE+ IPR project under the Enhanced ASEAN Regional Integration Support of the European Union in cooperation with the Department of Industrial Property (DIP), and the General Department of Industry (GDI) of the Ministry of Industry & Handicraft (MIH) of the Kingdom of Cambodia.

The Royal Government of Cambodia deposited its instrument of accession to the World Intellectual Property Organization (WIPO) for the Geneva Act (1999) of the Hague Agreement on the International Registration of Industrial Designs on November 25, 2016.

With respect to Cambodia, the 1999 Act entered into force on February 25, 2017, enabling users of the Hague System to designate Cambodia in international design applications.

The Hague System has brought about the advantage of protecting industrial designs in more than 80 countries worldwide through the implementation of very simple procedures for filing industrial design applications, and in paying a reduced fee to enable effective industrial design management. This is particularly relevant for small and medium-sized enterprises (SMEs), who are significant users of the Hague System to enjoy the benefits from the related cost savings.

Therefore, this booklet is for inventors, creators, designers, small and medium-sized enterprises (SMEs), entrepreneurs, and other related stakeholders to understand and improve their knowledge on the international system for industrial designs, and use it as a tool to seek the best way to protect their industrial designs internationally.

The Ministry of Industry & Handicraft considers this booklet as the main practical guide for Cambodian design creators and entrepreneurs in protecting their industrial designs abroad, and in enjoying industrial design rights in export markets in which they wish to commercialise their products.

The Ministry of Industry & Handicraft is looking forward to continue its cooperation with the ARISE+ IPR project in upgrading the protection of intellectual property rights. The Ministry also hopes that this booklet will benefit Cambodian designers, by helping them protect their intellectual property rights better, and further disseminating Cambodian industrial design internationally.

Finally, the Ministry of Industry & Handicraft of the Royal Government of Cambodia would like to express our sincere thanks to the ARISE+ IPR project, and the European Union for their support and cooperation in bringing about this fruitful result.

H.E. Kitti Settha Pandita CHAM Prasidh
Senior Minister
Minister of Industry & Handicraft



1. YOUR INDUSTRIAL DESIGN – A MOST VALUABLE ASSET

An industrial design is the outward appearance of a product or part of it, resulting from the lines, contours, colours, shape, texture, materials and/or its ornamentation. An industrial design may consist of three-dimensional features, such as the shape of an article, or two-dimensional features, such as patterns, lines or color. Through industrial design innovation you can differentiate your products from those of your competitors and make them more attractive for consumers.

1.1. DESIGN STRATEGIES AND BUSINESS SUCCESS

All types of companies, from SMEs to huge multinationals, pay increasing attention to industrial design in the context of product development and marketing strategies. Industrial designs create emotional connections with consumers and add value to your products. They help you gain a distinctive presence in the market, build your own brand and attract and retain loyal customers. Design strategies are at the core of sustained market competitiveness and business success.

1.2. DESIGN CREATION, MANAGEMENT AND COMMERCIALISATION

Design creation relies on the work of innovative designers working individually or within a company. A successful design strategy implies not only promoting design creation but also industrial design protection. Legally protected industrial designs confer on their owner the exclusive right to prevent third parties from using them in the market.

To obtain legal protection of your designs in Cambodia, you can register your industrial designs at the Department of Industrial Property (DIP), General Department of Industry (GDI), Ministry of Industry & Handicraft. The registration of your industrial design in Cambodia has a duration of five years, renewable for additional periods of five years up to a maximum of 15 years. Your industrial design registered by DIP can be enforced against infringers and counterfeiters in Cambodia. The assignment and licensing of your design rights may play a significant role in brand commercialisation through partnership, merger and franchising initiatives.

1.3. PROTECTING YOUR DESIGN IN EXPORT MARKETS

Protecting your industrial designs outside of Cambodia implies acquiring industrial design rights in each of the export markets where you wish to commercialise your products. Industrial design rights are territorial in nature and are only valid within the territory of a country (national design) or a group of countries having established a regional design protection system (e.g. the European Union). In principle, to acquire design rights you need to file separate design applications at the industrial property (IP) offices of the countries where you wish to have your designs protected. Once you get your rights in those countries you will need to follow separate procedures at those same offices to manage your rights (renew, license, or assign them). However, having a connection with Cambodia (nationality, domicile, habitual residence or establishment), you are entitled to take advantage of an alternative, more attractive, cost-effective and user-friendly route to acquire and manage your design rights in many countries by making use of the Hague System for the international registration of industrial designs, which Cambodia joined in February 2017.

■ 2. THE HAGUE SYSTEM – A ONE-STOP SOLUTION TO PROTECT YOUR INDUSTRIAL DESIGNS AT HOME AND ABROAD

If you are a Cambodian design creator or a design company based in Cambodia, you can take advantage of the Hague System to protect your industrial designs in more than eighty countries around the world, following a very simple and cost-effective procedure for filing your industrial design applications and managing your industrial design registrations.

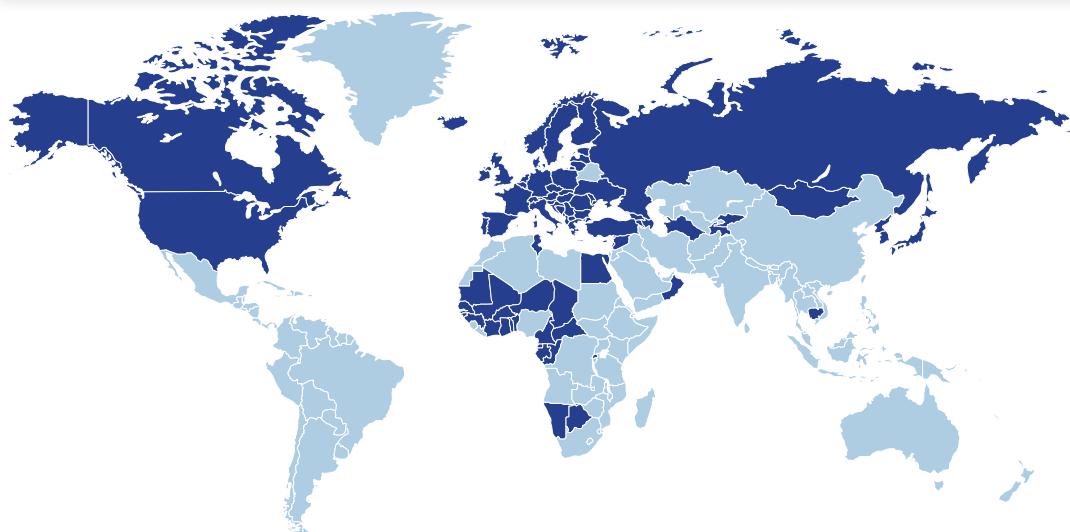
2.1. HAGUE UNION MEMBERS – ATTRACTIVE MARKETS FOR CAMBODIAN EXPORTS

All the Contracting Parties to the Hague Agreement (Geneva Act), including Cambodia, are members of the Hague Union. They include 56 States and two intergovernmental organisations (the European Union and the African Intellectual Property Organisation), covering the territories of 83 countries (see list on page 23), where you can get protection for your designs through the Hague System. They represent a large volume of world trade flows and constitute very attractive markets for Cambodian exports.

Most of the top trading partners of Cambodia are Hague Union members. The 15 top importers of Cambodian products, having accounted for more than four-fifths (83.3%) of Cambodian exports in 2016, include 11 Hague Union members, namely (by order of export values): United States of America, Germany, United Kingdom, Japan, Singapore, Canada, France, Spain, Belgium, Switzerland and the Netherlands. Other Hague Union members that also account for significant values of Cambodian exports include Poland, Republic of Korea and Russian Federation.

HAGUE UNION GENEVA ACT MEMBERS

58 Members (including European Union and OAPI) covering 83 countries (as of December 2018)



2.2. THE HAGUE SYSTEM – USER-FRIENDLY PROCEDURES

The Hague System is administered by the World Intellectual Property Organization (WIPO), a specialised agency of the United Nations, based in Geneva, Switzerland. The Hague System allows you to obtain and maintain protection for your industrial designs around the world by providing a user-friendly, expeditious and cost-effective set of procedures for the central filing of design applications and the central management of design registrations with effects in various countries.



2.2.1. CENTRAL FILING TO SEEK PROTECTION IN VARIOUS TERRITORIES

You can file an **international application** for the protection of your designs, either at DIP in Phnom Penh or at WIPO, designating all the members of the Hague Union (Geneva Act) where you wish your designs to be protected. The application is examined, registered and published by WIPO. Once your design(s) have been recorded by WIPO in the International Register, the international registration is notified to each of the designated Hague Union members. Those members must decide whether they grant protection to your design(s) in their territories within very strict time limits. In case a designated member does not communicate any objection within a prescribed period (six months or 12 months from the date of notification), the designs under international registration are deemed protected within the territory of that member as if they had been registered directly with the IP office of that member.

2.2.2. CENTRAL MANAGEMENT OF YOUR DESIGN RIGHTS

Once your **international registration** (IR) has been obtained, your IR is valid for a period of five years and may be renewed for at least two additional five-year periods, up to 15 years. The maximum duration of protection in a designated Hague Union member may be longer than 15 years, depending on the locally applicable legislation. You will be able to manage your rights very easily by following online procedures at a single point (WIPO) to: (i) renew your design rights every 5 years; and (ii) request the central recording of various types of modifications to your registration (assignment of rights, change of name or address, limitations, renunciation).

2.3. ADVANTAGES – REDUCED COSTS, EFFECTIVE DESIGN MANAGEMENT AND COMMERCIALISATION

Central filing of your industrial design under the Hague System offers many advantages: you do not need to file separate design applications in many countries, drafted in different languages, pay fees in different currencies, hire the services of local representatives and follow different procedures in each of those countries. Instead, you can file a single international application at DIP or at WIPO, in a single language (English), pay fees in a single currency (Swiss francs) and your application will have effects in all the Hague Union (Geneva Act) members of interest to you. The procedure is very simple, user-friendly, expeditious and cost-effective. You make savings in translation costs and various types of fees (local representatives, currency exchanges). The strict time limits imposed on Hague Union members to decide on the recognition of local rights, based on your international registration (IR), contribute to speed up protection procedures considerably.

The benefits of **central management** are even more important than those of central filing: once your IR has been obtained, you will need to monitor and manage just one renewal date and procedure in one place (WIPO), instead of many different dates and procedures at separate IP offices; and you will be able to make changes to your industrial design registration (such as assignment of rights, change of name or address, limitations, renunciations) recorded in one single place (the International Register maintained by WIPO) at a very low cost.

Cost savings that result from using the Hague System are particularly significant for small- and medium-sized enterprises (SMEs).

However, the **advantages** of the Hague System are not only reduced costs and speedier procedures resulting from central filing and central management of IRs. The Hague System also offers you early brand presence abroad as it is a means to acquire rapid international reputation. From a company's strategic viewpoint, gaining global reputation for your designs through the Hague System offers additional economic benefits, including increased franchising opportunities and possibilities of partnering with international entrepreneurs to optimise life-cycle development and integrate global supply chains.

WHY USE THE HAGUE SYSTEM TO PROTECT YOUR DESIGNS?

REDUCED COSTS AND SPEEDIER PROCEDURES

- Single application (at DIP or directly at WIPO)
- Single language (English) (no translation costs)
- Single currency for fee payment (CHF)
- Single international procedure and set of deadlines
- Local agent(s) only required if protection is refused
- Single request for renewal
- Single procedure for modifications

YOU GAIN

- Early brand presence abroad
- International reputation for your designs
- Franchising and partnership opportunities



3. PREPARING YOUR INTERNATIONAL DESIGN APPLICATION – BEST PRACTICES

3.1. CHECKING DESIGN NOVELTY – SEARCHING IN INTERNATIONAL DATABASES

Most countries around the world only protect industrial designs that are independently created, new or original. Before filing an international application under the Hague System, you must make sure that the design you intend to protect has not already been created and made public by someone else. This implies making a search for identical or similar designs that have already been published. Several IP Offices from around the world offer the possibility to search their design databases online at their own individual websites. However, the best way to start making your searches for similar industrial designs is to consult Designview and ASEAN Designview.



Designview (<https://www.tmdn.org/tmdsview-web/welcome.html?lang>) is an industrial design information platform built by 60 IP offices from around the world (national, regional and international), aimed at making industrial design data and images widely available and easily accessible to the public, free of charge. ASEAN Designview (<http://www.asean-designview.org/designview/welcome>) is a similar database built by nine ASEAN Member States with the collaboration

of Designview. Designview and ASEAN Designview offer the possibility to explore the overall industrial design landscape in 84 countries (including 15 in Asia, 39 in Europe, 20 in Africa (including 18 Members of the African Regional IP Organization- ARIPO) and 10 in the Americas). These platforms give access to information on more than 14.1 million industrial designs having effects in those countries, plus international registrations recorded under the Hague System. Designview and ASEAN Designview allow you to carry out industrial design searches 24 hours a day, 7 days a week, in a user-friendly way. The accuracy of the data shown in those databases is the sole responsibility of the participating IP offices providing it. Since its introduction in November 2012, and up to October 2018, Designview has served more than 4 million searches from 163 different countries.

To explore the industrial design landscape, you can also consult the Global Design Database (<http://www.wipo.int/designdb/en/index.jsp>), an online gateway managed by WIPO that contains more than 5 million records from 14 national, regional and international design collections.

TIP

*Check the novelty of your design
-> consult the online platforms*

- ▶ **DesignView**
- ▶ **ASEAN DesignView**
- ▶ **Global Design Database**

3.2. FILLING IN YOUR INTERNATIONAL APPLICATION FORM (DM/1)

Your international application (IA) for industrial design protection under the Hague system must be presented in an official form (DM/1) that you can download from <http://www.wipo.int/hague/en/forms/>.

YOUR INTERNATIONAL DESIGN APPLICATION – DM/I

MAKE SURE THAT YOU HAVE PROVIDED ALL THE NECESSARY INFORMATION IN THE DM/I FORM:

- Mandatory content
- Additional mandatory content required by some Contracting Parties if designated
- Optional content
- Optional content only relevant for some Contracting Parties if designated

3.2.1. MANDATORY CONTENT

Your international application must contain: (i) your name and address; (ii) your entitlement to file the application; (iii) your Contracting Party; (iv) the number of industrial design(s) you wish to protect, along with their reproductions(s) and/or specimens; (v) the designated Hague Union members (Contracting Parties) where you wish to obtain protection for your design(s); (vi) the products which constitute the industrial design or in relation to which it is to be used; and (vii) your signature. All these mandatory elements are required under items 1, 2, 3, 6, 7, 8 and 19 of the IA form (DM/I).

If your name (item 1) is in characters other than Latin characters, you should indicate it as a transliteration into Latin characters, following the English phonetics (if you are a legal entity, the transliteration may be replaced by a translation into English). Your address must be given in such a way as to satisfy customary requirements for prompt postal delivery. Telephone or facsimile numbers and an email address may also be given. For electronic filing, an email address must be indicated.

You are entitled to file an international application (item 2) if: (i) you are a national of Cambodia, or (ii) you are a natural person or legal entity domiciled or habitual resident in Cambodia, or (iii) you have a real and effective industrial or commercial establishment in Cambodia. Although only one entitlement (with one Contracting Party) is required, you may indicate more than one (based on nationality, domicile, habitual residence or establishment with different Contracting Parties), if you so have.

If your only entitlement is Cambodia, you will also indicate Cambodia as the applicant's Contracting Party (item 3). If you have indicated more than one entitlement under item 2 (i.e. more than one Contracting Party through which you derive the right to file an IA), you must select one of them as the 'applicant's Contracting Party'.

Your IA should also contain (item 6) an indication of the total number of industrial designs included in the application (which may not exceed 100), the total number of reproductions (in black and white or in color), the total number of pages comprising reproductions, and the total number of specimens, if any. If your IA contains more than one design, you should consider that some designated Contracting Parties (that require "unity of design") may refuse the effect of your international registration unless you divide it (see section 5.2.2 and footnote 5, below).

For each design in the IA, you should also indicate the product(s) (item 8) that constitute the design (e.g. 'table' or 'lamp') or in relation to which the design is to be used (e.g. 'motif to be used on textiles'). It is

important to consider that all designs and/or products in your IA must belong to the same class of the international (Locarno) classification (<http://www.wipo.int/classifications/locarno/en/index.html>).

By ticking the appropriate box next to the name of each Contracting Party (item 7), you designate the Contracting Parties where protection is sought. No Contracting Parties may be added afterwards.

Your IA must be signed (item 19) by you or your representative, or by DIP if you present it to WIPO through DIP. If the IA is filed through the WIPO E-filing facility, the signature is replaced by an electronic authentication through a user account that requires your user name and password.

If any of these mandatory elements is missing, you will receive an irregularity notice from WIPO.

3.2.2. ADDITIONAL MANDATORY CONTENT REQUIRED BY SOME CONTRACTING PARTIES

There are three additional elements that you must include in your IA if you designate certain Contracting Parties for protection, namely: (i) information concerning the identity of the creator; (ii) a brief description of the reproduction or of the characteristic features of the industrial design(s); and (iii) a claim. These are provided for in items 9, 11 and 12, and in Annex 1, of the DM/1 form.

If you designate Finland, Ghana, Hungary, Iceland, Romania or the United States of America, you must indicate the identity of the creator, including the creator's full name, address, postal code, city and country (item 11).

Where the United States is designated, in addition to indicating the identity of the creator, you must submit an oath or declaration of inventorship using Annex 1.

Where Finland, Ghana, Hungary or Iceland are designated, by simply ticking the box next to any of their country names in item 7, you declare that you believe yourself to be the creator of the industrial design or (if the creator you indicate in item 11 is another person), that the international application has been assigned to you by the creator.

If you designate Romania, you must provide a brief description of the characteristic features of the industrial design (item 9). If you designate the Syrian Arab Republic, you must provide such a description or a brief description of the reproduction (item 9).

Finally, if you designate the United States, you must fill in item 12 in the DM/1 form, which contains a claim with a special wording.

If any such additional mandatory element is missing, you will receive an irregularity notice from WIPO.

3.2.3. OPTIONAL CONTENT

Even if you have not designated any of the Contracting Parties for which the indication of the identity of the creator or a description of the design(s) or reproduction(s) is a mandatory requirement (as explained in section 3.2.2, above), you may wish, nevertheless, to provide those indications when filling in your international application form (DM/1).

In fact, it is recommended to indicate the identity of the creator (item 11) when you designate Bulgaria, Cambodia, Japan, Norway, Republic of Korea, Russian Federation, Serbia, Tajikistan or Turkey. Similarly, it is recommended to provide a brief description of the characteristic features of the industrial design (item 9) when you designate the Russian Federation.

In addition, you may wish to also indicate other elements in your international application form (DM/1), namely: an address for correspondence (item 4); the appointment of a representative (item 5), the Locarno class of product(s) to which the industrial design(s) belong(s) (in item 8); a description of the reproduction legends (item 10); a priority claim if applicable (item 13); a declaration of disclosure at an international exhibition (item 14); and/or a request for immediate or deferred publication (item 17).

An address for correspondence (item 4) should be completed only where no representative has been appointed under item 5 and the address to which WIPO's communications should be sent is different from your own address. If there are several applicants with different addresses and no representative has been appointed, a separate address for correspondence must be indicated.

There is no restriction (concerning professional qualification, nationality or residence) as to who may be appointed as a representative to act before WIPO (item 5). It may, subsequently, become necessary to appoint one or more other representatives to act before the Offices of designated Contracting Parties (DCPs), for example, in the event of a refusal of protection by such an Office.

You may wish to indicate the (single) class of the Locarno Classification to which the industrial designs belong (in item 8). If not, WIPO will indicate the class. However, in case of several designs, you must be sure that they all belong to the same class, otherwise WIPO may raise an irregularity.

You can claim priority of an earlier application based on a first filing made in one of the States party to the Paris Convention or the WTO (item 13). If you do so, you should not submit priority documents to WIPO (except along with Annex V for the Republic of Korea, as indicated in section 3.2.4, below). However, you should consider that some DCPs (Japan, Russian Federation, United States) will require that a certified copy of the priority document be furnished to their Offices directly. If the Office of your first filing participates in the WIPO Digital Access Service (DAS) as a "depositing Office" with respect to priority documents for industrial design applications and a DCP also participates in DAS as an "accessing Office", you can indicate the DAS access code in item 13 of the DM/1 form so that the latter is able to access the priority document via DAS (<http://www.wipo.int/das/en/>).

Temporary protection of designs exhibited at certain exhibitions may be claimed under Article 11 of the Paris Convention. If you intend to claim exhibition priority in your international application (item 14), you must indicate where the exhibition took place, the date on which the product was first exhibited and the number of each industrial design shown at the exhibition.

With respect to the timing of publication of the international registration (IR), the general rule is that publication takes place six months after the date of the IR, unless you request otherwise. In your IA (item 17) you may request immediate publication or deferment of publication up to 30 months (for more details regarding timing of publication, see sections 5.1.1, 5.1.2 and 5.1.3, below).

3.2.4. OPTIONAL CONTENT ONLY RELEVANT FOR CERTAIN CONTRACTING PARTIES

The international application (IA) form (DM/1) offers you the possibility to indicate some additional optional content that is only relevant if you designate certain Contracting Parties.

In Japan and the Republic of Korea, a design may be registered as a design related to another design to which it is similar and identified as a principal design, under the condition that both designs belong to the same applicant/holder. If you designate Japan and/or the Republic of Korea, you may wish to indicate that some or all the industrial designs contained in your international application are to be considered in relation to a principal design that also belongs to you (item 16).

Japan and the Republic of Korea also admit an exception to lack of novelty when an industrial design has been disclosed (in an exhibition, public materials, such as a magazine or a catalogue, or through the internet) within a period of six months prior to the application, if a declaration to that effect is made. The international application form (DM/1) allows you to make a declaration concerning an exception of lack of novelty when you designate Japan (item 15) and/or the Republic of Korea (item 15 and Annex II). However, you should note that making such a declaration may affect your rights in other jurisdictions.

If you designate the Republic of Korea and wish to claim priority of an earlier application (item 13), you may submit your priority documents using Annex V to the DM/1 form (or the corresponding section in the E-Filing interface). You can only do this with respect to the Republic of Korea. Priority documents required by other DCPs must be submitted directly to their IP Offices.

If you designate the United States, you may wish to request a reduction of the US individual designation fee if you qualify for “small entity” status, or “micro entity” status, within the meaning of the US Code and applicable regulations of the USPTO. To do so you should check the appropriate box (item 18). To certify micro entity status, you should further submit a certification form (Annex IV).

Finally, if you designate the United States, you may wish to submit, along with the DM/1 form, a statement that identifies information known by you to be material to the eligibility for protection of the industrial design concerned (Annex III).

3.3. REPRODUCTION REQUIREMENTS

The reproductions of the designs for which protection is sought in your international application (IA) must comply with the Hague Agreement formal requirements, failing which WIPO may treat your IA as irregular. The reproductions may be in the form of photographs or other graphic representations of the industrial designs, or of the products which constitute the industrial designs. The reproductions filed on paper should be pasted or printed directly onto a separate sheet of A4 paper, as per the instructions set up in <http://www.wipo.int/hague/en/guide/reproduction.html>. For E-filing, the reproductions shall be in the JPEG or TIFF formats, with a resolution of 300 x 300 dpi and the file size of each not exceeding 2MB. For more details regarding the presentation of the reproductions, disclaimers, number of reproductions, numbering of reproductions and legends, dimensions and quality of the reproductions, and specific views, please refer to <http://www.wipo.int/hague/en/guide/reproduction.html>.

In certain limited circumstances, the Hague Agreement (Geneva Act) permits to substitute reproductions by specimens. This is possible where the application contains a request for deferment of publication and

concerns a two-dimensional industrial design. If you submit specimens instead of reproductions, you should furnish one specimen for WIPO and one further specimen for each DCP that would so require. All specimens should be contained in a single package and comply with the requirements specified in <http://www.wipo.int/hague/en/guide/reproduction.html>.

Even where all formal requirements set up by the Hague Agreement have been complied with to WIPO's satisfaction, the Office of a Contracting Party may find that the reproductions contained in the IR are not sufficient to disclose fully the industrial design and, on that basis, issue a refusal of protection. The criteria for enough disclosure of an industrial design may differ from one jurisdiction to another. Therefore, in consultation with interested Contracting Parties and user organizations, WIPO has established a document on Guidance on Preparing and Providing Reproductions in Order to Forestall Possible Refusals on the Ground of Insufficient Disclosure of an Industrial Design by Examining Offices, which can be downloaded from: http://www.wipo.int/hague/en/news/2016/news_0006.html.

TIP

Regarding the presentation of design reproductions, consult both:

- *Hague Guide for Users at <https://www.wipo.int/hague/en/guide/>*
- *Guidance on preparing and providing reproductions in order to forestall possible refusals by Examining Offices on the ground of insufficient disclosure, at http://www.wipo.int/hague/en/news/2016/news_0006.html*

4. FILING YOUR INTERNATIONAL DESIGN APPLICATION – BEST PRACTICES

Your international application (DM/1) may be filed directly at WIPO or through DIP in Phnom Penh.

4.1. FILING THROUGH DIP



ក្រសួងចក្ខុវិស្វាប័ន្ន និងសិល្បៈ
Ministry of Industry and Handicraft
45, Norodom Blvd, Phnom Penh 12205
Kingdom of Cambodia

If you file your international application (IA) through DIP, you must do it in English, using the DM/1 paper form. DIP will indicate the date in which it received the IA in the relevant box of the DM/1 form. The date of your IA will be

the date in which it was received by DIP, provided that it is received by WIPO within a period of one month from that date. If that time limit is not complied with, the filing date of the IA is the date of its receipt by WIPO.

4.2. DIRECT FILING AT WIPO (LANGUAGE, FILING MODALITIES, E-FILING ADVANTAGES)

If you file your international application directly with WIPO, you may file it in English, French or Spanish. International applications are normally filed directly with WIPO.

You may file your IA directly with WIPO through the Hague E-filing Manager or by sending the DM/1 paper form to WIPO either by mail (through a postal or other delivery service) or by facsimile.

International applications sent by facsimile are not accepted where they contain a reproduction to be published in color. Where they contain reproductions to be published only in black and white, the application will only be effective as from the date of its receipt if the original of the IA form, along with the original of the reproductions, is received by WIPO within 20 days from the date of receipt of the facsimile communication.

To file your international application online using the Hague E-filing Manager you need to have a WIPO user account (<https://www3.wipo.int/myaccount/en/>). If you do not have one, you can create a user account at <https://www3.wipo.int/wipoaccounts/en/usercenter/public/register.jsf>. By signing in to your WIPO user account, you can access the E-filing interface.

Using the E-filing interface to file your IA offers many advantages: you can upload several reproductions simultaneously; you can check certain formalities in real time; you can save applications in progress; you have access to a fully integrated fee calculator; you benefit of lower fees when the application contains many reproductions (since reproductions submitted on paper are subject to a fee for each page beyond the first one); you can pay your fees online by credit card; your IA is delivered immediately and you get an instant acknowledgement of receipt; you will be able to receive and download notifications from WIPO relating to your IA; you will be able to send corrections to irregularities or defects (including corrected reproductions and documents) to WIPO; you will be able to retrieve in real time the current status of your IA.

When a notification concerning your IA filed through the E-filing interface is available, you will receive an e-mail alert at the email address that you used to create your user account. The only limitation of the E-filing interface is that it may not be used if you wish to include specimens of the industrial design(s) instead of reproductions.

HAGUE ELECTRONIC FILING – ADVANTAGES

- upload several reproductions simultaneously
- check formalities in real time
- save your application in progress
- consult the fully integrated Fee Calculator
- pay your fees online by credit card
- lower fees when your application contains many reproductions
- fast delivery of your application
- instant acknowledgement of receipt
- receive and download notifications relating to your application (+ e-mail alert)
- retrieve current status of your application in real time

4.3. ESTIMATING COSTS AND PAYING FEES

An IA is subject to the payment of three types of fees: a basic fee, a publication fee, and, in respect of each designated Contracting Party (DCP) where protection is sought, either a standard fee or an individual designation fee. Regarding standard fees, a three-level structure applies reflecting the level of examination carried out by the Office of the DCP.

The amounts of the fees payable in connection with an IA are prescribed in the Hague Schedule of Fees (<http://www.wipo.int/hague/en/fees/sched.htm>) or, in the case of individual fees, fixed by the Contracting Parties concerned (<http://www.wipo.int/hague/en/fees/individ-fee.html>).

If your sole entitlement is a connection with Cambodia (and, if you are several applicants, each of you fulfils this criteria), the fees intended for WIPO and the standard fees for DCPs are reduced to 10% of the prescribed amount¹. This means that the basic fee is fixed at 40 CHF (for one design) and 2 CHF (for each additional design included in the same IA); the publication fee is fixed at 2 CHF for each reproduction and 15 CHF for each page, in addition to the first, on which one or more reproductions are shown; and the additional fee, where the description exceeds 100 words, is fixed at 1 CHF per group of five words exceeding 100 words. The standard designation fee for one design is fixed at 4 CHF (for DCPs in level one), 6 CHF (level two) and 9 CHF (level three) and, for each additional design included in the same IA, at 1 CHF (for DCPs in level one), 2 CHF (level two) and 5 CHF (level three).

To facilitate your calculation of the fees to be paid for your international application WIPO offers a very practical online tool known as the Hague System Fee Calculator, which you can access at the following address: <http://www.wipo.int/hague/en/fees/calculator.jsp>.

Regarding payment methods, you may pay your fees to WIPO either by: (i) bank transfer; (ii) WIPO Current Account; or (iii) credit card (only when using the E-filing interface). For more details, please see: <http://www.wipo.int/finance/en/hague.html>.

TIP

*Check in advance how much you will have to pay by using the Fee Calculator at
<http://www.wipo.int/hague/en/fees/calculator.jsp>*

4.4. IRREGULARITIES AND HOW TO REMEDY THEM

If WIPO finds that your international application does not fulfil the applicable requirements (see sections 3.2.1, 3.2.2 and 3.3), it will invite you to make the required corrections within three months from the date of the invitation sent to you. Where an irregularity is not remedied within those three months, your IA will be considered abandoned and WIPO will refund any fees paid in respect of it, after deduction of an amount corresponding to the basic fee.

4.4.1. IRREGULARITIES ENTAILING A POSTPONEMENT OF THE FILING DATE

If the IA is not in one of the prescribed languages, this irregularity will entail a postponement of the filing date. Similarly, the filing date of your IA will be postponed if any of the following elements is missing from your IA: (i) an express or implicit indication that you seek the registration of your designs under the

¹ This fee reduction is applicable to applicants whose sole entitlement is a connection with a Contracting Party that is a Least Developed Country (LDC), in accordance with the list established by the United Nations, as is the case of Cambodia.

Hague Agreement (Geneva Act); (ii) indications allowing your identity to be established; (iii) indications sufficient to enable you or your representative to be contacted; (iv) a reproduction or, (in authorized cases) a specimen, of each industrial design that is the subject of the IA; (v) the designation of at least one Contracting Party.

If any such irregularity is raised, the filing date shall be the date where the correction to such irregularity is received by WIPO.

4.4.2. IRREGULARITIES CONCERNING SPECIAL REQUIREMENTS BY CONTRACTING PARTIES

In the case of an irregularity that relates to the additional mandatory content required by some Contracting Parties (indication of the identity of the creator, a brief description and/or a claim) (see section 3.2.2), if you do not remedy such irregularity within three months, your IA will be deemed not to contain the designation of the Contracting Party in question. Furthermore, if you do remedy the irregularity, the date of the IR will be the date in which the correction of that irregularity is received by WIPO, or the filing date of the IA, whichever is the later.

5. THE INTERNATIONAL DESIGN REGISTRATION (IR)

If your international application complies with the prescribed formal requirements, WIPO will register the design in the International Register and send you a certificate. WIPO will also publish the international registration (IR), in due course, in the International Designs Bulletin. International applications (IA) and international registrations (IR) are kept secret by WIPO until publication. Confidentiality also applies to any document accompanying the IA.

5.1. PUBLICATION OF THE IR IN THE INTERNATIONAL DESIGNS BULLETIN

The International Designs Bulletin (<http://www.wipo.int/haguebulletin/?locale=en>) is published on the WIPO website on a weekly basis (every Friday). Publication on the Bulletin is deemed to be sufficient publication in all the Hague Union Contracting Parties. The date of publication constitutes the date of receipt of the Bulletin by the Offices of the designated Contracting Parties (DCPs), which is relevant for calculating the period available for DCPs to notify a provisional refusal.

5.1.1. PUBLICATION CONTENT AND TIMING

The publication of the IR in the Bulletin contains the following: the data recorded in the International Register, the reproduction(s) of the industrial design and, where publication has been deferred, an indication of the date on which the period of deferment expired or is considered to have expired.

The general rule is that an IR is published six months after registration. However, upon request of the applicant, two exceptions are admitted: immediate publication and deferred publication.

If you request immediate publication, the publication will take place as soon as the necessary technical preparations by WIPO have been carried out (this may take between one and two weeks).

If you request deferment of publication, this will take place immediately after the date on which the period of deferment expired or is considered to have expired (see, section 5.1.2, below).

5.1.2. DEFERRED PUBLICATION PERIOD

The Hague Agreement (Geneva Act) allows you to request the deferment of publication of your IR for a period of up to 30 months from the filing date or, where priority is claimed, from the priority date. However, the actual period of deferment will depend upon the laws of the Contracting Parties designated in your international application.

If your IA includes the designation of one Contracting Party that has declared that the period of deferment under its legislation is less than 30 months², publication takes place on the expiry of the period stated in that declaration. If your IA includes the designation of more than one Contracting Party which have made such a declaration, publication takes place on the expiry of the shortest of the periods notified in those declarations.

Moreover, if your IA includes the designation of a Contracting Party that has declared that deferment of publication is not possible under its law³, the publication date will depend on whether your IA is accompanied by reproductions or specimens of the design. If your IA is accompanied by reproductions, WIPO will notify you that the request for deferment of publication is incompatible with the designation of that Contracting Party. If you do not withdraw its designation within one month, your request for deferment of publication will not be taken into consideration. If your IA is accompanied by specimens of the design, WIPO will not consider the designation of that Contracting Party and will so notify you.

During the deferment period, you may request earlier publication (i.e. publication prior to the expiry of the deferment period already requested) in respect of any or all the designs contained in the IR, in which case the deferment period is considered to have expired on the date in which your request for earlier publication is received by WIPO.

5.1.3. DEFERRED PUBLICATION CONSEQUENCES

In case of deferment of publication, the payment of the publication fee is not required to be made at the time of filing. However, payment should take place not later than three weeks before the period of deferment expires or is considered to have expired (if earlier publication is requested). Three months before the expiry of the deferment period, WIPO sends an unofficial reminder notice indicating the date by which the publication fee must be paid.

In addition, in case of deferment of publication, reproductions may be provisionally replaced by specimens, provided that the industrial design is two-dimensional. However, reproductions must be submitted not later than three months before the expiry of the period for paying the publication fee.

² The deferment period cannot exceed 18 months from filing date for Singapore; 12 months from filing date for the United Kingdom; 12 months from priority date for Brunei Darussalam, Cambodia, Croatia, Estonia, OAPI, Slovenia and the Syrian Arab Republic; and six months from priority date for Denmark, Finland and Norway.

³ Hungary, Iceland, Monaco, Poland, Russian Federation, Ukraine and the United States of America do not accept deferment of publication.

Failure to pay the publication fee earlier than three weeks before the expiry of the deferment period or failure to submit the reproductions earlier than three months before the expiry of the period for paying the publication fee, results in the cancellation of the IR. Cancellation will be total in case of missing fees but only partial in case of missing reproductions. The cancelled IR is not published.

Where the publication of an IR is deferred, a request for the recording of a limitation or renunciation must be received by WIPO not later than three weeks prior to the expiry of the deferment period.

5.2. EFFECTS OF THE INTERNATIONAL REGISTRATION IN THE DESIGNATED CONTRACTING PARTIES (DCPS)

5.2.1. DATE AND EFFECTS OF THE INTERNATIONAL REGISTRATION

In principle, the date of the IR is the filing date of the IA. However, where the IA has an irregularity that relates to the mandatory content of the application, the date of the IR is the date on which the correction of such irregularity is received by WIPO or the filing date of the IA, whichever is the later.

As from the date of the IR, the IR has at least the same effect in each designated Contracting Party (DCP) as a regularly-filed application under the law of that Contracting Party. Thus, any Contracting Party that affords provisional protection to published national or regional applications must also afford that type of protection to international registrations in which it is designated.

In each DCP that has not notified a refusal of protection within the applicable refusal period (six or 12 months, as the case may be), the IR has the same effect as a grant of protection under the law of that Contracting Party.

5.2.2. REFUSAL OF PROTECTION

Upon publication of the IR in the International Designs Bulletin, the Office of each DCP proceeds with substantive examination and/or opens the way for a possible opposition procedure, as may be provided for in its own legislation. As a result, the Office may notify to WIPO a provisional refusal of protection for its territory. The provisional refusal must be notified within six months or 12 months from the date of publication⁴.

The refusal may be total or partial, in the sense that it may apply to all the designs which are the subject of the IR or to some only of them. It may be based on: (a) an objection resulting from the ex officio examination undertaken by the Office; or (b) an opposition lodged by a third party.

Protection may not be refused on grounds that the IR does not satisfy formal requirements (e.g. payment of fees, or quality of the reproductions), since those requirements have already been checked by WIPO. A Contracting Party may, however, refuse protection on the ground that a reproduction does not sufficiently disclose the appearance of the industrial design (a substantive ground).

The refusal must indicate all the grounds on which it is based, together with the provisions of the applicable law. In general, the refusal grounds may only relate to substantive issues, such as lack of

⁴ A Contracting Party whose Office is an "examining office", or whose law provides for the possibility of opposition to the grant of protection, may declare that the refusal period of six months is replaced by a period of 12 months. The following CPs have made such declaration: Democratic People's Republic of Korea, Finland, Iceland, Japan, Kyrgyzstan, Lithuania, Republic of Korea, Republic of Moldova, Romania, Russian Federation, Spain, Syrian Arab Republic, Turkey, United States of America.

novelty of the industrial design. However, there are two exceptions to that general principle: (a) where a Contracting Party has declared that it requires that all industrial designs contained in a single IA are subject to a requirement of "unity of design", and (b) where a Contracting Party has notified a declaration concerning the views required.

Contracting Parties that have notified a declaration concerning the requirement of "unity of design"⁵ can refuse the effects of the IR pending compliance with that requirement. In such a case, you may divide the IR before the Office concerned to overcome the ground for refusal. The Office is entitled to charge you as many additional fees as divisions prove necessary.

Contracting Parties that have made a declaration regarding the views required⁶, may refuse the effects of the IR on the ground that the reproductions contained in the IR are not sufficient to disclose fully the industrial design.

A refusal notified to WIPO by the Contracting Party concerned is recorded in the International Register and published in the Bulletin. A copy of the notification of refusal is sent to the holder of the IR.

If you receive a notification of refusal, you will have the same rights and remedies (such as review of, or appeal against, the refusal) as if the industrial design had been filed directly with the Office that issued the notification of refusal. You may be required, or may find it useful, to appoint a local representative who is familiar with the law and practice (and the language) of the Office that has pronounced the refusal.

An Office that has issued a notification of refusal, may withdraw that notification (e.g. following an appeal lodged by the holder). The notification of withdrawal may relate only to one or some of the industrial designs in the IR to which the refusal applied. Where the IR was amended in a procedure before the Office, the notification shall also contain or indicate either all the amended elements or the whole information concerning the industrial design(s) as amended.

TIP

Find out about procedures and practices in Hague Union members in the Hague Member Profiles Database at <https://www.wipo.int/hague/memberprofiles/#/>

5.2.3. GRANT OF PROTECTION

A withdrawal of refusal may also take the form of a statement of grant of protection by the Office concerned (statement of grant of protection following a refusal). The statement shall specify to which industrial design(s) subject of the IR protection has been granted.

The Office of a DCP which has not communicated a notification of refusal may, within the applicable refusal period, send to WIPO a statement to the effect that protection is granted to the industrial designs, or some of the industrial designs, that are the subject of the IR in the Contracting Party concerned (statement of grant of protection in the absence of a prior notification of refusal).

The statements of grant of protection shall indicate the date on which the IR produced (or shall produce) the effect as a grant of protection under the applicable law and, where the IR was amended in a procedure before the Office, the statement shall also contain or indicate all amendments.

⁵ Estonia, Japan, Kyrgyzstan, Romania, Singapore, Russian Federation, Syrian Arab Republic, Tajikistan and United States.
⁶ Japan, Republic of Korea

5.2.4. TERM OF PROTECTION

The IR is valid for an initial period of five years from the IR date and may be renewed for at least two additional five-year periods up to 15 years.

If the law of a Contracting Party provides for a longer period of duration of protection for industrial designs, the IR may be renewed with respect to that DCP for additional periods of five years up to the expiry of the total duration of protection provided for in its law. Several Contracting Parties to the Hague Agreement (Geneva Act) have notified to WIPO duration of protection periods longer than 15 years (20 years, 25 years except for spare parts, 25 years or 50 years)⁷.

5.2.5. POSSIBLE INVALIDATION

In certain circumstances, the protection conferred by the IR in a Contracting Party may be invalidated by a decision of a competent authority (administrative or judicial) revoking or cancelling the effects of the IR in respect of all or some of the designs covered by the IR in the territory of that Contracting Party.

Proceedings concerning such invalidation take place directly between the holder of the IR, the party who has brought the action for the invalidation and the competent authority concerned (Office or tribunal). It may be necessary for the holder to appoint a local representative.

5.3. MANAGING YOUR INTERNATIONAL REGISTRATION – BEST PRACTICES

While the Hague System offers you many advantages to get your industrial design(s) protected in various markets, it offers you even more valuable advantages regarding the management of your industrial design rights after registration. Renewing the protection of your IR for additional periods of five years or having various types of changes to your registration (change in ownership, change of your name and/or address, renunciation or limitation of your IR) recorded in the International Register with effects extending to those Hague Union members of interest to you, can be done through very simple, user-friendly and cost-effective procedures. The central recording of such modifications in the International Register relieves you from the need to request such action from the Office of each DCP, thus resulting in very significant savings.

5.3.1. CENTRAL RECORDING OF MODIFICATIONS TO YOUR IR

If you are the holder of an IR and happen to transfer your rights to a new owner for all or some of the industrial designs in your IR, in respect of all or some of the DCPs, you can request that the **change in ownership** be recorded in the International Register. Such recording can only take place if the new owner is a person entitled to use the Hague Agreement (by nationality, establishment, domicile or habitual residence in a Contracting Party). The request must be submitted to WIPO in the official form DM/2 (<http://www.wipo.int/hague/en/forms/>) and is subject to the payment of a fee (CHF 144). The change in ownership recorded in the International Register has immediate effects in all the DCPs

⁷ The Contracting Parties here indicated within brackets have notified duration of protection periods of 20 years (Japan and Republic of Korea); 25 years except for spare parts (Denmark and Finland); 25 years (Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Estonia, European Union, France, Georgia, Germany, Hungary, Iceland, Latvia, Liechtenstein, Lithuania, Luxembourg, Montenegro, Netherlands, Norway, Poland, Republic of Moldova, Romania, Russian Federation, Serbia, Slovenia, Spain Switzerland, The former Yugoslav Republic of Macedonia, Turkey and United Kingdom); and 50 years (Monaco).

concerned at no additional cost, unless the DCP has declared that such a recording shall not have effect in that Contracting Party until its Office has received certain statements or documents⁸. Furthermore, there are situations under some national laws where the recording of a partial change in ownership is not allowed (e.g. where a set of industrial designs is considered to be a single design; or where the law provides for a 'similar design' or 'related design' system). In such cases a Contracting Party may declare that the partial change in ownership has no effect in its territory.

To request the recording of a **change of name or address** of the holder of the IR (without change in ownership), you must use form DM/6 (<http://www.wipo.int/hague/en/forms/>). Your request may refer to several IRs. The fee payable to WIPO will amount to CHF 144 for one IR and CHF 72 for each additional IR of the same holder in the same request. If the only change to be recorded concerns your telephone and/or facsimile number, this can be requested in a simple letter and no fee is payable. A change of name or address recorded in the International Register has immediate effects in all the DCPs concerned by the IR at no additional cost.

If you no longer wish protection for one or more of the designs in your IR, you may request WIPO to record a **limitation**. The limitation may concern only some of the DCPs. Your request must be presented on official form DM/3 and may only refer to a single IR. The recording of a limitation is subject to the payment of a fee (CHF 144) and has effects in all the DCPs concerned by the IR at no additional cost.

If you wish to renounce protection for all the industrial designs that are subject of the IR in respect of all or some of the DCPs, you may request the recording of a **renunciation** by using official form DM/5. A single form may be used to request the recording of a renunciation of several IRs provided that the Contracting Parties for which the IRs are renounced are the same. A renunciation is subject to the payment of a fee (144 CHF).

5.3.2. RENEWING YOUR INTERNATIONAL REGISTRATION

Your IR is valid for an initial period of five years and may be renewed for additional periods of five years. Subject to renewal, the duration of protection in each Contracting Party is at least 15 years from the date of the IR. In respect of those Contracting Parties that provide for longer terms of protection (20, 25 or 50 years), your IR may be renewed for additional periods of five years up to the expiry of the total duration of protection provided for in their law.

Six months before the expiry of each five-year term, WIPO will send you a notice indicating the date of expiry of the IR. You may renew your IR for some only of the DCPs and for some only of the industrial designs that are the subject of your IR.

You may request the renewal of your IR either by: (a) using the WIPO E-renewal interface (https://webaccess.wipo.int/erenewal_dm/IndexController?lang=EN); (b) sending the unofficial paper form DM/4 (<http://www.wipo.int/hague/en/forms/>) to WIPO; or (c) sending a simple communication to WIPO giving the required indications (IR number and purpose of the payment). It is recommended to use the E-renewal interface, which facilitates partial renewal (i.e. for only some of the industrial designs and/or only some of the DCPs) and calculates the renewal fees to be paid automatically. Moreover, the E-renewal interface allows for the payment of the renewal fees not only through a WIPO Current Account but also by credit card.

The fees due for the renewal of an IR include: (a) a basic fee (CHF 200 for one design; CHF 17 for

⁸ Such declaration has been made by OAPI, Denmark, Republic of Korea, Russian Federation and the United States.

each additional design in the same IR); (b) an individual designation fee for each Contracting Party that requires such a fee (<http://www.wipo.int/hague/en/fees/individ-fee.html>); and (c) a standard designation fee (CHF 21 for one design; CHF 1 for each additional design in the same IR) in respect of each other Contracting Party for which the IR is to be renewed.

To calculate the exact amount that you should pay for renewal of your IR, you may use the Fee Calculator at <https://www.wipo.int/hague/en/fees/calculator.jsp>.

The renewal fees should be paid to WIPO at the latest on the date of expiry of the IR. The payment can still be made up to six months after that date (grace period) provided that a surcharge is paid at the same time. WIPO records the renewal with the date on which it was due, even if the fees required were paid within the grace period.

TIP

To renew your international registration, use the Hague e-Renewal Service at https://webaccess.wipo.int/erenewal_dm/IndexController?lang=EN

■ 6. PROTECTING YOUR DESIGN IN THE EUROPEAN UNION – BEST PRACTICES



In the European Union (EU), there is a four-tier system for registering designs.

If you just want protection in one EU Member State, you can file a design application directly at the relevant national IP office. This is the **national route** available in 25 EU Member States (Austria, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Malta, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden and United Kingdom).

If you want protection in Belgium, Luxembourg and the Netherlands, you can file a design application at the Benelux Office of Intellectual Property (BOIP), a regional-level IP office for design protection in those three Member States. This is the **Benelux regional route**.

If you want protection in more EU Member States, you can apply for a registered Community design (RCD) from the European Union Intellectual Property Office (EUIPO) — this is the **European route**. The RCD is valid in the territories of all 28 EU Member States.

A fourth route to design protection in the EU is the **international route** or Hague System route, which can be combined with any of the three mentioned above. A person filing an international application under the Hague Agreement (Geneva Act) can designate for protection any of the EU Member States that are Contracting Parties to that Act individually, or can designate the Benelux (for protection in Belgium, Luxembourg and the Netherlands), or can designate the European Union (for protection in the 28 EU Member States through one single designation).

This section analyses the benefits of obtaining a design right valid in all 28 EU Member States either by following the European route (direct filing at the EUIPO) or the international route (Hague filing designating the EU).

6.1. DIRECT FILING AT THE EUIPO (THE EUROPEAN ROUTE)

Applying for a registered Community design (RCD) directly at the EUIPO, instead of filing separate design applications and getting separate rights under each of the national + Benelux systems existing in the EU, is an attractive route if you wish to get a single right that is valid in all 28 EU Member States.



You can file your application online at the EUIPO website (<https://euiipo.europa.eu/ohimportal/en/rdc-apply-now>). The RCD grants you exclusive rights in all the EU Member States (current and future) at a reasonable cost of EUR 350 for one design (including EUR 230 registration fee, plus EUR 120 publication fee). Your RCD will be valid for 5 years and can be renewed, every 5 years, for a maximum of 25 years. You will be able to enforce your design rights in a market of almost 500 million consumers.

At the EUIPO website (<https://euiipo.europa.eu/ohimportal/en/designs>), you will find detailed explanations on how to apply for an RCD, how to follow the registration procedure, and how to manage your RCD once registered.

6.2. SEEKING PROTECTION IN THE EUROPEAN UNION THOUGH THE HAGUE SYSTEM (THE INTERNATIONAL ROUTE)

Similar benefits to those offered by the European route, plus the additional benefits that are unique to the Hague System, can be enjoyed by following the international route. As from 2008, when the European Union became a Contracting Party of the Hague Agreement (Geneva Act), it became possible for Hague System users to get a design right having the same effects as an RCD (valid in all the EU Member States) by designating the EU in an international application.

An IR designating the EU and accepted by the EUIPO has the same effects as a registered Community design (RCD) registered by the EUIPO. This section describes the best practices to be followed to obtain an IR that is valid in the European Union.

6.2.1. DESIGNATING THE EUROPEAN UNION

You can designate the European Union for protection when filing your international application by checking the European Union (EM code) box in the application form (DM/1). The basic fee for an EU designation for one design has been fixed by the EU at CHF 67 (status in October 2018).

The European Union accepts deferment of publication of your international application up to 30 months.

6.2.2. EUIPO EXAMINATION OF GROUNDS FOR NON-REGISTRABILITY

An IR may not be refused on the ground on non-compliance with formal requirements, since such requirements are to be considered as already satisfied following examination by WIPO. The EUIPO, therefore, limits its examination to only two grounds for non-registrability: (a) non-compliance with the EU definition of design and, (b) designs that are contrary to public order or accepted principles of morality.

The EU law (Community Design Regulation) defines a 'design' as the appearance of the whole or a part of a product resulting from the features of, in particular, the lines, contours, shape, texture and/or materials for the product itself and/or its ornamentation. A 'product' means any industrial or handicraft item, including, *inter alia*, parts intended to be assembled into a complex product, packaging, get-up, graphic symbols and typographic typefaces, but excluding computer programs. Whether the design discloses the appearance of a 'product' will be examined in the light of the design itself (insofar as it makes clear the nature of the product, its intended purpose or its function) and of the indication of the products in which the design is intended to be applied. Some examples of the EUIPO's examination practice regarding compliance with the definition of design can be seen on pages 23 to 26 of the EUIPO guidelines on Examination of Applications for Registered Community Design that can be downloaded from <https://euiipo.europa.eu/ohimportal/en/design-guidelines>.

A design can be found by the EUIPO to be contrary to public policy if it constitutes a genuine and sufficiently serious threat to a fundamental interest of society. Designs that portray or promote violence or discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation will be refused in that account. It is enough that a design be found contrary to public policy in at least part of the European Union for the design to be refused protection.

Regarding accepted principles of morality, if the EUIPO perceives the design as sufficiently obscene or offensive from the perspective of a reasonable person of normal sensitivity and tolerance, its protection will be refused.

Any preliminary refusal of protection based on one of the above-mentioned grounds for non-registrability, must be notified by the EUIPO to WIPO within six months of publication of the IR on the WIPO website. The preliminary refusal must be reasoned and state the grounds on which refusal is based. If those grounds concern only some of the designs contained in the IR, the EUIPO will refuse the EU designation only insofar as those designs are concerned.

6.2.3. DEALING WITH REFUSALS

If the EUIPO notifies a preliminary refusal of protection, you will be given a period of two months from receipt of the notification to submit observations directly to the EUIPO, or renounce the IR for the EU, or limit the IR to one or some of the designs for the EU. If you submit observations to the EUIPO, you may need to do so through a representative (see section 6.2.4, below).

If the EUIPO objection relates to compliance with the definition of a design and if this objection can be overcome by amending the indication of the products in which the design is intended to be incorporated or to which it is intended to be applied, the EUIPO examiner will propose such an amendment.

If the grounds for refusal concern only one or some of the designs contained in the IR, you may limit the designation of the EU to one or more designs not concerned by the refusal. If it concerns all the designs in the IR, you may renounce your designation of the EU. In both such cases, you must file the request for limitation or renunciation directly with WIPO (see section 5.3.1, above).

If you fail to overcome the grounds for non-registrability within the time limit, the Office will confirm the refusal of your EU designation.

6.2.4. PROFESSIONAL REPRESENTATION

In principle, you do not need to appoint a representative before the EUIPO. However, being located outside the European Economic Area, you will need to appoint a representative if the EUIPO issues a provisional refusal of your IR. In such cases, your representative should be a person who appears in the database of representatives maintained by the EUIPO (<https://eipo.europa.eu/eSearch/#advanced/representatives>).

6.2.5. GRANT OF PROTECTION OR CONFIRMATION OF REFUSAL

Where the EUIPO finds no grounds for refusing protection or where a preliminary refusal is withdrawn, the EUIPO informs WIPO accordingly without delay.

Where the EUIPO has issued a preliminary refusal and you do not submit observations that satisfy the EUIPO within the specified time limit, do not renounce the IR for the EU, do not limit it to one or some of the designs, or do not withdraw the application, the EUIPO may confirm its decision refusing protection of the IR. If the refusal concerns only some of the designs contained in a multiple IR, the EUIPO will refuse the IR only insofar as those designs are concerned.

6.2.6. APPEAL AND FINAL DECISION

If refusal of your IR is confirmed by the EUIPO, you will have the same remedies available to you as you would have had if you had filed the design(s) in question directly with the EUIPO. An appeal against a decision to refuse protection must be submitted to the Boards of Appeal within two months from the date of notification of the decision appealed from.

Once the decision to refuse or accept the IR is final, a final notification will be sent to WIPO indicating whether the designs have been finally refused or accepted. Where the final refusal relates to only some of the designs contained in a multiple IR, the notification to WIPO will indicate which designs have been refused and which have been accepted.

6.3. EFFECTS OF THE INTERNATIONAL REGISTRATION IN THE EUROPEAN UNION

If no refusal is notified by the EUIPO within six months of the publication of the IR on the WIPO website, or if a notice of preliminary refusal is withdrawn, the IR will, from the date of registration granted by WIPO, have the same effect as if the design rights had been applied for, and registered by, the EUIPO.

The IR designating the EU is valid for an initial period of five years and may be renewed, for additional five-year periods, up to a maximum duration of protection of 25 years. The renewal of your IR in respect of the EU should be done directly with WIPO (see section 5.3.2, above). The individual renewal fee fixed by the EU amounts to 34 CHF for each design.

6.4. POSSIBLE INVALIDATION

An international registration (IR) accepted by the EUIPO (and thus valid in the EU) may be subject to invalidity proceedings under the same conditions and procedural rules as a Community design registered by the EUIPO (RCD).

Any natural or legal person may request from the EUIPO a declaration of invalidity of an industrial design protected in the EU through the Hague system based on grounds that the protected design: (a) does not correspond to the definition of a design under the EU law; (b) lacks of novelty or individual character; (c) subsists in features of appearance of a product that are solely dictated by the product's technical function; (d) subsists in features of appearance of a product that must necessarily be reproduced in the exact form and dimensions in order to permit the product to be mechanically connected to, or placed in, around or against another product so that either product may perform its function; or (e) is contrary to public order or morality.

Other grounds for possible invalidation include: (a) a court decision declaring that the holder of the design is not entitled to it; (b) if the design is in conflict with prior design rights (c) if a distinctive sign is used in a subsequent design and the rightsholder of the sign has the right to prohibit such use; (d) if the design constitutes an unauthorized use of a work protected under copyright law of a EU Member State; (e) if the design constitutes an improper use of any of the items listed in Article 6ter of the Paris Convention (State flags and emblems and names and emblems of intergovernmental organizations) or other badges, emblems and escutcheons of interest in a EU Member State. However, grounds (a) to (d) can only be invoked by the person who is entitled to the design or the earlier right; and ground (e) is only admissible if the person invoking it is entitled to the earlier right or is affected by the use of the emblem or symbol, as the case may be.

Whoever invokes grounds for invalidity, must indicate the facts, evidence and arguments in support of those grounds. The EUIPO will examine the case based exclusively on the facts, evidence and arguments provided by the parties (the holder of the IR and the party who invokes the invalidity).

The invalidity proceedings may terminate with a declaration of invalidity of the design contained in the IR or with a dismissal of the request for such declaration. The invalidity proceedings may terminate without a decision on the merits when the person seeking the invalidity withdraws its request as a result of an amicable settlement.

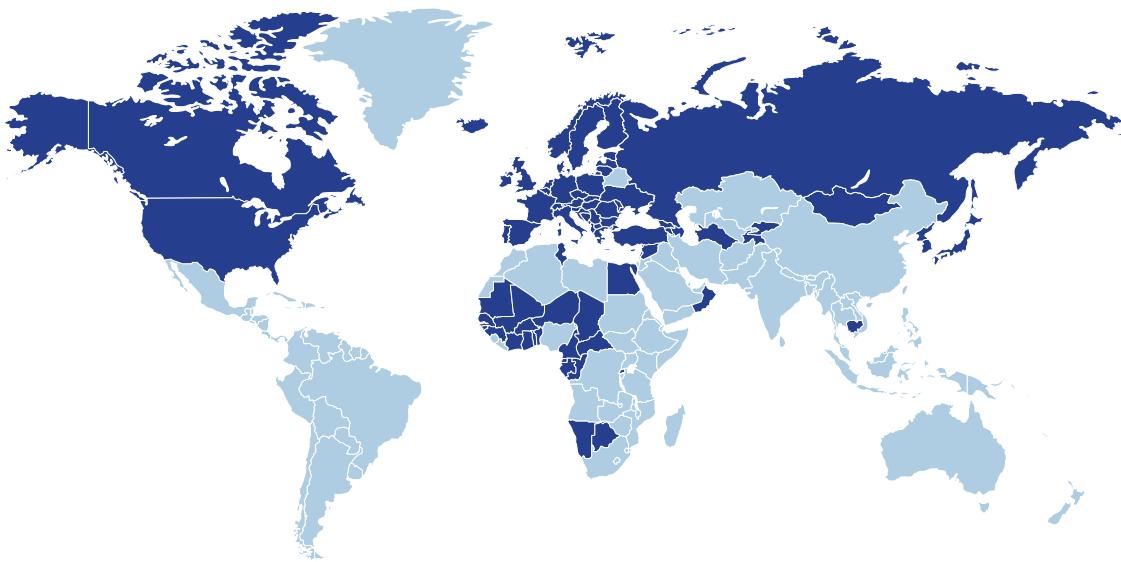
Any party to invalidity proceedings has the right to appeal against a decision that affects it adversely. The appeal must be submitted to the Boards of Appeal within two months and has suspensive effect.

7. CONCLUSION

The Hague System offers you an attractive route to protect your designs in up to 83 countries around the world by making available cost-effective and user-friendly procedures to acquire and manage your industrial design rights at a global level. As a national of Cambodia, or a person domiciled, habitual resident, or having an industrial or commercial establishment in Cambodia, you are entitled to benefit from the advantages offered by the Hague Agreement (Geneva Act) that Cambodia joined in 2017. Today, using the Hague System is an essential component of a successful marketing strategy for any company. The Hague System offers you early presence at a global level and helps you rapidly acquire international reputation for your designs. The Hague Agreement ensures the legal protection of your designs against competitors, increases franchising opportunities, opens partnership possibilities and facilitates integration to global supply chains. In general, it provides a most effective support to your branding strategies and business success.

HAGUE UNION GENEVA ACT MEMBERS

58 Contracting Parties (including the European Union and OAPI) covering 83 countries as of December 18, 2018



African Intellectual Property Organization⁹, Albania, Armenia, Azerbaijan, Belgium, Bosnia and Herzegovina, Botswana, Brunei Darussalam, Bulgaria, Cambodia, Canada, Croatia, Democratic People's Republic of Korea, Denmark, Egypt, Estonia, European Union¹⁰, Finland, France, Georgia, Germany, Ghana, Hungary, Iceland, Japan, Kyrgyzstan, Latvia, Liechtenstein, Lithuania, Luxembourg, Monaco, Mongolia, Montenegro, Namibia, Netherlands, Norway, Oman, Poland, Republic of Korea, Republic of Moldova, Romania, Russian Federation, Rwanda, San Marino, Sao Tome and Principe, Serbia, Singapore, Slovenia, Spain, Switzerland, Syrian Arab Republic, Tajikistan, The former Yugoslav Republic of Macedonia, Tunisia, Turkey, Turkmenistan, Ukraine, United Kingdom, United States of America (58)

⁹ A Hague designation of OAPI covers all its Member States, namely: Benin, Burkina Faso, Cameroon, Central African Republic, Chad, Comoros, Congo, Cote d'Ivoire, Equatorial Guinea, Gabon, Guinea-Bissau, Guinea, Mali, Mauritania, Niger, Senegal, Togo (17)

¹⁰ A Hague designation of the European Union covers all its Member States, namely: Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, United Kingdom (28)

■ ACRONYMS

| | |
|--------------|--|
| ASEAN | Association of Southeast Asian Nations |
| BOIP | Benelux Office for Intellectual Property |
| CHF | Swiss Franc |
| DCP | Designated Contracting Party |
| DIP | Department of Industrial Property, General Department of Industry (DGI), Ministry of Industry & Handicraft, Cambodia |
| EM | Two-letter code used to identify the European Union in Hague System forms |
| EU | European Union |
| EUIPO | European Union Intellectual Property Office |
| IA | International Application under the Hague System procedures |
| IR | International Registration under the Hague System procedures |
| OAPI | African Intellectual Property Organization |
| RCD | Registered Community Design of the European Union |
| WIPO | World Intellectual Property Organization |

■ GLOSSARY

| | |
|-----------------------------------|--|
| Contracting Parties | States and intergovernmental organizations that are Parties to the Hague Agreement |
| DAS | Digital Access Service for industrial design priority documents |
| International application | Application for the registration of an industrial design under the Hague System procedures |
| International registration | International industrial design registration under the Hague System procedures |
| Hague Union | Union of States and intergovernmental organizations that are Parties to the Hague Agreement |
| Hague Agreement | Hague Agreement Concerning the International Registration of Industrial Designs |
| Geneva Act or 1999 Act | Latest Act of the Hague Agreement Concerning the International Registration of Industrial Designs |
| Hague System | System for the international registration of industrial designs, governed by the Hague Agreement and managed by WIPO |
| Hague Union Members | Contracting Parties to the Hague Agreement |
| Locarno Classification | International Classification for Industrial Designs established by the Locarno Agreement of 1968 |

■ ONLINE TOOLS AND SERVICES FREELY AVAILABLE FOR HAGUE SYSTEM USERS

ASEAN DesignView – <http://www.asean-designview.org/designview/welcome>

Online platform enabling searches in the industrial design databases of nine ASEAN IP Offices

DesignView – <https://www.tmdn.org/tmdsview-web/welcome>

Online platform offering access to data of more than 14 million industrial designs from 60 IP offices

Digital Access Service (DAS) – <https://www.wipo.int/das/en/>

A WIPO electronic system allowing industrial design priority documents to be securely exchanged between participating intellectual property (IP) offices.

E-Renewal – https://webaccess.wipo.int/erenewal_dm/IndexController?lang=EN

Online electronic facility to request the renewal of international registrations under the Hague System

EUIPO Representatives Database – <https://euipo.europa.eu/eSearch/#advanced/representatives>

Database of representatives maintained by the European Union Intellectual Property Office

EUIPO Design Guidelines – <https://euipo.europa.eu/ohimportal/en/design-guidelines>

Compendium of EUIPO practice regarding Registered Community Design procedures

EUIPO Design website – <https://euipo.europa.eu/ohimportal/en/designs>

Design website of the European Union Intellectual Property Office

Fee Calculator – <https://www.wipo.int/hague/en/fees/calculator.jsp>

WIPO-managed online tool that facilitates the calculation of the fees to be paid for international applications and renewals under the Hague System

Fee payment methods – <http://www.wipo.int/finance/en/hague.html>

Methods for the payment of fees under the Hague System to WIPO

Global Design Database – <https://www.wipo.int/designdb/en/index.jsp>

WIPO online gateway containing more than 5 million records from 14 national, regional and international design collections

Hague Forms – <https://www.wipo.int/hague/en/forms/>

WIPO web address where from the Hague System forms can be downloaded

Hague Guide for Users – <https://www.wipo.int/hague/en/guide/>

WIPO Guide to the International Registration of Industrial Designs

Hague Member Profiles Database – <https://www.wipo.int/hague/memberprofiles/#/>

WIPO-managed database that offers information on procedures and practices regarding the effects of international registrations in Hague Union Members

Individual Fees – <https://www.wipo.int/hague/en/fees/individ-fee.html>

Individual designation fees (for international applications and renewals) fixed by certain Contracting Parties under the Hague System

International Designs Bulletin – <https://www.wipo.int/haguebulletin/?locale=en>

The official Hague System weekly publication that contains the latest data regarding international registrations, renewals and modifications affecting existing registrations

Locarno Classification – <http://www.wipo.int/classifications/locarno/en/>

International Classification for Industrial Designs established by the Locarno Agreement of 1968

RCD online filing – <https://euiipo.europa.eu/ohimportal/en/rcd-apply-now>

Electronic facility for online filing of RCD applications at the EUIPO website

Schedule of Fees – <https://www.wipo.int/hague/en/fees/sched.htm>

Schedule of Fees under the Hague System

WIPO Lex – <http://www.wipo.int/wipolex/en/index.jsp>

Global database providing access to Intellectual Property legal information (treaties, laws, regulations)

WIPO User Account – <https://www3.wipo.int/wipoaccounts/en/usercenter/public/register.js>

User account offering secured access to certain WIPO services such as the E-filing for industrial designs under the Hague System

For general, up to date information on the Hague System,
please refer to the following address:

<https://www.wipo.int/hague/en/>



ARISE+

ASEAN Intellectual Property Rights

THE HAGUE SYSTEM