



ETiDOP[®]

Egyptian Trademarks and Industrial
Designs Office Project

Guidelines on how to obtain Design Protection through the Hague System





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Introduction

- The International Route of Design Protection under the Hague system through a single international application filed with the International Bureau of WIPO is the fast track route to securing international protection of your designs
- The reasons to prefer the international route could be:
 - Seek protection in multiple markets, particularly if these are in different regions as part of export strategy
 - Have limited budget and/or time to spend on registration and management of the designs



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Hague system

The Hague System for international registration of industrial designs is constituted by two different international treaties, totally independent of each other:

the Geneva Act (1999), which was adopted on July 2, 1999, and entered into force on December 23, 2003, and

the Hague Act (1960), which was adopted on November 28, 1960, and entered into force on August 1, 1984.

The application of the 1960 and 1999 Acts is supplemented by the Common Regulations and the Administrative Instructions.



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Hague system

- The accession of Israel, Mexico and Samoa in 2020 brought the number of Hague members to 74 individual countries and Member organisations (such as EU, OAPI) signed up to the Hague System, covering 91 countries.
- Egypt became party to the 1999 Act on August 27th, 2004.
- Protection can be obtained only in those Contracting Parties which are party to the same Act. Therefore, for Egyptian design owners, only the member states and organisations party to the Geneva Act can be designated and protection cannot be requested in respect of Contracting Parties bound only by the 1960 Act.
- The Hague System cannot be used to protect an industrial design in a country which is not party to the Hague Agreement



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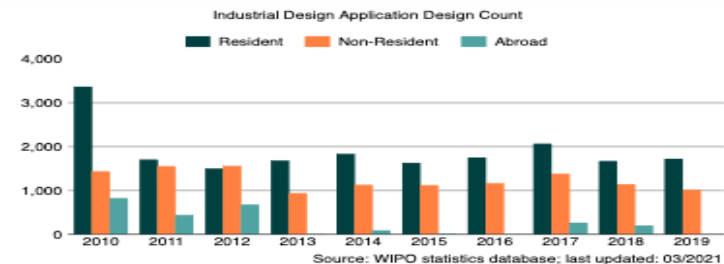
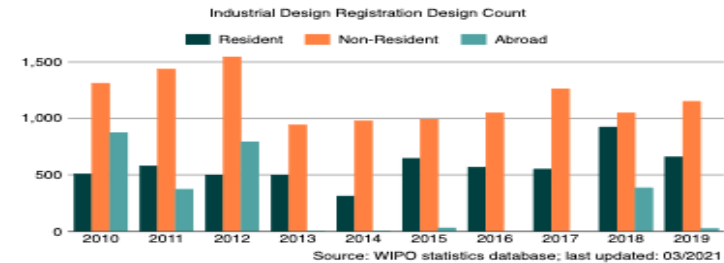
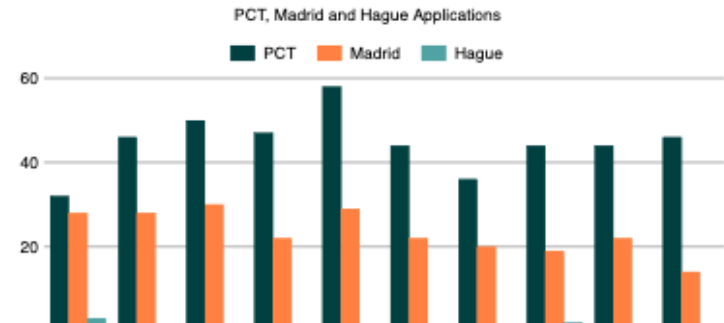


Statistics Egypt

Number of International applications: 2020, 1
2018, 2, 2014, 1, 2012, 1, 2011, 3

Number of Designs in Industrial design registrations: 2019, 661 residents, 1151 non-residents, 26 abroad
2018, 925 res. 1051 res., 386 abroad

Number of Designs in Industrial design Applications: 2019 1720 res. 1009 non resid.
2018 1668, res., 1141 non-res., 200 abroad



Key numbers for 2019

5,886 (+8%)

International applications

5,042 (+5.8%)

International registrations

25,029 (+26.1%)

Designations in international applications

20,987 (+26%)

Designations in international registrations

3,547 (+8.2%)

Renewals of international registrations

40,498 (+6.6%)

Active (in force) international registrations

165,101 (+5.2%)

Designs contained in international registrations in force

Key numbers for 2020

5,792 (-1.7%)

International applications

6,795 (+34.8%)

International registrations

24,126 (-3.2%)

Designations in international applications

27,339 (+30.3%)

Designations in international registrations

4,759 (+34.2%)

Renewals of international registrations

44,096 (+6.3%)

Active (in force) international registrations

172,217 (+5.1%)

Designs contained in international registrations in force



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Highlights of statistics on Hague Applications

- After 13 consecutive years of growth, the number of designs contained in applications filed under the Hague System declined by 15% in 2020.
- A considerable drop in the number of designs originating from Germany, Italy and the Republic of Korea partly accounts for the overall decrease seen in 2020
- The number of international applications for the protection of designs filed under the World Intellectual Property Organization (WIPO) administered Hague System amounted to 5,792 applications in 2020, representing a 1.7% decline on the previous year



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Germany biggest source of designs for the Hague system

- Despite a decrease of 18.7%, Germany, with 3,666 designs, continues to be the main source of designs for the Hague System.
- The United States of America (U.S.) (2,211 designs) moved up from 6th to second position.
- Switzerland, the Republic of Korea and Italy ranked third, fourth and fifth, respectively, with 1,944, 1,669 and 1,231 designs.
- Japan – a recent member – has gradually moved up the ranking. It was the seventh largest user of the Hague System in 2020.
- China, which is not a member of the Hague System, ranked in ninth position. Among the top 10 origins, the U.S. (+62.7%), Turkey (+34.7%) and China (+22.7%) are the only three to have registered growth in 2020.



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Low share of Africa and Egypt

- Applicants based in Europe accounted for 64.2% of all designs filed in 2020. This reflects the membership of the Hague System, the vast majority of whom are European countries.
- However, following the recent accession of Japan and the Republic of Korea, the proportion of designs originating from Asia increased from 3.1% in 2010 to 23% in 2020.
- Similarly, accession by Canada and the U.S. led to an increase in North America's share from 7.8% in 2010 to 12.8% in 2020.
- The combined share of Africa, Latin America and the Caribbean (LAC) and Oceania is only 0.5%.



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Companies with most published designs in 2020

- For a fourth consecutive year, Samsung Electronics of the Republic of Korea with 859 designs published headed the list of top filers, followed by Procter & Gamble of the U.S. (623), Fonkel Meubelmarketing of the Netherlands (569), Volkswagen of Germany (524) and Beijing Xiaomi Mobile Software of China (516) (table A5). For the first time, a company from China is among the top five applicants. The top 10 applicants list is comprised of three applicants from Germany, two applicants each from the Netherlands, the Republic of Korea and the U.S., and one from China.
- Lampenwelt of Germany is a new user of the Hague System and ranked in 10th spot, with 276 designs. Among the top 10 applicants, Wenko-Wenselaar of Germany (with 352 additional designs in 2020) and Beijing Xiaomi Mobile Software of China (+344 designs) registered the fastest increase in published designs recorded between 2019 and 2020.



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Where do Hague applicants seek protection for their designs?

- The EU was the most designated Hague member in international applications in 2020, with 4,149 designations containing 13,268 designs. The EU has been the most designated member since 2010.
- It was followed by Switzerland (7,853 designs), the United Kingdom (U.K.) (6,494), the U.S. (5,038) and Turkey (4,665).
- Among top 10 designated member, the U.K. (+49%) recorded the fastest growth, whereas Norway (-33.1%) experienced the steepest decline.



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Which classes were most frequently specified in international applications?

- Designs relating to means of transport (Class 12; 10.1%) accounted for the largest share of total designs in 2020, followed by recording and communication equipment (Class 14; 8.9%), packages and containers (Class 9; 8.4%), furnishing (Class 6; 7.4%) and lighting apparatus (Class 26; 6.9%). Combined, the top 10 most specified classes accounted for 65.6% of all designs in 2020.
- Among the top 10 classes, pharmaceutical and cosmetic products (+42.8%) saw a sizeable growth in 2020. This, combined with the top growth of 262% in designs relating to the prevention of accidents (class 29) and another strong 45% growth in designs relating to medical and laboratory equipment (class 24), reflects the innovation taking place as part of the collective response to the COVID-19 pandemic.



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The IB distributed CHF 11.14 million to designated offices in 2020

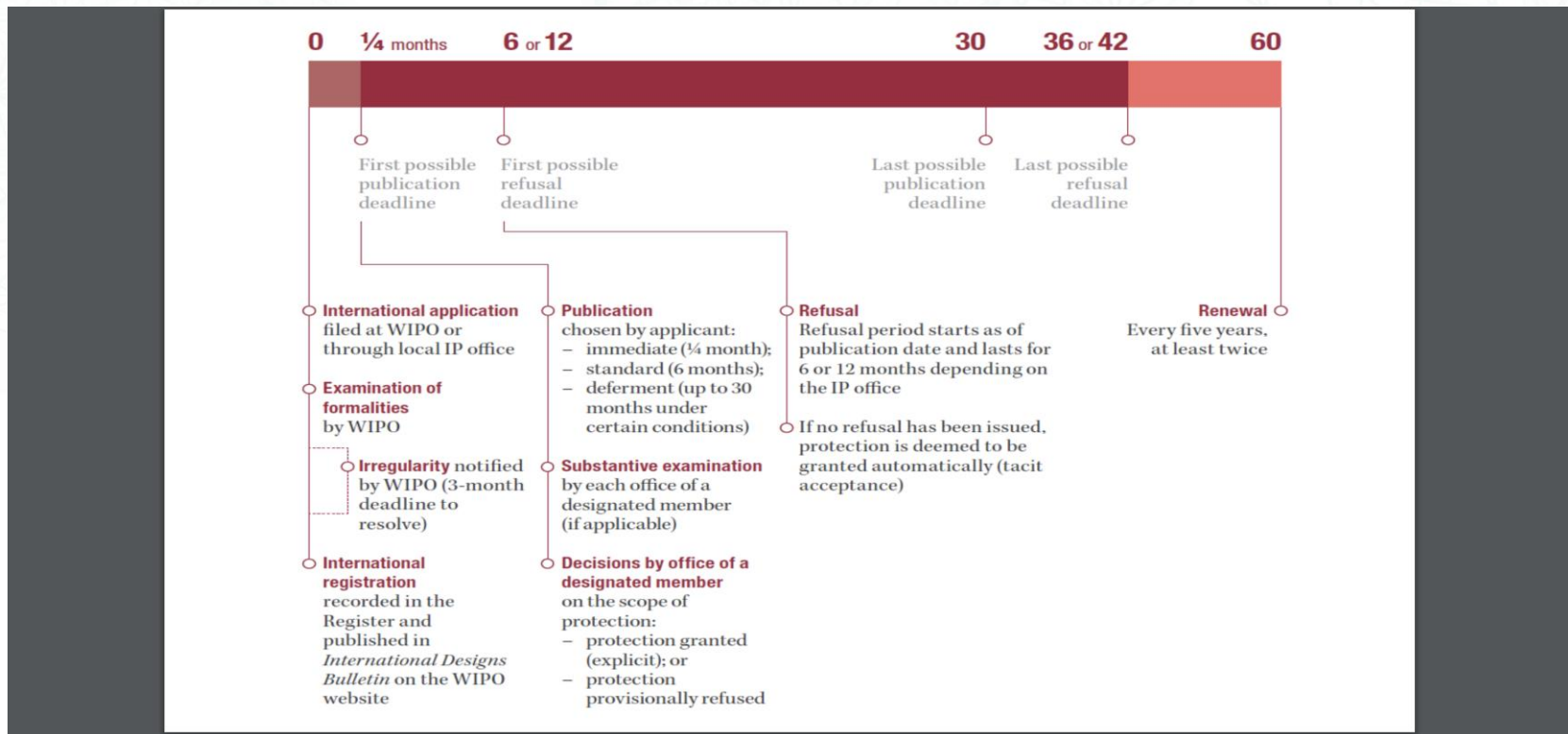
- In 2020, the IB distributed 11.14 million Swiss francs (CHF) to all designated offices, representing an increase of 51.5% on 2019.
- Japan received the largest share (25.6%), followed by the U.S. (21.4%), the EU (14.1%) and the Republic of Korea (10.5%).



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Hague Flow





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Overview of the Hague System- Step 1

Step 1 – Application

The first step to obtaining international design protection is to file an international application with WIPO.

A Hague System application may be filed directly at the International Bureau in Geneva or at the office of a member state/organisation.

An application may conveniently be filed online, which is easier, cheaper and faster than paper filing.

File your application directly with WIPO using eHague – the simplest and most efficient way to secure international design protection.



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Overview of the Hague System- Step 2

Step 2 – Formal examination

- After submission, the application will be checked for compliance with formal requirements (e.g., designation of contracting parties, quality of reproductions), including payment of the required fees. The International Bureau does not appraise or concern itself in any way with the novelty of the design and it is therefore not entitled to reject an international application on this or any other substantive ground.
- Non-payment of the required fees will result in an irregularity notice. The applicant is informed of any defects, which must be corrected within the prescribed time limit of three months, failing which the international application is considered abandoned. When the application is filed through the E-filing interface on the WIPO website, the corrections required may be easily done through the E-filing Portfolio Manager.
- Where an international application complies with the prescribed formal requirements, the International Bureau proceeds with its recording in the International Register and sends to the applicant a certificate of international registration.



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Overview of the Hague System- Step 3

Step 3 – Publication

- The publication takes place six months after the international registration date, electronically on the WIPO website and contains all relevant data concerning the international registration, including a reproduction of the industrial design.
- The applicant may request immediate publication or that publication be deferred for a period which may not exceed 30 months (under the 1999 Act) from the date of filing or, where priority is claimed, from the priority date.
- Thus, the applicant may time the publication to fit his/her business strategy, requesting publication only when it is the right moment to unveil the design on the market.
- The official publication is the starting point for the IP offices of the designated contracting parties to perform the substantive examination.



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Overview of the Hague System- Step 4

Step 4 – Substantive examination

- One of the main features of the Hague System lies in the possibility for the Office of each designated Contracting Party to refuse protection, in its territory, to an industrial design which does not fulfil the substantive conditions of protection provided for by its domestic legislation. Such refusal, however, may not be issued on the grounds of non-compliance with formal requirements, since formal examination has already been carried out by the International Bureau.
- IP Offices performing substantive examination are the following:
- Canada, Hungary, Israel, Japan, Kyrgyzstan, Mexico, Republic of Korea, Republic of Moldova, Romania, Russian Federation, Syrian Arab Republic, USA, Viet Nam



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Overview of the Hague System- Step 4

Step 4 – Substantive examination

- Each designated contracting party has the right to refuse protection within its own territory. Any refusal of protection must be notified to the International Bureau within six months from the publication of the international registration on the WIPO website.
- Under the 1999 Act, however, any Contracting Party whose Office is an Examining Office, or whose law provides for the possibility of opposition, may declare that the refusal period of six months is replaced by a period of 12 months. Egyptian Office is not examining office and Egypt has not made the declaration under 199 Act to extend the refusal period.
- Any refusal of protection shall have effect only throughout the territory of the Contracting Party whose Office has issued such a refusal.



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Overview of the Hague System- Step 4

Step 4 – Substantive examination

- In the event of notification of a refusal, the International Bureau will inform the applicant, or his agent if there is one. The applicant then has the same remedies as if the application was filed directly with the particular designated office. Responding to the notice of refusal does not involve the International Bureau. Appointment of a local attorney may be required.
- On the other hand, where an Office finds no grounds for refusing protection, it may, before the expiry of the applicable refusal period, issue a statement of grant of protection. However, not sending such statement of grant of protection has no legal consequences, since the industrial designs that are the subject of the international registration are deemed to be automatically protected in that given jurisdiction.



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Who may use the Hague system?

- The Hague System may be used only by a natural person or a legal entity which:
 - has a real and effective industrial or commercial establishment in Egypt, or
 - is domiciled in Egypt, or
 - is a national of Egypt.
 - has habitual residence in Egypt.



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No prior national application or registration

- The filing of an international application does not require any prior national application or registration.
- Protection for an industrial design can therefore be applied for at the international level through the Hague Agreement **for the first time.**



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International application

- The international application must be filed in English, French or Spanish. An international application is normally sent directly to the International Bureau by the applicant, in which case either the eHague interface or the paper application form may be used.
- Indirect filing through ITDO is admitted under the 1999 Act, since Egypt has not notified the International Bureau that international applications may not be filed through its Office. In such case, the applicant shall pay a transmittal fee to IITDO, for its own benefit, in respect of any international application filed through it.
- An international application may include up to 100 different designs. All designs must, however, belong to the same class of the International Classification for Industrial Designs (the Locarno Classification).
- It must, in particular, contain a reproduction of the industrial designs concerned, together with the designation of the Contracting Parties where protection is sought.



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Fees due

- The international application is subject to the payment of the following fees:
 - **a basic fee** (397 Swiss francs for one design; 19 Swiss francs for each additional design included in the same application);
 - **a publication fee** (17 Swiss francs for each reproduction; 150 Swiss francs for each page on which one or more reproductions are shown);
 - **for each designated Contracting Party, either a standard fee or an individual fee.** There is a big variation in the designation fee between member states and organisations (from 67 Swiss Francs for a design in the EU, to 682 Swiss Francs designation fee for Japan).
- The amounts of the basic, complementary and supplementary fees are set out in the Schedule of Fees (<https://www.wipo.int/hague/en/fees/sched.htm>). There are four ways to submit the fees to WIPO: Current Account at WIPO, credit card (in certain cases), bank transfer, or postal transfer (within Europe only). WIPO does not accept payment by cash or check. Any checks received will be returned to the sender.
- An automatic fee calculator is available on this website (<https://www.wipo.int/hague/en/fees/calculator.jsp>).



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Effects of the International Registration

- The 1999 Act provides for the recognition of, successively, two sets of effects to an international registration, namely, the effect as an application under the domestic law, and the effect as a grant of protection.
- Firstly, as from the date of the international registration, **the international registration has at least the same effect in each designated Contracting Party as a regularly-filed application under the law of that Contracting Party.** Any Contracting Party that affords provisional protection to published national or regional applications must also afford that type of protection to published international registrations in which it is designated. Furthermore, where under the applicable law only the granted registrations are published, that Contracting Party may afford provisional protection to international registrations as from the publication date of the international registration in which it is designated.



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Effects of the International Registration

- Secondly, in each designated Contracting Party the Office of which has not notified a refusal of protection, **the international registration has the same effect as a grant of protection under the law of that Contracting Party.** The effect of protection starts to run, at the latest, from the date of expiry of the applicable refusal period (six or 12 months, as the case may be).
- It must therefore be stressed that the Hague System is merely an agreement for **international procedure.** Any substantive aspect of the protection is entirely a matter for the domestic legislation of each designated Contracting Party.



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Changes in the international Register

- The following changes, which may affect an international registration, may be recorded in the International Register:
 - a change in the name and address of the holder or his representative;
 - a change in the ownership of the international registration (in respect of all or some of the designated Contracting Parties and/or in respect of all or some of the industrial designs included in the registration);
 - a renunciation of all the industrial designs subject of the international registration, in respect of any or all of the designated Contracting Parties; and
 - a limitation of some only of the industrial designs, in respect of any or all of the designated Contracting Parties.
- Requests for such recordings must be presented to International Bureau on the relevant official form and must be accompanied by the prescribed fees. Information concerning such changes is recorded in the International Register and is published in the Bulletin for the information of third parties.



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Duration of Registration; Renewal

- International registrations are valid for an initial period of five years. They can be renewed for one or more additional periods of five years, in respect of each designated Contracting Party, up to the expiry of the total term of protection allowed by those Contracting Parties' respective laws. In other words, the minimum duration of protection, subject to renewal, shall be at least 15 years and the maximum duration of protection in each designated Contracting Party corresponds to the maximum duration provided for by the law of that Contracting Party. In most states and organisations, it is 25 years. In Egypt, it is 15 years.
- Requests for renewals must be presented to the International Bureau, along with the payment of the corresponding renewal fees. International registrations may be renewed electronically through the electronic renewal interface (E-renewal) available on the WIPO website (<https://hague.wipo.int/renewal/IndexController?lang=EN>). It is possible to renew some or all of the designs, and for some or all of the designated states/organisations.



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Advantages of Hague system: simplicity, cost-effectiveness

- By filing a single application centrally rather than having to file separate national applications, design owners originating from a Contracting Party may obtain protection for their designs without many formalities and expenses. **Global coverage by possibility to protect designs in 91 countries.**
- In particular, design owners are relieved from the need to make a separate national application in each of the Contracting Parties in which they require protection, thereby avoiding the complexities arising from procedures which may differ from State to State.
- Thus, they do not have to file documentation in various languages, nor keep a watch on the deadlines for renewal of a whole series of national registrations, varying from one State to the other.
- There will be a saving in local attorney charges if no objections are raised by the offices of the designated states/organisations.



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Advantages of Hague system: simplicity, cost-effectiveness

- **Pay one set of fees in a single currency**, by means of a single international application, in one language and with one Office (the International Bureau).
- **Time the publication of registration to fit business strategy**
- Moreover, by having a single international registration with effect in several Contracting Parties, **the subsequent management of the protection obtained is also considerably facilitated**. For instance, a change in ownership, or in the name or address of the holder, can be recorded in the International Register and have effect in all the designated Contracting Parties, by means of one simple procedural step.



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Disadvantages of Hague system: no uniform drawings standard

- The main problem with the Hague System is that there is no uniform drawings standard between the member states/organisations. Therefore, each country still has different substantive drawing requirements and different drawing sets may be needed depending on which countries are designated.
- WIPO provides for some 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 at the following link: https://www.wipo.int/export/sites/www/hague/en/how_to/pdf/guidance.pdf



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Disadvantages of Hague system: lack of flexibility

- Finally, the Hague System lacks flexibility to add new markets, as export plans are developing.
- An applicant must designate all desired member states and organisations on filing of the international application, without any possibility to extend the effects of an international registration to a Contracting Party not covered by the international application by filing a subsequent designation.