

Annex B

EXPLANATORY MEMORANDUM ON THE GENEVA ACT OF THE HAGUE AGREEMENT CONCERNING THE INTERNATIONAL REGISTRATION OF INDUSTRIAL DESIGNS

Title of Agreement

The Geneva Act of the Hague Agreement Concerning the International Registration of Industrial Designs

Command Paper No: 9534

Subject matter

The Hague Agreement establishes a registration system that makes it possible to obtain protection for industrial designs in multiple countries (or with intergovernmental organisations) by filing a single application with the International Bureau (IB) of the World Intellectual Property Organisation (WIPO). The Hague registration system was established under the Hague Agreement which itself is constituted by three different Acts, the London Act 1934, the Hague Act 1960 and the Geneva Act 1999¹.

Ministerial responsibility

The Minister of State for Universities, Science, Research and Innovation has responsibility for policy relating to the UK ratification to the Geneva Act.

The Secretary of State for Foreign and Commonwealth Affairs has overall responsibility for the conclusion and implementation of the treaty obligations and responsibility for their application in Overseas Territories.

Policy Considerations:

General

The objective of joining in our national capacity is to provide designers with more choice over how they register their designs. If businesses require more focussed protection and have no intention of trading widely across the EU, they will now be able to use the system to designate the UK alongside any of their other key international markets.

Financial

There is no additional cost to the UK as the capability for UK design examiners to deliver this work will already be in place. Administrative costs of processing an application will be paid by the applicant to WIPO, with the relevant amount being passed through to the UK Intellectual Property Office.

¹ The Geneva Act 1999 is supplemented by the Common Regulations under the 1999 and the 1960 Act of the Hague Agreement. (the 1960 Act is the Act signed at the Hague on 28 Nov 1960). The Regulations are made pursuant to art 24 of the Geneva Act and provide the details of the implementation of the Act, and include provisions for amendment of the Regulations. It is proposed to implement the version of the Regulations in effect from 1 Jan 2015.

<http://www.wipo.int/treaties/en/registration/hague/#treaties>

UK businesses will be able to save money on design registrations and protect their intellectual property with greater administrative ease. It should also encourage non-UK owners of designs to register their rights in the UK, thereby encouraging the manufacture, distribution or licensing of their designs in the UK.

Reservations and Declarations

The Geneva Act contains a number of optional provisions available to Contracting States on ratification. The government held a consultation in 2015 that included questions around which of the optional provisions the UK should adopt. The government intends to make the following declarations under the Geneva Act of the Hague Agreement:

- (i) Article 4(1)(b) – allows a Contracting Party to opt out applications being filed through its own national office. The UK IPO will not act as a receiving office for applications filed under the treaty. Users will instead need to file their applications directly with WIPO.
- (ii) Article 11(1) b – deferment of publication of a design for a period which is less than 30 months. The UK will not defer publication of an industrial design that is the subject of an application for international registration.
- (iii) Article 17(3)(c) – maximum duration of protection. The UK will notify the Director General of WIPO that within the UK the maximum duration of protection under UK legislation is 25 years.

Implementation

Implementation of the provisions of the Geneva Act will be through secondary legislation under section 15ZA of the Registered Designs Act 1949 (RDA). The Designs (International Registration of Industrial Designs) Order 2016 modifies the RDA and the Registered Designs Rules 2006 to give effect in the UK to the provisions of the Geneva Act.

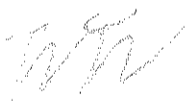
The RDA extends to the Isle of Man. It is intended that the UK's ratification to the Geneva Act shall include the Isle of Man, and the Designs (International Registration of Industrial Designs) Order will therefore also extend to the Isle of Man.

Consultation

A consultation exercise ran from 15 September 2015 to 10 November 2015 to seek views on the UK's proposed ratification to the Geneva Act of the Hague Agreement. The response to the consultation is available at

<https://www.gov.uk/government/consultations/uk-accession-to-the-hague-agreement>.

The Government of the Isle of Man was consulted and agreed that the UK's ratification to the Geneva Act should extend to the Isle of Man.



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