SECTION F
INDUSTRIAL DESIGNS

Article 11.49: Protection of Industrial Designs

1. Each Party shall provide for the protection of independently created industrial designs that are new or original. A Party may provide that designs are not new or original if they do not significantly differ from known designs or combinations of known design features. A Party may provide that such protection shall not extend to designs dictated essentially by technical or functional considerations.

2. Each Party shall ensure that requirements for securing protection for textile designs, in particular in regard to any cost, examination, or publication, do not unreasonably impair the opportunity to seek and obtain such protection. Each Party shall be free to meet this obligation through industrial design law or through copyright law.

3. Each Party shall provide that the owner of a protected industrial design has the right to prevent third parties not having the owner's consent from making, selling, or importing articles bearing or embodying a design which is a copy, or substantially a copy, of the protected design, when such acts are undertaken for commercial purposes.

4. Each Party may provide limited exceptions to the protection of industrial designs, provided that such exceptions do not unreasonably conflict with the normal exploitation of protected industrial designs and do not unreasonably prejudice the legitimate interests of the owner of the protected design, taking account of the legitimate interests of third parties.

5. Each Party confirms that protection for industrial designs is available for designs:

   (a) embodied in a part of an article; or, alternatively,

   (b) having a particular regard, where appropriate, to a part of an article in the context of the article as a whole, in accordance with its laws and regulations.

Article 11.50: Information as Prior Art for Designs Made Available to the Public on the Internet[39]

The Parties recognise that information made available to the public on the internet may form part of the prior art for designs.

Article 11.51: Registration or Grant and Applications of Industrial Designs

Each Party shall provide a system for the registration or grant of industrial designs, which shall include:

(a) a requirement to provide to the applicant a communication in writing, which may be provided electronically, of the reasons for a refusal to register or grant an industrial design;

(b) an opportunity for the applicant to respond to communications from the Party's competent authorities for industrial designs, and to contest, challenge, or appeal a refusal to register or grant an industrial design;

(c) an opportunity to seek cancellation or invalidation or revocation of a registration or grant; and

(d) a requirement that administrative decisions[40] in cancellation or invalidation or revocation proceedings shall be reasoned and in writing. Such decisions may be provided electronically.

Article 11.52: Introduction of International Classification System for Industrial Designs

Each Party shall endeavour to use a classification system for industrial designs that is consistent with the *Locarno Agreement Establishing an International Classification for Industrial Designs* signed at Locarno on 8 October 1968, as amended from time to time.

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[39] For greater certainty, nothing in this Article shall require a Party to ensure that its administrative authorities conduct substantive examination of designs.

[40] For the purposes of this subparagraph, "administrative decisions" may include quasi-judicial decisions.