

Working Group on the Legal Development of the Hague System for the International Registration of Industrial Designs

**Twelfth Session
Geneva, December 4 to 6, 2023**

PROPOSAL FOR AMENDING THE SCHEDULE OF FEES

Document prepared by the International Bureau

INTRODUCTION

1. At its eighth session, held from October 30 to November 1, 2019, the Working Group on the Legal Development of the Hague System for the International Registration of Industrial Designs (hereinafter referred to as the “Working Group”) discussed document H/LD/WG/8/4, entitled “Financial Sustainability of the Hague System; Possible Revision of the Schedule of Fees”.

2. The Working Group considered favorably the submission to the Assembly of the Hague Union of a proposal to amend the amount of the basic fee for each additional design included in the same international application (hereinafter referred to as the “basic application fee for each additional design”), from 19 to 50 Swiss francs, with a proposed date of entry into force of January 1, 2021. Owing to a delay arising from the COVID-19 pandemic and its adverse economic impact on users, the proposal was eventually submitted to and adopted by the Assembly of the Hague Union in July 2023; the amendments to the Schedule of Fees are due to enter into force on January 1, 2024¹.

¹ See documents H/A/43/1 and H/A/43/2.

3. At its eighth session, the Working Group also made the following two requests to the International Bureau:

- to prepare, for discussion at its next session, a study on the possible increase in the amount of the basic fee for each additional design for the renewal of an international registration (hereinafter referred to as the “basic renewal fee for each additional design”); and
- to prepare a broader review of the Schedule of Fees of the Hague System for discussion at a future session².

4. With regard to the requested study on the possible increase in the basic renewal fee for each additional design, in 2020, the International Bureau provided the Working Group with document H/LD/WG/9/INF/1, containing a comparative analysis of renewal fee structures in different jurisdictions. At that stage, however, the International Bureau did not propose any related amendment to the Schedule of Fees³, given the postponement of the increase in the basic application fee for each additional design, which should precede any increase in the basic renewal fee for each additional design.

5. The recent adoption of the amendments to the Schedule of Fees to increase the basic application fee for each additional design, which will take effect in January 2024, now enables consideration of an increase in the basic renewal fee for each additional design.

6. To that end, different aspects of a possible such increase are set forth in this document, along with a proposal to amend the Schedule of Fees to increase the aforementioned fee from 17 to 50 Swiss francs.

SCOPE

7. The Schedule of Fees comprises several items, among which the fees⁴ for the International Bureau are as follows:

- Basic international application fee (Items I.1 to I.3);
- Basic renewal fee (Item III.7); and
- Other fees (Items under Sections V to VII).

8. As Figure 1 below shows, in 2022, basic application fees for one design accounted for 40.6 per cent and fees for each additional design for 4.4 per cent of total of the Hague System income; on the other hand, basic renewal fees for one design accounted for 14 per cent and fees for each additional design for 3.6 per cent⁵ of total income.

² See paragraphs 25 to 27 of document H/LD/WG/8/8 “Summary by the Chair”.

³ See paragraph 3 of document H/LD/WG/9/INF/1.

⁴ Currently, that excludes the fees for the addition of a priority claim under Section II of the Schedule of Fees for miscellaneous procedures subsequent to international application which, at the time of writing this document, had yet to enter into force. Addition of a priority claim under new Rule 22*bis* was adopted by the Assembly of the Hague Union at its forty-first (23rd ordinary) session in 2021, with its date of entry into force to be decided by the International Bureau. See paragraph 12(ii) of document H/A/41/2.

⁵ A drop from 4.4 per cent in 2019. See paragraph 6 of document H/LD/WG/9/INF/1.

Figure 1: The Hague System – Fees and Income in 2022⁶

Fees for the International Bureau	Cases ⁷	Fee (in Swiss francs)	Amount (in thousands of Swiss francs)	Share
International applications (Items I.1 to 3)	7,725 filings	avg. 768	5,934	78.6%
Basic application fee for one design	7,725 designs	397	3,067	40.6%
Basic application fee for each additional design	17,423 designs	19	331	4.4%
Publication fee per reproduction	136,526 reproductions	17	2,321	30.8%
Publication fee per page (for paper filing)	367 pages	150	55	0.7%
Additional fee for description per word exceeding 100 words	67,000 words	2	134	1.8%
Applications abandoned (Rule 14(3))	288 filings	(depends on the case)	26	0.3%
Renewals (Item III.7)	5,284 renewals	avg. 255	1,348	17.9%
Basic renewal fee for one design	5,284 designs	200	1,056	14.0%
Basic renewal fee for each additional design	15,797 designs	17	268	3.6%
Surcharge collected pursuant to Rule 24(1)(c) for a late renewal		50% of the basic renewal fee	24	0.3%
Other fees (Sections V to VII)			264	3.5%
Change in ownership/name/address (V. Items 13 and 14)	2,326 registrations	144 72 ⁸	193	2.6%
Renunciations/limitations (V. Items 15 and 16)	125 registrations	144	18	0.2%
Certified copies; extracts and other information (VI)	878 cases	(depends on the type of request)	54	0.7%
Total			7,546	100%

9. The basic fees for international applications and for renewals have remained unchanged since 1996⁹. Meanwhile, the cost of goods and services has generally risen: in Switzerland, where most of the Hague System expenditure (notably, salaries) accrues, inflation from 1996 to 2022 was 14.7 per cent¹⁰. Increasing the basic application fee for each additional design from 19 to 50 Swiss francs is in itself insufficient for the Hague System revenues to account for the impact of inflation¹¹, let alone cover all the expenses of the International Bureau, as required by Article 23 of the Geneva Act (1999) of the Hague Agreement Concerning the International Registration of Industrial Designs (hereinafter referred to as the “1999 Act”)¹². Indeed, Figure 2 below suggests that a structural deficit would be likely to persist unless the basic renewal fee for

⁶ According to the internal monthly report provided by the Income Section of the Finance Division.

⁷ The figures for international applications are based on the international registrations with a recording date in 2022. The publication fee is also based on the recording date, not IPSAS-adjusted. Similarly, the figures for renewals and changes are counted on a recorded basis.

⁸ An additional fee of 72 Swiss francs is incurred for change of name and/or address of the holder for each additional international registration of the same holder included in the same request.

⁹ The increase in basic fees in 1996 was marginal: the “international deposit fee for one design” rose from 385 to 397 Swiss francs, and the fee “for each additional design included in the same deposit” from 18 to 19 Swiss francs. The “international renewal fee” for one design was increased from 194 to 200 Swiss francs and the fee “for each additional design included in the same deposit” from 16 to 17 Swiss francs. See footnote 23 of document H/LD/WG/8/4.

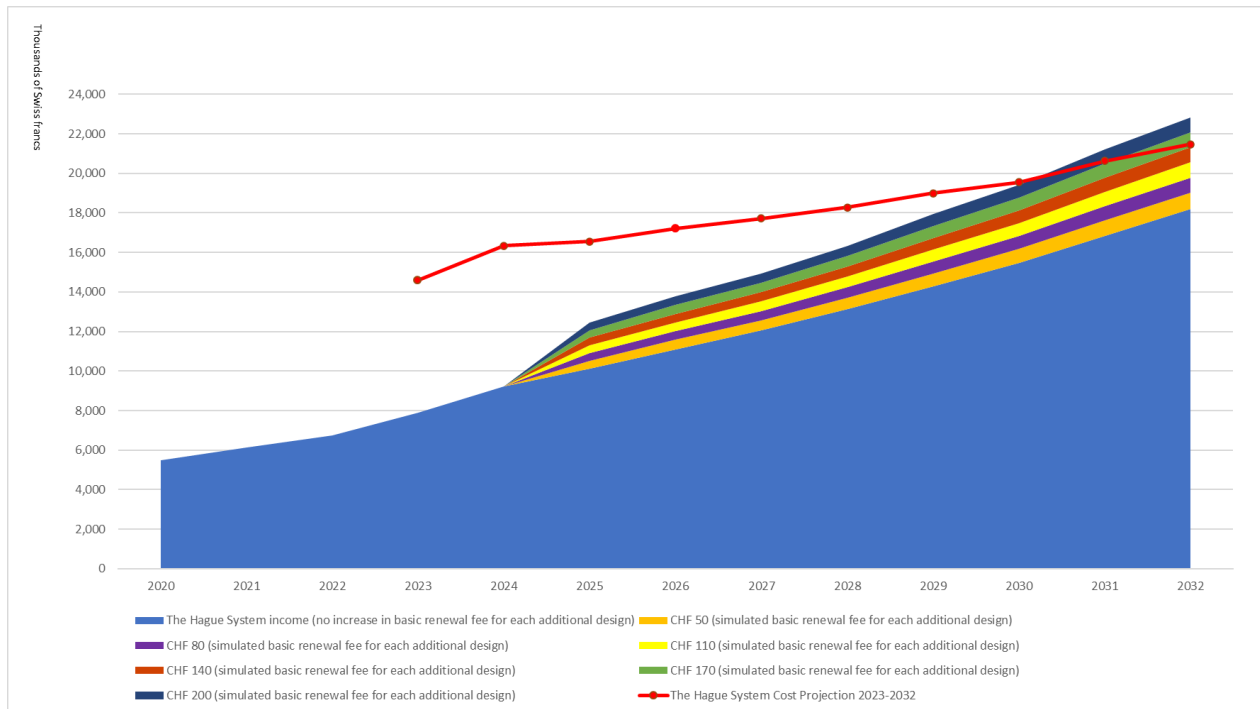
¹⁰ 103.9/90.6-1=14.7. See the Swiss Consumer Price Index (Swiss CPI) on the website of the Federal Statistical Office of Switzerland available at: <https://www.bfs.admin.ch/bfs/en/home/statistics/prices/consumer-price-index/detailresultate.assetdetail.27085446.html>.

¹¹ For the main drivers influencing the financial results more generally, see, for example, paragraph 11 of document H/LD/WG/8/4.

¹² As noted in footnote 4 of document H/A/43/1, if the amended basic application fee for each additional design (i.e., 50 Swiss francs) had already been applied in 2022, it would have resulted in an estimated additional income of around 0.5 million Swiss francs, which would have represented an increase of seven per cent of the total income under the Hague Agreement. The annual deficit of the Hague Union for 2022 was 10,343 thousand Swiss francs (document WO/PBC/36/6). Thus, the above estimated additional income would have represented a five per cent reduction of the deficit for 2022.

each additional design were increased to a level substantially closer to the current basic renewal fee for one design (200 Swiss francs).

Figure 2: Simulation of Hague System cost and total income for different levels of basic renewal fee for each additional design



10. This document provides, as the Working Group requested, a study on the possible increase in the amount of the basic renewal fee for each additional design. Together with the increased basic application fee for each additional design (in force from January 1, 2024), the proposed basic renewal fee for each additional design could offset the effect of inflation, as further discussed below. That would represent a practical result ahead of the more comprehensive future review requested by the Working Group¹³.

CONSIDERATIONS CONCERNING THE PROPOSED BASIC RENEWAL FEE FOR EACH ADDITIONAL DESIGN

11. Based on the following three principal considerations, the International Bureau is of the view that an amount of 50 Swiss francs would be reasonable and appropriate as a revised basic renewal fee for each additional design.

BALANCE WITH THE NEW BASIC APPLICATION FEE FOR EACH ADDITIONAL DESIGN

12. Currently, the basic application fees are 397 Swiss francs for one design and 19 Swiss francs for each additional design included in the same international application, whereas the basic renewal fees are 200 Swiss francs for one design and 17 Swiss francs for each additional design included in the same international registration. The new basic application fee for each additional design will be 50 Swiss francs from January 1, 2024.

¹³ See paragraph 24 of this document.

13. Given the difference between the basic fees for one design (397 Swiss francs for application and 200 Swiss francs for renewal), a basic renewal fee for each additional design in an amount higher than the new basic application fee for each additional design (50 Swiss francs) might appear disproportionate.

14. Conversely, an amount lower than 50 Swiss francs might be insufficient for other reasons. In terms of Hague System income from international applications, the publication fee for each reproduction has to an extent been compensating¹⁴ for the significant gap between the basic application fee for one design (397 Swiss francs) and that for each additional design (19 Swiss francs). In contrast, given the absence of any such other material source of income from renewals, the current rate of 8.5 per cent (17 Swiss francs) applied for each additional design versus the amount for one design (200 Swiss francs) for renewal cannot be compensated for other than by raising the basic renewal fee for each additional design. In this respect, for the basic renewal fee for each additional design to be at least on a par with the basic application fee for each additional design as calculated in footnote 14 of this document (on the updated assumption of 5.4 reproductions per design: 29 per cent if the basic application fee for each additional design had already been 50 Swiss francs in 2022), the amount would have to rise to 58 Swiss francs¹⁵.

15. The proposed amount of 50 Swiss francs would strike a balance between those considerations.

JURISDICTIONAL COMPARISON OF RENEWAL FEE STRUCTURE

16. As detailed in paragraph 7 of document H/LD/WG/9/INF/1, the renewal fee structure for industrial designs varies from one jurisdiction to another¹⁶. Applying the same method used in that document, the International Bureau has updated its comparative analysis of renewal fee structures in 34 national jurisdictions and two international intergovernmental organizations with competence in the area of industrial design protection¹⁷ (hereinafter together referred to as the "jurisdictions"). Those jurisdictions were selected using the following three objective criteria (in design count):

- frequently designated Contracting Parties: top 20 most-designated Contracting Parties in international applications in 2022;
- active users of the Hague System: top 20 origins from which most international applications were filed in 2022; and
- jurisdictions in which design systems are actively used generally: top 20 jurisdictions that received the most design applications in 2021.

¹⁴ In 2018, taking into account the publication fee, the rate applied for each additional design versus the amount for one design was 21.1 per cent (see paragraph 32 of document H/LD/WG/8/4). Had the basic application fee for each additional design been 50 Swiss francs, that rate would have been 27.6 per cent. In 2022, the average number of reproductions per design was approximately 5.4. As the publication fee per reproduction is 17 Swiss francs, the average publication fee per design was 92 Swiss francs. Thus, applying the same calculation method under footnote 29 of document H/LD/WG/8/4, the rate applied for each additional design versus the amount for one design was 22.6 per cent. Had the basic application fee for each additional design been 50 Swiss francs, the rate would have been 29 per cent.

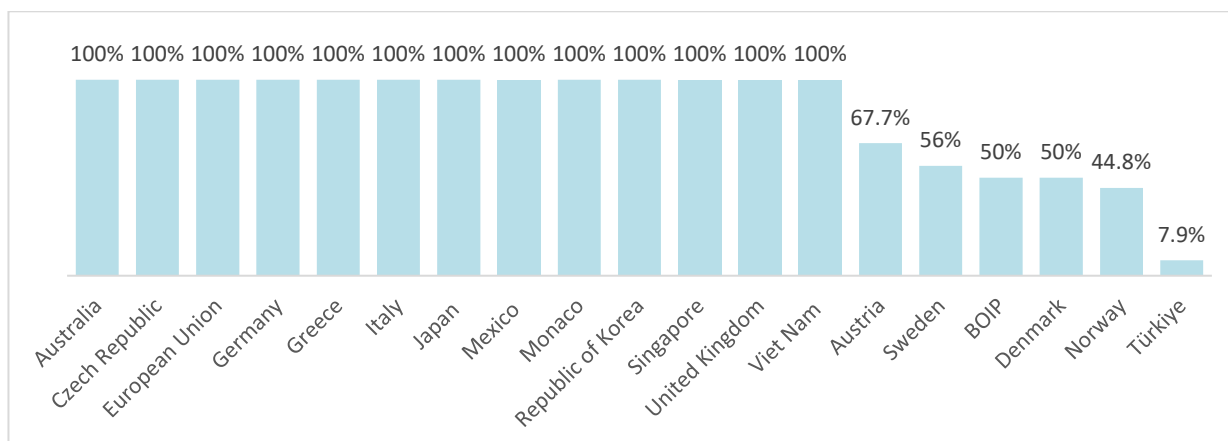
¹⁵ That is 29 per cent of the basic renewal fee for one design (200 Swiss francs).

¹⁶ The International Bureau has observed that the renewal fee structures of some jurisdictions are quite different from that of the Hague System. The former include flat renewal fees regardless of the number of designs included in one registration, or a scale of rising fees for each renewal. This document focuses on a comparative analysis of renewal fee structures similar to that of the Hague System, without prejudice to a possible future overall review of the latter.

¹⁷ Australia, Austria, Brazil, Canada, China, Czech Republic, Denmark, France, Germany, Greece, India, Iran (Islamic Republic of), Israel, Italy, Japan, Liechtenstein, Mexico, Monaco, Morocco, Norway, Poland, Republic of Korea, Russian Federation, Singapore, Spain, Sweden, Switzerland, Thailand, Tunisia, Türkiye, Ukraine, United Kingdom, United States of America, Viet Nam, Benelux Office for Intellectual Property (BOIP) and European Union.

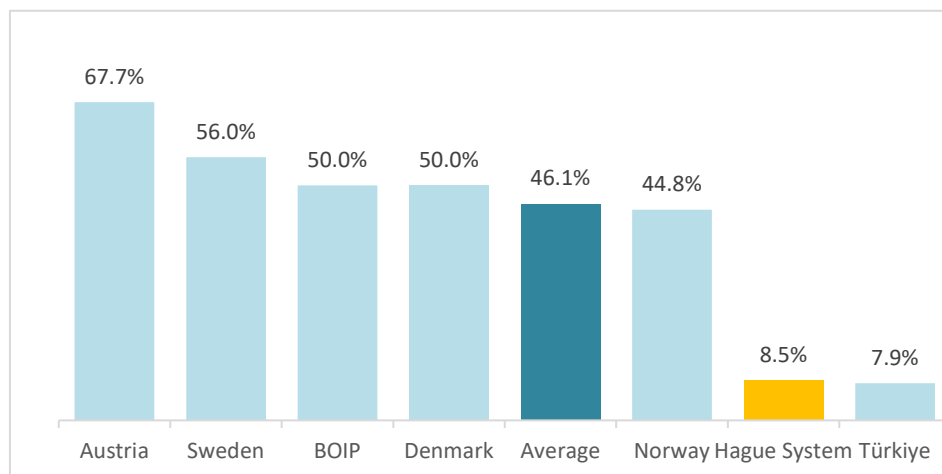
17. The results are closely comparable to those of 2020. Of the 36 jurisdictions reviewed, 19¹⁸ have a fee structure similar to that of the Hague System, meaning that for designs filed in the same application, a renewal fee is charged per design. Of those 19 jurisdictions, about two-thirds (13 jurisdictions) charge a renewal fee for each additional design that is equal to that for one design, while the remainder (six jurisdictions) charge a renewal fee for each additional design that is lower than that for one design (as under the Hague System). The rate of renewal fee for each additional design against that for one design in those 19 jurisdictions can be seen in Figure 3.

Figure 3: Rate of renewal fee for each additional design against that for one design



18. As Figure 4 below shows, among the six jurisdictions with fee structures most closely comparable to that of the Hague System, the average rate for the basic renewal fee for each additional design against that for one design is 46.1 per cent¹⁹. At 8.5 per cent²⁰, the current rate under the Hague System is much lower.

Figure 4: Average rate of renewal fee for each additional design against that for one design



19. A basic renewal fee of 50 Swiss francs for each additional design would lift the rate to 25 per cent of the basic renewal fee for one design (200 Swiss francs). That would reduce

¹⁸ Australia, Austria, Czech Republic, Denmark, Germany, Greece, Italy, Japan, Mexico, Monaco, Norway, Republic of Korea, Singapore, Sweden, Türkiye, United Kingdom, Viet Nam, BOIP and European Union. Some of those jurisdictions allow multiple designs to be included in one application but subsequently treat each design separately for registration.

¹⁹ The average rate of 46.1 per cent is slightly lower than the average rate of 50.2 per cent in 2020, for two reasons: Serbia with the highest rate of 69.9 per cent in 2020 was not selected this time under the three objective criteria (see paragraph 16 of this document); and the rate in Türkiye has decreased from 13 per cent to 7.9 per cent. In the latter case, however, the lower rate appears to result from the renewal fee having increased more significantly for one design (from 540 to 2,314 Turkish liras) than for each additional design (from 70 to 183 Turkish liras) at some point since 2020.

²⁰ See paragraph 14 of this document.

the significant difference between the two, noted by the Working Group²¹, while remaining modest in comparison with the prevailing rates in the aforementioned six jurisdictions.

INFLATION SINCE 1996

20. As explained in paragraph 9 of this document, the basic fees for international applications and for renewals have remained unchanged since 1996, while the cost of goods and services has increased, with an inflation rate in Switzerland of 14.7 per cent through 2022. The impact of inflation on the deficit of the Hague System was not accounted for in documents H/LD/WG/8/4 and H/LD/WG/9/INF/1. Including it in this analysis should help to prepare the ground for a more fundamental review of the Hague System's fee structure with a view to achieving increased financial sustainability.

21. Together with the new basic application fee for each additional design, the proposed amount of 50 Swiss francs for the basic renewal fee for each additional design would significantly compensate for the impact of inflation on the Hague System revenues. Based on the figures presented in Figure 1, and supposing that a fee of 50 Swiss francs had applied both for application and for renewal for each additional design in 2022, Figure 5 below shows that the respective amounts of income that year would have been 871 thousand and 790 thousand Swiss francs²² and Hague income overall would have reached 8,607 (rather than the actual total of 7,546) thousand Swiss francs, an increase of 14 per cent.

Figure 5: The Hague System – Fees and Simulated Income in 2022

Fees for the International Bureau	Cases	Fee (in Swiss francs)	Amount (in thousands of Swiss francs)
International applications (Items I.1 to 3)	7,725 filings	avg. 768	5,934
Basic application fee for each additional design	17,423 designs	19	331
		if 50	871
Renewal (Item III.7)	5,284 renewals	avg. 255	1,348
Basic renewal fee for each additional design	15,797 designs	17	268
		if 50	790
Other fees (Sections V to VII)			264
Total			7,546
		Simulated:	8,607 (+14%)

22. Combined with the new basic application fee for each additional design, it appears that the proposed increase in the basic renewal fee for each additional design would have allowed Hague System income to almost catch up with inflation in Switzerland since 1996.

²¹ See, for example, paragraph 2 of document H/LD/WG/9/INF/1. As for the proposed fee level, see also paragraph 123 of document H/LD/WG/8/9.

²² The calculation assumes that applications and renewal requests would concern the same number of designs regardless of the fee change; while the higher fees could, in principle, lower application and renewal demand, preliminary analysis by WIPO's Chief Economist does not suggest an elastic user response. Indeed, several Offices of jurisdictions that have significantly raised the design renewal fee at some point since 2020 (e.g., from 320 to 400 Australian dollars in Australia; from 540 for one design and 70 Turkish liras for each additional design to 2,314 and 183 Turkish liras respectively in Türkiye) have not observed a decrease in design renewal rates.

PROPOSALS AND FUTURE COMPREHENSIVE REVIEW

23. Pursuant to the mandate given by the Working Group at its eighth session and noting in particular the above considerations, it is proposed to amend the amount of the basic renewal fee for each additional design (Item 7.2) from 17 to 50 Swiss francs, as reproduced in the Annex to this document. So as to allow for a phased introduction, it is also proposed that the amendment of this part of the Schedule of Fees enter into force on January 1, 2025.

24. As the Working Group noted at its eighth session, the recurrent deficit of the Hague System requires that its fee structure be monitored and reviewed periodically. Thus, the International Bureau would develop further proposals aiming to further improve the financial sustainability of the Hague System pursuant to Article 23 of the 1999 Act. That would include the broader review of the Schedule of Fees requested by the Working Group. Such a comprehensive review could take into account, *inter alia*, changes in behavior of Hague System users²³, the experience of jurisdictions²⁴ and other WIPO services²⁵ in streamlining the structure and level of fees, and the financial situation of the Hague System.

25. *The Working Group is invited to:*

(i) consider and comment on the proposal made in this document; and

(ii) indicate whether it recommends to the Assembly of the Hague Union for adoption, the proposed amendment to the Common Regulations with respect to the Schedule of Fees, as provided for in the draft contained in the Annex to this document, with a date of entry into force of January 1, 2025.

[Annex follows]

²³ For example, over the past 15 years, the average number of designs per international application decreased from 4.6 in 2008 to 3.1 in 2022, while the share of single-design international applications rose from 38.7 per cent to 56.2 per cent in the same period. Those trends might suggest that raising the basic fees for international applications and renewals for each additional design would by itself have a limited effect on the Hague System's financial situation overall. See Figures 3 and 10 of the *Hague Yearly Review 2023*, available at: <https://www.wipo.int/edocs/pubdocs/en/wipo-pub-930-2023-en-hague-yearly-review-2023.pdf>.

²⁴ For example, the current proposal to amend Council Regulation (EC) No 6/2002 on Community designs and repealing Commission Regulation (EC) No 2246/2002 includes a comprehensive review of the fee structure and level which the European Commission views as sub-optimal. See document available on EUR-Lex website at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52022PC0666>.

²⁵ Streamlining and simplifying the Schedule of Fees has been included in the updated road map for the evolution of the Madrid System. See paragraph 13 of the Annex to document MM/LD/WG/21/6.

**Common Regulations
Under the 1999 Act and the 1960 Act
of the Hague Agreement**

(as in force on [January 1, 2025])

[...]

SCHEDULE OF FEES
(as in force on [January 1, 2025])

Swiss francs

[...]

III. *Renewal of an International Registration Resulting From an International Application Governed Exclusively or Partly by the 1960 Act or by the 1999 Act*

7.	Basic fee	
7.1	For one design	200
7.2	For each additional design included in the same international registration	50 17

[...]

[End of Annex and of document]