



# Hague Systems on Industrial Designs Protection as an Optimization of IMT-GT ASEAN Economic Cooperation

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## ABSTRACT

In the industrial design rights protection regime of IMT-GT ASEAN member countries, there are two instruments as a framework, namely TRIPS and the Hague System. The Hague system is needed to elaborate on the different mechanisms in simplifying the unified design registration process, which simultaneously applies in several member countries. Still, Indonesia, Malaysia, and Thailand have not yet completed ratifying the Hague System into national law and have not revised the legal regulations regarding industrial design in their countries, respectively. In Indonesia, there are still differences in the protection concept between what is regulated in TRIPS and the substance of the Industrial Design Law regarding first to use or first to file, and it still requires domestic registration. This normative legal research concludes the need for harmoniza-

tion between the rules in treaties as a source of international law and national law, so that the clauses in trade cooperation contracts do not conflict with the laws of the respective countries that have ratified them. Unification through the Hague system also needs to be supported by expanding the scope of provinces implementing the IMT-GT cooperation project, followed by the strategic policies of each country.

## INTRODUCTION

Indonesia's commitment to optimizing regional trade cooperation between Indonesia and ASEAN countries has been realized through the formation of the ASEAN IMT-GT (Indonesia – Malaysia – Thailand Growth Triangle) sub-region since 1993 between the leaders of the three countries.<sup>1</sup> Until this year, IMT-GT cooperation projects have been implemented in real terms, including halal industry projects, technology industry cooperation, tourism, and industrial downstream in IMT-GT rubber cities and digital malls in the IMT-GT e-commerce platform.<sup>2</sup>

Indonesia, Malaysia, and Thailand as WIPO member countries which are committed to the development of IPR since the promulgation of TRIPS are of course also obliged to implement the latest developments related to the issue of global scale intellectual property protection including industrial design which now requires ratification of the Hague system since the 1999 Geneva Act. This was also ordered in the ASEAN IPR Action Plan 2016-2025.<sup>3</sup> So it is also an obligation for all WIPO member countries and countries in ASEAN that are committed to the ASEAN IPR Action Plan, including Indonesia, Malaysia, and Thailand, to take steps to accede to the Hague system in their country's national legal system. Apart from being a form of

compliance with the results of international treaties or conventions, this also plays an important role in strengthening regional trade cooperation between the three countries in the ASEAN sub-region.

Malaysia and Thailand have shown their seriousness in complying with the Hague system accession obligations at the Parliamentary level. So far, the Indonesian government itself has planned to accede to the Hague Agreement, although this plan has not yet been realized. The Hague System is an international system for registering industrial designs managed by WIPO, making it easier for WIPO member countries.

The obligation to ratify the Hague Agreement, also known as the Hague Statute or Hague System, should be contained in the revision of the Industrial Design Law and become a priority for the work plan of the Directorate General of Intellectual Property for the future, but to date, no final steps have been taken regarding accession to the Hague System. The Hague System, apart from being beneficial for the industrial sector as registrants, will also be of great benefit to the bureaucracy, especially the Directorate General of IP in terms of minimizing administrative workload, manual data entry, inspection, and issuance of industrial design certificates which were originally the obligation of the Directorate General of IP to change to the obligation of WIPO *cq* Bureau International. The unification of the Hague system will not only clarify registration fees and standards but also simplify bureaucratic matters.<sup>4</sup>

IPR as a part of economic law was included in the liberalization of free trade agendas.<sup>5</sup> Indone-

- 1 Dayang-Affizah, A. M. (2016). Convergence Behaviour of Growth Triangle: The Case of IMT-GT. *Business and Economic Journal* 7 (2), pp. 1-6. DOI: <https://doi.org/10.4172/2151-6219.1000205>.
- 2 Sudirman, A., et al. (2023). Kerjasama Indonesia Malaysia Thailand Growth Triangle dalam Upaya Pemulihan Ekonomi Pasca Pandemi Covid-19. *Governance* 10 (2), pp. 51-57. DOI: <https://doi.org/10.56015/gjikplp.v10i2.120>.
- 3 Smith, R.B., et al (2023). Impact of Plurilateral Free Trade Agreements on Innovation: Example of ASEAN. *Journal of ASEAN Studies* 11 (1), pp. 87-110. DOI: <https://doi.org/10.21512/jas.v11i1.7975>.

- 4 Andersson, D.E., et al. (2023). Industrial Design Rights and The Market Value of Firms. *Technological Forecasting and Social Change* 196 (5), pp. 1-14. DOI: <https://doi.org/10.1016/j.techfore.2023.122827>.
- 5 Zufikri, Z. (2022). Legal Protection of Intellectual Property Rights: What is Urgency for the Business World? *Jurnal*

sia, as an active member of WTO and WIPO, should become an active compliance country in ratifying treaties that are closely related to international trade and respect for intellectual property as well as ensuring the implementation of national legal sources resulting from its ratification in accordance with WIPO's strategic plan and the ASEAN IPR Action Plan.

Considering the importance of ratification of the Hague system in the revision of regulations in the field of industrial design in Indonesia as a member country of IMT-GT ASEAN, this normative legal research will discuss the principle of full compliance in the obligation to ratify the Hague system in Indonesia as a member country of IMT-GT ASEAN and how to unify the Hague system in encouraging the strengthening of IMT-GT ASEAN regional trade cooperation. The normative legal research was conducted by conducting a literature and conceptual study through a statutory approach and a conceptual approach to observe the solution for certain issues.

## 1. FULL COMPLIANCE PRINCIPLE ON THE RATIFICATION OF THE HAGUE SYSTEM INTO THE INDONESIAN NATIONAL LAW SYSTEM

Ratification is the official action of a country to bind itself to an international agreement and statute. It is usually a result of relations developed between countries in an international organizational forum.<sup>6</sup> Ratification by Article 1, point 2 of Law Number 24 of 2000 concerning International Agreements ("UUP") is interpreted as a legal act of ratification to bind oneself to an international agreement in the form of ratification, accession, acceptance, and approval.<sup>7</sup>

Indonesia has often ratified international agreements or international statutes in the form of

statutory regulations, namely ratification through acts or Presidential Regulations. In the field of IPR itself, Indonesia ratified TRIPs for the first time through Law Number 7 of 1994 concerning the Ratification of the Agreement Establishing the World Trade Organization. Ratification is intended to enact the provisions of the TRIPs Agreement into national law. The differences in the political and legal climate between local and global will influence the enactment of the provisions in TRIPs. Another impact of this ratification is to reduce the number of IPR violations in Indonesia, especially industrial property rights.<sup>8</sup>

The legal consequence of ratification is that it is subject to national law.<sup>9</sup> So in ratifying, Indonesia has directly agreed to the agreement of various member countries, even though the legal and political climate was different. By ratifying an international agreement it shows the political will of Indonesia to be bound and accept the rights and obligations arising from the agreement. Ratification of international agreements in the form of laws was carried out if they involved fundamental matters.<sup>10</sup>

The result of ratification is a general agreement that applies globally among member countries of the WTO as international organizations. On the other hand, there may still be a mismatch between legal politics in Indonesia and the global world.<sup>11</sup> It is important for Indonesia to adjust the legal and political climate in implementing the TRIPs that must not conflict with the juridical, philosophical, and sociological foundations of the Indonesian state.<sup>12</sup>

IUS: Kajian Hukum dan Keadilan 10 (1), pp. 12-25. DOI: <http://dx.doi.org/10.29303/ius.v10i1.940>.

6 Martinez, I., Chelala, S. (2021). Trade Agreements and International Technology Transfer. Review of World Economics 157, pp. 631-665, DOI: <https://doi.org/10.1007/s10290-021-00420-7>.

7 Vienna Convention on the Law of Treaties, 1969, Article 2 (b). U.N.T.S., vol. 1155, p. 331 (hereinafter VCLT).

8 Nabila, D.D., Sanusi, S. (2023). Protection for Registered Trademark Under Indonesian Law and the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs). Student Journal of International Law 3 (2), pp. 132-147. DOI: <https://doi.org/10.24815/sjil.v3i2.24121>.

9 Martínez-Zarzoso, I., Chelala, S. (2021). Trade Agreements and International Technology Transfer. Review of World Economics 157, pp. 631-665. DOI: <https://doi.org/10.1007/s10290-021-00420-7>.

10 Pop, C.D. (2023). Treaty Ratification Law – Empirical Study on the Temporal Efficacy of the Parliamentary Procedure. STUDIA 68 (1), pp. 13 – 42. DOI: [https://doi.org/10.24193/SUBBIur.68\(2023\).1.1](https://doi.org/10.24193/SUBBIur.68(2023).1.1).

11 Tandungan, E.S., et al. (2021). The Legal Provisions of Indonesia Law System on International Agreements. Prosiding The 1<sup>st</sup> WICSTH, pp. 403-411.

12 Geoffrey, M.J.C., Roisah, K. (2020). Patenting Deal in Indo-

Indonesia's participation in membership of international organizations and the ratification of international agreements as a form of implementation of Article 96 of Law Number 13 of 2022 concerning the Second Amendment to Law Number 12 of 2011 concerning the Formation of Legislation. The formation of legislation does not only focus on the material substance but also compliance with formal aspects to create legal products with integrity.<sup>13</sup> Therefore, the principle of absolute compliance (full compliance) is the most urgent principle to be implemented in the Hague statute ratification process. In efforts to ratify the Hague Agreement and adopt it into national regulations, national interests must remain the main focus. The draft of the new Industrial Design Bill must be used as a barometer for the development of Design Policy.

*Full compliance* in the context of the law of treaties could be translated to the action of observance, application, and interpretation in accordance with or not opposed to the framework of that treaty. However, there is one concession provided in the international legal treaty regime for the contracting parties in performing their duties, namely, reservations. It means "a unilateral statement, however phrased or named, made by a State, when signing, ratifying, accepting, approving or acceding to a treaty, whereby it purports to exclude or to modify the legal effect of certain provisions of the treaty in their application to that State".<sup>14</sup> Reservations then may perform as a way to not be bound by the provision of a certain rule of a treaty, and therefore not fully comply with the treaty comprehensively.<sup>15</sup>

Specifically, the *full compliance* principle emanates from the wording of Article XVI, point 5 of the Marrakesh Agreement.<sup>16</sup> It stated that "[n]o reser-

vations may be made in respect of any provision of this Agreement. Reservations in respect of any of the provisions of the Multilateral Trade Agreements may only be made to the extent provided for in those Agreements [...]". In essence, reservations cannot be made to the Agreement, including its Annexes, unless provided otherwise.

Annex 1C covers the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs Agreement).<sup>17</sup> Concerning industrial designs, it requires contracting states to protect designs that are new or original, but not to protect designs that are different merely by technical or functional means.<sup>18</sup> National laws of the contracting state, whether industrial design law or copyright law, shall provide requirements for obtaining design protection.<sup>19</sup> The legitimate interests of third parties may be taken into account in establishing limited exceptions without prejudice to the legitimate interests of the owner of the protected design.<sup>20</sup> The legitimate interests of the owners of the protected design shall remain primary. Commercial purpose usage of the protected design by third parties might be restricted as the owner "have 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" and the protection shall cover at least ten years.<sup>21</sup> To the TRIPs Agreement, there shall not be any reservations made without the consent of other contracting states.<sup>22</sup> The legal relationship between contracting states, in terms of whether any industrial designs may have legal protection in their respective jurisdictions, then, relies on consent. By acting in accordance with the said framework, contracting states may be regarded as satisfying the first dimension of the *full compliance* principle.

nesia: Article 20 of the Patent Law in the Political Perspective of International Trade Law. Law Reform 16 (1), pp. 19-31. DOI: <https://doi.org/10.14710/lr.v16i1.30302>.

13 Astariyani, N.L.G., et al. (2023). Preventive and Evaluative Mechanism Analysis on Regulatory and Legislation Reform in Indonesia. Law Reform 19 (2), pp. 248-269.

14 VCLT, Article 2 (d).

15 Doshi, N.R. (2021). The Law of Treaties with Special Focus on Evolutionary Interpretation of the Treaties. International Journal of Law Management & Humanities 4 (3), pp.2696 – 2608. DOI: <https://doi.org/10.1000/IJLMH.11741>.

16 Marrakesh Agreement Establishing the World Trade Orga-

nization, 15.04.1994, 1867 U.N.T.S. 154 (hereinafter Marrakesh Agreement).

17 TRIPs: Agreement on Trade-Related Aspects of Intellectual Property Rights, 15.04.1994. Marrakesh Agreement Establishing the World Trade Organization, Annex 1C, 1869 U.N.T.S. 299, 33 I.L.M. 1197 (1994) (hereinafter TRIPs Agreement).

18 TRIPs Agreement, Article 25 (1).

19 Ibid, Article 25 (2).

20 Ibid, Article 26 (2).

21 Ibid, Article 26 (1), Article 26 (3).

22 Ibid, Article 72.

Another dimension that may demonstrate whether contracting states are performing *full compliance* can be seen in the principles used in their domestic laws. Law Number 31 of 2000 concerning Industrial Design firmly takes a position in the ‘first to file’ principle. It means that designs need to be formally registered before they can be protected.<sup>23</sup> While it is not expressly stated, the TRIPs Agreement does not require industrial designs to be registered first to grant protection. In other words, it gives off the impression that the ‘first to use’ approach is taken considerably.<sup>24</sup> Although Indonesia has ratified the TRIPs Agreement,<sup>25</sup> the *full compliance* principle is not enforced. The *Hague System* co-exists alongside the TRIPs Agreement to provide a robust framework for the protection of industrial designs. While the TRIPs Agreement imposes obligations on contracting states to provide baseline protection, the *Hague System* lays out efficient, practical mechanisms for owners to secure their design internationally.

An examination of the legal relationship between the *Hague System* and the Indonesian law system concerning industrial designs needs to be done carefully. Meanwhile, Indonesia has not yet ratified the *Hague System*; it is understood that *full compliance* has not been adhered to. There might be hints of the implementation of the *Hague System* in the Indonesian legal system, nevertheless.<sup>26</sup> The most prominent contrast point is on Article 3, which mandates that industrial designs must be registered to receive legal protection in Indonesia.<sup>27</sup> This aligns with the need for formal registration, although the *Hague System* allows for international registration of designs through a single-uniform application.<sup>28</sup> The latter can streamline the pro-

cess for multiple jurisdictions. Therefore, harmonization between international agreements and national law is required to perform *full compliance* with the *Hague System*.

## 2. INDUSTRIAL DESIGN UNIFICATION IN ENCOURAGING INTERNATIONAL TRADE COOPERATION IN THE IMT-GT ASEAN SUB-REGION

The Hague Agreement or the Hague Statute from the 1961 Hague Agreement and Geneva Act 1999 was a system that allows design owners to centrally register their designs with a number of countries and/or inter-state organizations.<sup>29</sup> This method provides convenience because it only passes through one door, one language, and one currency and is cost-efficient because the industrial design right holder does not need to apply for registration of his design in several other destination countries separately.<sup>30</sup> Aiming to develop industrial design products that are more varied and have the same clear standards. This classification was prepared through a periodic revision process according to current developments by WIPO, as the center for carrying out the administration of the Hague Agreement at the international level.<sup>31</sup>

The Indonesian government has now prepared a draft Presidential Regulation concerning Ratification of the Statute of the Hague Conference on Private International Law, which has been submitted by the President to the Indonesian House of Representatives for discussion since 6 August 2024. Indonesia itself has become a member of the HCCH, an intergovernmental organization that focuses on the unification of international private law with a total of 90 member countries, including Malaysia,

23 Law Number 31 of 2000 concerning Industrial Design, Article 3. (hereinafter Law 31/2000).

24 TRIPs Agreement, Article 25.

25 Sulistianingsih, D., Ilyasa, R.M.A. (2022). The Impact of TRIPs Agreement on the Development of Intellectual Property Laws in Indonesia. *Indonesia Private Law* 3 (2), pp.77-88. DOI: <https://doi.org/10.2504/iplr.v3i2.2579>.

26 Law 31/2000 in Article 1 constitutes the definition of industrial design and its protection; Article 9 determines the ten-year validity of the protection, Article 6 concerns the prohibition of the unauthorized use, reproduction, or distribution of the design.

27 Law 31/2000, Article 3.

28 Jueptner, E. (2020). The Hague Jurisdiction Project – what Options for the Hague Conference? *Journal of Private International Law* 16 (2), pp. 247-274. DOI: <https://doi.org>

[/10.1080/17441048.2020.1766220](https://doi.org/10.1080/17441048.2020.1766220).

29 Hartoyo, B., Noor, M.F. (2019). The Hague Convention 1961: Solution of Foreign Public Document Legalization for Indonesia and ASEAN Member Countries. *ABC Research Alert* 7 (1), pp. 37-47. DOI: <https://doi.org/10.18034/ra.v7i1.249>.

30 Indonesian Industrial Design Law final draft bill, 2015 version, p. 144.

31 Jorgenson, L., Fink, C. (2023). WIPO’s Contributions to International Cooperation on Intellectual Property. *Journal of International Economy Law* 26 (1), pp. 30-34. DOI: <https://doi.org/10.1093/jiel/jgac049>.



the Philippines, Vietnam, Singapore, and Thailand from ASEAN. HCCH membership is also useful in resolving cross-border trade disputes and obtaining technical guidance to facilitate accession, thereby providing stronger legal certainty in encouraging increased confidence from investors and international trade partners.<sup>32</sup>

Indonesia, Malaysia, and Thailand themselves as members of the HCCH have also become members of the ASEAN sub-region as IMT-GT, which was officially ratified in 1993 by Indonesian President Soeharto, Malaysian Minister Tun Dr. Mahathir Mohamad, and Thai Prime Minister Chuan Leekpai. IMT-GT has strengthened the connectivity of the ASEAN sub-region in economic growth, including the green economy trend.<sup>33</sup> The green economy in recent years prioritized regional economic development to reduce disparities and increase the competitiveness and welfare of society in the territory of the 3 countries as the ASEAN sub-region. This is proven by the drastic increase in IMT-GT's gross domestic income from USD 20 billion in 1993 to USD 405.7 billion in 2021.

This IMT-GT collaboration continues to be fostered and improved to achieve the 2025 ASEAN connectivity master plan so that digital transformation and creative economic development in line with green economy issues and SDGs can run optimally, especially as IMT-GT has declared a vision to become an integrated, innovative region. Inclusive, green, and sustainable in 2036. For this reason, the launch of the Joint Business Council (JBC) program was launched, which aims to open up opportunities for direct trade and investment cooperation with a business-to-business concept between Indonesia, Malaysia, and Thailand. Various collaborative projects, ranging from the creative economy sector, including tourism, telecommunications, digitalization, special economic zones, and renewable energy, to Human Resources (HR) development, for example, include the Kuala Tanjung Industrial Estate project.

The creative economy as a trade sector is closely related to IPR and cannot be separated from the other.<sup>34</sup> IPR is the basis of rights for creative economy business actors, while the creative economy itself is a forum for the development of innovation and the utilization of the moral and economic rights of IPR holders regarding these innovations, both copyright and industrial property rights. Industrial property rights were involved in international transactions with various manners of transferring rights.<sup>35</sup> Industrial property rights include rights to inventions and designs in the form of patents, brands, geographical indications, trade secrets, industrial designs, and integrated circuit layouts, as well as protection of plant varieties.

Industrial designs as a form of industrial property rights have an equally important role as brands and patents as objects in international trade. International mark registration has been made easier since the Madrid Protocol was ratified through Presidential Regulation Number 92 of 2017 concerning Ratification of the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks, as well as international scale patent registration through the application of the Patent Cooperation Treaty (PCT) mechanism. It has been adopted in the regulation of the unification of the international industrial design registration system with the ratification of the Hague statute, more popularly known as the Hague System.

The Hague System makes it easy for companies to extend the protection of their intellectual property across multiple countries.<sup>36</sup> It allows them to utilize and protect their industrial designs in the global marketplace. Once the Hague system is truly realized, it will be an attraction for designers to

32 Nishitani, Y. (2023). Challenges of Private International Law in Asia. *The Korean Journal of International and Comparative Law* 12 (1), pp. 23-56. DOI: <https://doi.org/10.1163/22134484-12340186>.

33 Kibtiah, T.M., Assegaf, S.N.Z. (2024). Recovery of the ASEAN Economy Through a Sustainable Tourism Sector in the Post-Covid-19. *Thammasat Review* 27 (2), pp. 167-196. DOI: <https://doi.org/10.14456/tureview.2024.21>.

34 Soraya, J., Althafzifar, M.A. (2024). Intellectual Property Rights Protection for Actors in the Creative Economy Based on Intellectual Property Rights Law Number 28 of 2014 Concerning Copyright. *Realism: Law Review* 2 (1), pp. 39-53.

35 Brand, R.A. (2020). Jurisdiction and Judgments Recognition at the Hague Conference: Choices Made, Treaties Completed, and the Path Ahead, *Netherlands International Law Review* 67, pp. 3-17. DOI: <https://doi.org/10.1007/s40802-020-00152-9>.

36 Heikkilä, J.T.S., Peltoniemi, M. (2023). The Changing Work of IPR Attorneys: 30 Years of Institutional Transitions. *Technological Forecasting and Social Change* 197, pp. 1-23. DOI: <https://doi.org/10.1016/j.techfore.2023.122853>.

want to register the industrial designs they have created. The Hague system provides more freedom regarding the period of protection that will be obtained by the designer. As an illustration, in the Industrial Design Law currently implemented in Indonesia, the protection is only 10 years, but in the Hague system, the protection is 15-20 years, and the protection period can be extended so that it does not immediately become public domain. Thailand itself has planned to extend the protection period to 15 – 20 years in the accession process, which is still ongoing. The formal requirements and material requirements between Indonesia, Malaysia, and Thailand are similar. The conditions that must be met before applying for design registration consist of formal requirements and material requirements. Formal requirements are in the form of an obligation to provide a written statement including identity, along with proof of ownership of the design, a replica of the product design, a deed of establishment of the legal entity, a power of attorney if necessary, and proof of payment for registration. Material requirements in the form of aspects of novelty, practicality, and applicability are not included in the list of exceptions to obtain industrial design rights, and the creator is a subject who has the right to register the work.

Industrial Design registration in Indonesia is still a very long process. The application is addressed to the Directorate General of Intellectual Property Rights for further formality checks. All applications that have met formal/administrative requirements<sup>37</sup> will be announced no later than 3 (three) months from the date of receipt, so that any third party can submit written objections covering matters of a substantial nature no later than 3 (three) months. Furthermore, to answer the objection, the Industrial Design Applicant can also submit an objection no later than 3 (three) months. In the event of an objection, a substantive examination must be carried out, which takes a maximum of 6 (six) months from the end of the announcement date. If the objection is rejected, the party concerned can submit a lawsuit to the Commercial Court up to cassation. Objections received can be forwarded to the issuance of a certificate. The issuance of a certificate takes a maximum of 30 (thirty) days from the end of the period given

for submitting objections. This means that an industrial design certificate can only be obtained after a total duration of approximately 18 months. Not to mention the costs that must be incurred during this relatively long time, so it could encourage businessmen to put aside the urgency of registering industrial design rights.

Bureaucratic problems that do not save time and costs are also experienced by WTO member countries, including ASEAN countries and the IMT-GT within them. WIPO was trying to facilitate the flow of international registration with the idea that an industrial design right does not have to be registered first in the country of origin of the applicant/creator, following the rules of that country of origin and then re-registered when the industrial design right is to be developed in another country. WIPO's simple step is a single registration for an industrial design right originating from a country, so that it can legally apply not only to the country of origin but also internationally at the same time. This scheme was later called the Hague system. Indonesia itself can choose to become a "Receiving Office/Transmitting Office" or not. If Indonesia chooses to become an intermediary office, Indonesia must first be ready in terms of the online system and filing, because if the Intellectual Property Office in Indonesia does not master it, it could slow down the application process. Likewise, Thailand and Malaysia.

Referring to the commitment of Indonesia, Malaysia, and Thailand to the ASEAN IPR Action Plan 2016-2025, where one of the main objectives is the accession of ASEAN member countries to the Hague Statute, the implementation of the Hague System should not be delayed for a long time. Indonesia, Malaysia, and Thailand have not ratified the Hague Statute. While Indonesia has reached the stage of drafting the Draft Presidential Regulation, Thailand has reached the stage of being discussed by Parliament. As of November 29, 2022, the Thai Parliament has approved the accession, and it is being reviewed by the Office of the Council State in Thailand.

In Thailand, the industrial design registration process begins with a preliminary examination. If the requirements in the preliminary examination are met, an announcement will be made to the public that the objection period will last for

37 Industrial Design Law, Article 25.

90 days, followed by a substantive examination. Therefore, the total time to carry out the industrial design registration process in Thailand is from 16 to 24 months, but it may be longer depending on the DIP's ability to process the application and complaints, objections, and additions that arise during the application process.

Thailand has regulated legal protection for industrial designs in the Patent Act of Thailand 1999, BE 2522, as amended by Patent Act (No. 2) BE 2535 and Patent Act (No. 3) BE 2542 so that with the ratification of the Hague statute, changes should also be made regarding the elimination of substantive examinations or combining preliminary examinations with substantive examinations to simplify the process, make it easier to submit claims, extend the protection period as is also being planned by Indonesia in the relevant Draft Presidential Regulation. The capabilities of the auditor profession registered with the Thai Intellectual Property Department are also a consideration for Thailand, whether to become a Receiving Office or not.

Malaysia, as an IMT-GT country that has the Industrial Designs Act 1996, has published a "public consultation paper inviting views on the proposed new provisions and amendments to the Industrial Designs Act 1996 in 2022".<sup>38</sup> It is a part of the practice of compliance with the ASEAN IPR Action Plan 2016 – 2025. The Hague Statute should be adopted as amendments to the Industrial Designs Act after the Hague Statute is ratified in Malaysia. Regarding the accession process of international agreements, there are two special laws in Malaysia as a guideline to ratifying international agreements and the application in business relations between countries, namely the Malaysian Arbitration Act 2005 and the Reciprocal Enforcement of Judgment Act 1958.<sup>39</sup>

The increasing impact of international agreements on national legal systems has had the effect of unifying economic cooperation.<sup>40</sup> The joining

of IMT-GT with the accession to the Hague statute will make it easier for industrial design owners and companies from the three relevant countries to obtain protection for their industrial designs in many countries or regions using one international application with minimal formalities, thereby increasing competitiveness in the global market and mutual benefits in international trade cooperation activities that exist between the three countries. Examples of IMT-GT business collaboration in the realm of creative industry and IPR that are already underway include the assimilation program of Malay culture and Riau culture in the form of modifications to Malay cultural products, both in the context of copyright designs and industrial design contexts which have also been processed according to market tastes accompanied by optimizing the use of digital platforms for marketing on an international scale.<sup>41</sup> Likewise, Lampung has succeeded in developing a digital economic ecosystem related to IMT-GT.<sup>42</sup> The halal industry program is also one of the IMT-GT programs that has been successfully implemented.<sup>43</sup> Therefore, both the Governments of Indonesia, Malaysia and Thailand should make accession to the Hague statute a priority in regulating industrial design in the future as a form of compliance with the 1961 Hague Agreement and the ASEAN IPR Action Plan, as well as to increase international trade collaboration between the three countries as sub – IMT-GT. This may support the implementation of economic benefits for their Special Border Economic Zone (SBEZ). IMT-GT itself currently covers implementation in 32 provinces, namely 8 provinces in Malaysia, 14 provinces in Thailand, and 10 provinces in Indonesia.<sup>44</sup> Both governments have a hope that in

38 Wahyuningtyas, S.Y., Giovannus, D. (2024). Chapter 22: IPRs Arbitration in Indonesia and South-East Asia. Research Handbook on Intellectual Property Rights and Arbitration. Elgar Online Publisher, pp. 419-439.

39 Othman, E., et al. (2021). Malaysia: Malaysian Perspectives on the Hague Principles, Oxford International Law Series, p. 598.

40 Baimurratov, M., et al. (2024). Research on the Impact of International Agreements and Standards on National Legal Systems and Legal Order. Amazonia Investiga 13 (74), pp. 90-102. DOI: <https://doi.org/10.34069/AI/2024.74.02.8>.

41 Nurdin, M., et al. (2022). Urbanizing the Regional Sector to Strengthen Economy and Business to Recover from Recession (1<sup>st</sup> edition), Routledge Publisher, p. 7.

42 Wiranata, I.J., et al. (2020). Lampung Province e-Commerce Potential in Facing IMT-GT 2020. Prosiding The 1<sup>st</sup> IC-ASEAN, p. 327.

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the future it will be expanded to other provinces in the territories of these three countries in line with efforts to strengthen regulations in the business sector through the ratification of the Hague system into national legal products which of course will then be followed by other strategic policy steps in the business sector.

## CONCLUSION

Ratification of the Hague system was urgent to be implemented in Indonesia, Malaysia, and Thailand as fellow WIPO and WTO member countries. It was an implementation of the full compliance principle of international treaties that not only serves as a form of compliance through TRIPS, the 1961 Hague Agreement, and the 1999 Geneva Act, but also as a manifestation of Indonesia's commitment to complying with the ASEAN IPR Action Plan. The substance of the Industrial Design Bill

which will adopt the Hague system mechanism must not ignore the legal rights and choices of parties entering into industrial design contracts in the international scope so that harmonization between international agreements and national law is required without ignoring the application of the principle of full compliance in the accession process until application of the legal rules resulting from its accession.

The unification of industrial design registration has great benefits for simplifying industrial design registration and reducing the burden on government bureaucracy. The implementation of the Hague system can encourage the creation and registration of industrial designs in Indonesia, Malaysia, and Thailand, and has implications for increasing trade cooperation between them and expanding the scope of provinces or districts implementing IMT-GT cooperation projects, which must be followed by strategic policy steps.

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