

Proposal by Jamaica

Draft Terms of Reference for the Proposed Work Programme on the Protection of Country Names

In furtherance of the work previously mandated by the SCT on country names, contained in documents SCT/24/6 and SCT/25/4, and in order to implement the Work Programme on the protection of Country Names, the Standing Committee on the law of Trademarks, Industrial Designs and Geographical Indications (SCT), at its resumed 26th session, mandates the WIPO Secretariat to carry out the following activities;

Phase 1

- (1) The Secretariat shall prepare an empirical review of the status of the legitimate and illegitimate use, as well as all available protection, of country names taking into account, where relevant, the returns to the questionnaire concerning the protection and use of names of states against registration and use as trademarks (SCT/24/6), and including an assessment of the impact of such use on national branding initiatives, particularly in developing countries.
 - I. This shall include a full database search and review of member states' trademarks registries, with specific focus on trademarks containing country names, and should also include online surveys, as well as any notifications from member states, of existing products and services which employ country names as trademarks or as elements of trademarks.
 - II. This shall include an analysis of the sectors in which such legitimate and illegitimate uses occur, and provide an assessment of the impact of any abuses on the market access opportunities of firms which are the legitimate users of the relevant country names as trademarks or as elements of trademarks, particularly for SMEs in developing countries.
 - III. This shall also include an analysis of the impact of both legitimate and illegitimate uses of country names as trademarks or as elements of trademarks on nation branding strategies and SMEs in developing countries.
- (2) The Secretariat, or an independent consultant which it may appoint, shall conduct a study on the current legislative provisions and practices in national or regional legislations relating to the protection and legitimate use of country names, as well the experiences and best practices related to the implementation of such provisions.
 - I. In addition to any existing or impending legislations, this study shall also draw on any available jurisprudence, in particular, judicial decisions, judicial reviews and any other sources of legal practices, on the subject of the use of country names, which may be available within the national and regional jurisdictions of WIPO member states.

- II. The outcome of the study shall be the compilation, into a compendium or reference document, of all available reference laws and best practices, as well as any guidelines on their implementation, in addition to the inclusion of any case studies relating to members states' experiences in these areas.

Timeline for the implementation of the Work Programme

The results of Phase 1 shall be placed before the SCT for consideration at its 27th session.