



Council of the
European Union

122423/EU XXVII. GP
Eingelangt am 30/11/22

Brussels, 30 November 2022
(OR. en)

15074/22

PI 162

NOTE

From:	General Secretariat of the Council
To:	Delegations
No. prev. doc.:	14748/1/22 REV1; WK 15951/2022
Subject:	46th Session of the WIPO Standing Committee on the Law of Trademarks, Industrial Design and Geographical Indication (SCT) (Geneva, 21-23 November 2022) - Final EU/Member States statements

Delegations will find at annex, for information, the EU/Member States statements as delivered at the above-mentioned WIPO meeting.

**46th Session of the WIPO Standing Committee on the Law of Trademarks,
Industrial Design and Geographical Indication (SCT)**

(Geneva, 21-23 November 2022 – hybrid format)

Agenda Item 2

Rules of Procedure

(Document SCT/46/4)

Chair,

1. The European Union and its Member States would like to thank the Secretariat for preparing document SCT/46/4 concerning the Rules of Procedure.
2. We support the amendment proposed in paragraph 8 of the document and endorse that the SCT adopt the amended Special Rule of Procedure, according to which “The SCT elects the Chair and two Vice-Chairs for two consecutive sessions.”

Thank you.

Agenda item 6, 1st indent

Trade Marks

Revised Proposal by the Delegations of Georgia, Iceland, Indonesia, Jamaica, Liechtenstein, Malaysia, Mexico, Monaco, Peru, Senegal, Switzerland and the United Arab Emirates Concerning the Protection of Country Names and Geographical Names of National Significance

(Document SCT/43/6 REV.)

Chair,

1. On the topic of country names, the EU and its Member States would like to thank the co-sponsors for preparing a revised proposal. We appreciate all the efforts made to take into account comments made by other delegations.
2. As we commented before, we are supportive of any endeavour that would neither imply a legislative exercise nor envisage any disruption of existing practices on descriptiveness and distinctiveness. With that caveat, we have studied amendments in the revised proposal with interest.
3. While in our view the revised text has been changed in the right direction, we continue to have concerns as regards point 4 on “Non-registrable non-distinctive signs”. It remains unclear how it would allow for retaining existing practices on descriptiveness and distinctiveness. In cases where the relevant consumer does not identify the sign as a country name or geographical name, it will normally not be considered to be descriptive. Furthermore, it would be key for us that in situations involving geographical names, an analysis must be made as to, *inter alia*, whether or not that name will be considered to have distinctive character. If it is not, an objection can follow. If this is not the case, because the relevant consumer is considered to perceive the sign as a distinctive badge of commercial origin in relation to the goods or services in question, the application should not be rejected. This is the approach developed by EU jurisprudence. We cannot support examination practices that omit these steps of the analysis and reject a mark *merely* because it is a recognised country name or a geographical name of national significance.

4. With such concerns in mind, we look forward to continuing discussions on this revised proposal and stand ready to offer some alternative wording in point 4.

Thank you.

Agenda Item 6, 5th indent

Trade Marks

Proposal by the Delegations of Colombia, Ecuador and Peru Concerning Topics for an Information Session on the Protection of Nation Brands in Member States

(Document SCT/45/6 Rev.3)

Chair,

1. The EU and its Member States would like to thank Colombia, Ecuador and Peru for the proposal concerning topics for two information sessions on the protection of national brands in Member States.
2. As we commented before, we remain open to continue exploring the state of play as regards nation brand protection in Member States. Therefore, we are supportive of the topics as proposed by the co-sponsors.

Thank you.

Agenda Item 7

Geographical Indications

Proposal by the Delegation of the United States of America

(Document SCT/46/6)

Chair,

1. The EU and its Member States would like to thank the Secretariat and Members of the SCT for their continuous work in preparing and delivering the information sessions on geographical indications. In this regard, in order for future sessions to be productive and informative for the WIPO Membership, first of all, there is a need to identify topics of common interest and importance on geographical indications with a view to achieving a better understanding in thematic areas where the practices of the Member States tend to differ.
2. For the next information session, we would like to propose the following two topics: *‘The protection of GIs on the internet and in the Domain Name System (current practices and future scenarios)’*. This proposal is in line with the online conference on *‘Strengthening Geographical Indications (GIs)’* organised by the Department for Agriculture and Rural Development of the European Commission in November 2020 and its follow up activities at international level. The second topic is *‘How to protect GIs against evocation, including evocation through images’*. Right holders/producers often struggle when it comes to the evocation of their GIs through, inter alia, images. Puns, word games, plays on sounds or images can also lead to prohibited misuse, evocation or imitation of the protected name. Therefore, it would be beneficial to raise awareness and to increase knowledge on these practices.

Thank you.