

Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications

**Forty-Second Session
Geneva, November 4 to 7, 2019**

PROPOSAL BY THE DELEGATIONS OF ECUADOR AND PERU

Document prepared by the Secretariat

In a communication dated July 12, 2019, the Delegation of Peru transmitted to the International Bureau of the World Intellectual Property Organization (WIPO) the proposal contained in the Annex to the present document.

At the forty-second session of the Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (SCT), held in Geneva from November 4 to 7, 2019, the Delegation of Ecuador requested to be added as a co-sponsor of the proposal.

[Annex follows]

PROPOSAL BY THE DELEGATIONS OF ECUADOR AND PERU TO CONDUCT A SURVEY ON NATION-BRAND PROTECTION IN MEMBER STATES

BACKGROUND

1. Although increasing numbers of States have been using nation brands in recent years to promote their identity and image internally and externally, there is still no agreed international definition of the term “nation brand” and no international legal framework to regulate and protect it.
2. This has led such States to seek to protect nation brands through the means available within national and international legal frameworks. For example, some have turned to the traditional trademark system, treating nation brands as commercial marks and choosing to register them in different classes of the International Classification of Goods and Services established by the Nice Agreement, while others have used the system provided for in Article 6*ter* of the Paris Convention for the Protection of Industrial Property, equating nation brands with a State emblem or an official sign indicating control and warranty, and activating the communication and notification procedure established by that Article.
3. This lack of definition has serious consequences, particularly for the defense and enforcement of exclusive rights over a nation brand.
4. Uncertainty about the appropriate way to protect this type of sign has promoted the use of mechanisms that provide a limited scope of protection for nation brands at a considerable cost to the States that have adopted them.
5. This situation makes it necessary to assess whether there needs to be a special regulation and procedure that allows more effective and efficient protection in comparison with that provided by the legal mechanisms currently available.

PROPOSAL

It is proposed that the Secretariat of the Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications should conduct a survey among Member States to determine how they treat, develop and protect nation brands both inside and outside of their respective jurisdictions.

[End of Annex and of document]