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**From:** Levitchi Simion  
**Sent:** Sunday, June 29, 2014 12:10 PM  
**To:** Forum, SCT  
**Cc:**  
**Subject:** REF: C.8361 of May 12th, 2014 Republic of Moldova  
**Attachments:** Moldova comments\_C.8361\_protection of country names.doc

Dear Sirs/Madams,

On behalf of the State Agency on Intellectual Property of the Republic of Moldova (AGEPI), I have the pleasure to send you, enclosed, additional comments related to proposal made by the delegation of Jamaica entitled "Draft Joint Recommendation concerning provisions on the Protection of Country Names", during the SCT session of March 17-21, 2014.

Should any related questions arise, please feel free to address.

Looking forward for further fruitful cooperation,

Regards,  
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Republic of Moldova considers the topic on the protection of country names very important and supports the need for discussion in the framework of the SCT session. In this context, it should be noted that Republic of Moldova actively participate and will continue to participate in the discussion of the current subject, including by presenting information for completing questionnaires or related requests from the Secretariat, participation at discussions held within SCT session, presenting national practice and proposals on developed or examined documents.

With reference to the document SCT/31/4, Republic of Moldova presents the following comments:

Taking into account that discussions are held on the protection of designations of countries, we propose to exclude the reference to "nation brand" (Article 3 1b)(ii), Article 3)1b (iii), Article 4)1)(iii), Article 5)1)(ii), Article 5)1)(iii)). If a symbol shall be protected as a national brand and will be registered in the database "Article 6ter Express database" (<http://www.wipo.int/ipdl/en/6ter/search-struct.jsp>), then this symbol may be opposed to the examination of the trademarks or other procedures.

Article 7(1) - it is necessary to discuss in the framework of the SCT session, as the proposed version requires submission of documents/authorizations that most likely are not released in most states (analyzing the results of the previous Study undertaken by SCT and based on the questionnaire completed by Member States). Thus:

- (i) While registering trademarks, usually, the states do not require any confirmation related to products /services for which the mark will be used.
- (ii) It is necessary to approach the states' practice related to issuance of certain authorizations/ permission to register the name of the state as part of the trademark. According to the Study performed by SCT, very few states practice to issue any authorization for trademarks that include the name of the state.
- (iii) Any excessive demand related to registration of trademarks is not in favor of applicants with good faith.

Referring to the submitted Project, it should be noted that generally, in case of applications for registration of trademarks that consist of or include the name of the state, examination and post-examination proceedings are fairly well defined in most of the states. It is necessary to examine more aspects related to inclusion of the name of the state in corporate names, domain names. Consequently, it would be welcome to examine the subject on the protection of states' name more broadly.

#### Practice of the Republic of Moldova

Legal basis: Law No. 38-XVI of February 29, 2008 on the Protection of Trademarks,

Regulation on conditions of granting a permission of utilization of the official or historical denominations of the State in the marks on products and/or services, as well as in the industrial design (Decree of the Government of the Republic of Moldova No. 1425 of December 12<sup>th</sup>, 2003).

Applicable procedures: The permission to use the name of the state is submitted at the State Agency on Intellectual Property of the Republic of Moldova (AGEPI) before the issuance of the certificate of registration of the trademark and renewal of the registration certificate's validity.

Scope of protection: country name forms part of the sign.

Pursuant to the Regulation on conditions of granting a permission of utilization of the official or historical denominations of the State in the marks on products and/or services, as well as in the industrial design (Decree of the Government of the Republic of Moldova No. 1425 of 02.12.2003) the official or historical name of the state is the Republic of Moldova, Moldova, country Moldova and their translations, used separately or in combination with other verbal or figurative elements.

For issuing the permission to use the official or historical name of the state in the mark, an application request is submitted and examined by a Committee appointed by the Government of the Republic of Moldova. The permission is issued for 10 years subject to payment of the state fee (approximately 300 Euros) with the right of extension upon applicant's request. The written request regarding the period extension is submitted in the last year of validity of the registered mark at AGEPI.

Abbreviations or derivatives of the official or historical name of the state, as well the presentation of the official or historical name of the state in a different form than the above mentioned shall be examined by the State Agency on Intellectual Property (AGEPI), and their use is allowed with no exclusive right, to physical and legal persons from the Republic of Moldova or foreign persons that hold functional businesses on the territory of the Republic of Moldova, registered according to the legislation in force.

If an application for registration of a trademark (what includes name of the state) it is filed through the Madrid System (Republic of Moldova as a country of origin) or directly to industrial property office in another country, then there is no any permission required (according to the Regulation on Conditions of Granting the permission of utilization of the official historical or denominations of the State in the marks on products and / or services, as well as in the industrial design (Decree of the Government of the Republic of Moldova No. 1425 of December 12th, 2003). Thus, the applicant from the Republic of Moldova will not have any document referred to Article 7(1)(ii).