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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 discusses 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).

With reference to the document SCT/34/2 Prov, Republic of Moldova presents the following comments:

**Point 12.**

WIPO version

*Under the Trademark Law of the Republic of Moldova, a Government appointed Committee, needs to consider and authorize the registration and use as a mark of the official or historical name of the State (Republic of Moldova), its short name (Moldova), and abbreviations or translations of those names, either by themselves, or in combination with other verbal and figurative elements. However, the State Agency for Intellectual Property (AGEPI) may authorize any physical or legal person having its domicile or commercial establishment in the Republic of Moldova to use these signs if such use does not constitute use as a mark and any other use that is considered appropriate.*

AGEPI version

*Under the Trademark Law of the Republic of Moldova and 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, a Government appointed Committee, needs to consider and authorize the registration and use in a mark (without exclusive right) of the official or historical name of the State (Republic of Moldova), its short name (Moldova) and their translations, used separately or in combination with other verbal or figurative elements. However, the State Agency on Intellectual Property (AGEPI) may authorize physical or legal persons having its domicile or commercial establishment in the Republic of Moldova to use 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.*

**Point 44.**

WIPO version

*In almost half of the returns received (47.8 per cent in the case of goods and 46.4 per cent in the case of services), names of States were registrable as trademarks or elements of trademarks for goods and/or services, provided an express authorization by the competent authority was produced. This was the case in Costa Rica<sup>38</sup>, Ecuador<sup>39</sup>, Lithuania<sup>40</sup>, the Republic of Moldova<sup>41</sup>, Slovenia<sup>42</sup> and Ukraine<sup>43</sup>. Some returns indicated that even if the authorization was produced, the registration of the mark was still subject to the assessment of distinctive character of the sign, or to the filing of a disclaimer of protection of the country name.*

AGEPI version (Country name can be registered only as part of a trademarks)

Version I

*In almost half of the returns received (47.8 per cent in the case of goods and 46.4 per cent in the case of services), names of States were registrable as ~~trademarks or~~ elements of trademarks for goods and/or services, provided an express authorization by the competent authority was produced. This was the case in Costa Rica<sup>38</sup>, Ecuador<sup>39</sup>, Lithuania<sup>40</sup>, the Republic of Moldova<sup>41</sup>, Slovenia<sup>42</sup> and Ukraine<sup>43</sup>. Some returns indicated that even if the authorization was produced, the registration of the mark was still*

subject to the assessment of distinctive character of the sign, or to the filing of a disclaimer of protection of the country name.

#### Version II

In almost half of the returns received (47.8 per cent in the case of goods and 46.4 per cent in the case of services), names of States were registrable as trademarks or elements of trademarks for goods and/or services, provided an express authorization by the competent authority was produced. This was the case in Costa Rica<sup>38</sup>, Ecuador<sup>39</sup>, Lithuania<sup>40</sup>, ~~the Republic of Moldova~~<sup>44</sup>, Slovenia<sup>42</sup> and Ukraine<sup>43</sup>. Some returns indicated that even if the authorization was produced, the registration of the mark was still subject to the assessment of distinctive character of the sign, or to the filing of a disclaimer of protection of the country name.

*Pentru comoditate – Extras din rapunsul AGEPI din 2014 (tot răspunsul este dat separat)*

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.