

AIDE-MEMOIRE

With respect to WIPO's request for comments on the areas of convergence identified in WIPO document SCT/35/4, please see our response below.

1. In the case of Peru, Decision 486 establishing the Common Regime on Industrial Property is the sub-regional standard for distinctive signs governing the four Andean Community countries (Colombia, Bolivia, Ecuador and Peru).
2. Under Decision 486, use of a country name is not considered grounds to refuse registration, in contrast to Decision 344 (the previous Andean standard) which prohibited the reproduction or imitation of the name, designations or short names of any country without the permission of its competent authority. It also stipulated that, in any case, such signs could only be registered where they were secondary features of a more substantial badge.
3. It should be pointed out that, under the current standard, a mark can be any sign capable of distinguishing goods and services on the market, whether it consist of words, combinations of words, images, figures, symbols, letters, numbers or other elements.
4. There are certain absolute grounds for the refusal to register marks. For instance, it is not possible to register signs which are devoid of distinctive character, or which consist exclusively of a sign or indication which may serve in trade to designate the geographical origin of the goods or services in question, or which may mislead trade circles or the public as to the geographical origin of those goods or services.
5. Decision 486 also gives causes for the outright annulment of any registration granted in breach of the standards establishing the absolute grounds for refusal to register marks. These causes have no limitation period.
5. In this sense, it can be concluded that the six areas of convergence proposed by WIPO in document SCT/35/4 are in keeping with the Andean standard outlined above.

