

WIPO



SCT/16/7

ORIGINAL: English

DATE: September 29, 2006

E

WORLD INTELLECTUAL PROPERTY ORGANIZATION
GENEVA

STANDING COMMITTEE ON THE LAW OF TRADEMARKS, INDUSTRIAL DESIGNS AND GEOGRAPHICAL INDICATIONS

Sixteenth Session
Geneva, November 13 to 17, 2006

COMMUNICATION FROM THE PERMANENT MISSION OF BRAZIL

Document prepared by the Secretariat

1. This document reproduces in Annex I a communication dated September 11, 2006, from the Permanent Mission of Brazil to the United Nations Office and other International Organizations in Geneva, to the World Intellectual Property Organization (WIPO), concerning the sixteenth session of the Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (SCT).
2. Annex II to this document contains the “Non-Exhaustive List of Customary Names Used in Brazil Associated with Biodiversity” referred to in Annex I, and is available on CD-ROM only.

[Annexes follow]

ANNEX I



Permanent Mission of Brazil in Geneva
71, Avenue Louis-Casaï - Case Postale 165
1216 Cointrin Genève - Suisse

No 736/06

The Permanent Mission of Brazil in Geneva presents its compliments to the International Bureau of the World Intellectual Property Organization (WIPO) and has the honor to refer to the "Non-Exhaustive List of Customary Names Used in Brazil Associated with Biodiversity".

2. This list, which comprises more than 5000 generic terms of the Portuguese language related to the Brazilian plant biodiversity and their corresponding scientific names, is the result of a joint interministerial effort by the Brazilian Government.

3. It is aimed to prevent the registration of trademarks, without sufficient distinctive character, by providing trademark offices and examiners an important basis for consultation. The Brazilian Government, on many occasions, has had to face, in different countries, costly proceedings to cancel filings or invalidate registration of erroneous trademarks. Customary terms, such as "açai" and "cupuaçu", native fruits of the Amazon region, as well as "rapadura", a typical unrefined brown sugar traditionally consumed in Northeast Brazil, have been erroneously registered, although they lack distinctive character, a legal requirement for a term to be considered a trademark, as prescribed by TRIPS and the Paris Convention.

4. As many of the erroneously-registered trademarks consist of names of fruits or plants, their registering has been considered by some, to a certain extent, as a sort of "biopiracy", which may cause losses to local or traditional communities. If, for example, a firm obtains exclusive rights of the name "cupuaçu", that may impede Amazonian communities which have cultivated that fruit for centuries from commercializing it under its original name.

5. The Permanent Mission of Brazil requests the International Bureau to include the "Non-Exhaustive List of Customary Names Used in Brazil Associated with Biodiversity" as an item on the agenda of the sixteenth session of the Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications, the STC (Geneva, November 13 to 17, 2006), as well to circulate copies of the list among members on that occasion, the full content of which is available on the web page "http://www.mre.gov.br/portugues/ministerio/sitios_secretaria/dipi/dipi.asp".

6. The Permanent Mission of Brazil avails itself of this opportunity to renew to the International Bureau of WIPO the assurances of its highest consideration.

Geneva, September 11, 2006

International Bureau of the World Intellectual Property Organization
Geneva

WOM



[Annex II follows]

ANNEX II

Non-Exhaustive List of Customary Names Used in Brazil Associated with Biodiversity

This list is available on CD-ROM.



[End of Annex II and of document]