

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

Twenty-Fourth Session Geneva, November 1 to 4, 2010

Document prepared by the Secretariat

SUMMARY OF THE REPLIES TO THE QUESTIONNAIRE CONCERNING THE PROTECTION OF NAMES OF STATES AGAINST REGISTRATION AND USE AS TRADEMARKS

INTRODUCTION

1. At the twenty-first session of the Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (SCT) held in Geneva from June 22 to 26, 2009, members initiated discussions on the protection of official names of States against their registration and use as trademarks (paragraph 15 of document SCT/21/7).
2. At that session, the SCT agreed to request the Secretariat to prepare a draft questionnaire on the protection of official names of States against registration and use as trademarks, for consideration by the SCT at its twenty-second session in November 2009, and containing a concise list of questions, to be addressed to SCT members in the second half of 2010 (paragraph 14 of document SCT/22/8).
3. The twenty-third session of the SCT, which took place in Geneva from June 30 to July 2, 2010, considered the text of a draft questionnaire as published in document SCT/23/4. At that session, a number of delegations and representatives of observer organizations made drafting suggestions to the draft questionnaire, which were incorporated by the Secretariat and presented to the Committee in the form of an unofficial document. Following the adoption of the draft questionnaire by the

Committee, the Chair concluded that the questionnaire would be circulated to Member States with September 15, 2010, as the deadline for returns. The Secretariat was requested to compile the returns to the questionnaire and to present that compilation as a working document for the next session of the SCT.

4. Accordingly, the Secretariat produced the questionnaire contained in the Annex to document SCT/24/2 and circulated it under Circular letter C.7868, of July 22, 2010.
5. At its twenty-fourth session, the SCT considered document SCT/24/6 Prov., which reproduced, in Annex I, the replies to the questionnaire that were received until the closing date (September 30, 2010) from the following Member States: Albania, Australia, Austria, Azerbaijan, Bangladesh, Barbados, Belarus, Brazil, Bulgaria, Chile, Croatia, Czech Republic, Denmark, Dominican Republic, Estonia, Finland, France, Georgia, Germany, Greece, Guatemala, Hungary, Iran (Islamic Republic of), Italy, Jamaica, Japan, Jordan, Kazakhstan, Kenya, Kyrgyzstan, Latvia, Lithuania, Madagascar, Malaysia, Mexico, Monaco, Montenegro, Morocco, Myanmar, New Zealand, Nigeria, Norway, Oman, Peru, Poland, Portugal, Republic of Moldova, Romania, Russian Federation, San Marino, Serbia, Singapore, Slovakia, Slovenia, South Africa, Spain, Sri Lanka, Sweden, Switzerland, Syrian Arab Republic, Trinidad and Tobago, Turkey, Ukraine, United Kingdom, United Republic of Tanzania, United States of America and Uruguay.
6. At that session, SCT members were requested to verify their replies and provide amendments or comments that they wished to see reflected in the document. The SCT decided that the Secretariat should prepare a final version of document SCT/24/6 Prov., for submission to the next session of the SCT.
7. On November 30, 2010 replies were received from the following Member States: Canada, China (including Hong Kong SAR), Ireland and Republic of Korea. Annex I to the present document reproduces all replies in tabulated form showing individual replies according to country. When no reply was given, the corresponding entry remains empty. This part is followed by a quantitative analysis of the replies (Annex II).

[Annexes follow]

Responding countries	I. Protection of Names of States Against Registration as Trademarks		
	1. Under the applicable legislation, names of States are:		
	(a) Generally excluded from registration as trademark for goods	(b) Excluded from registration as trademark for goods if they could be considered descriptive of the origin of the goods in respect of which registration is sought	(c) Excluded from registration as trademark for goods if the use of the name of a State could be considered to be misleading as to the origin of the goods in respect of which registration is sought
Albania	YES		
Australia	YES	YES	YES
Austria	NO	YES	YES
Azerbaijan	YES		
Bangladesh	YES	YES	YES
Barbados	NO	YES*	YES
Belarus	YES		
Brazil	NO	YES	YES
Bulgaria	YES	YES	YES
Canada	YES	YES*	YES
Chile	YES	YES	YES
China	YES	YES	YES
Hong Kong SAR	YES	YES	YES
Croatia	NO	YES	YES
Czech Republic	NO	YES	YES
Denmark	NO	YES	YES
Dominican Republic	YES	YES	YES
Estonia	YES	YES	YES
Finland	NO*	YES	YES
France	NO	YES	YES
Georgia	YES	YES	YES
Germany	YES	YES	YES
Greece	YES		
Guatemala	NO	YES	YES
Hungary	NO	YES	YES
Iran (Islamic Republic of)	YES	YES	YES
Ireland	NO	YES	YES
Italy	YES	YES	YES
Jamaica	NO*	NO*	YES*
Japan	YES*	YES	YES
Jordan	NO	YES	YES
Kazakhstan	YES	YES	YES
Kenya	YES	YES	YES
Kyrgyzstan	YES	YES	YES
Latvia	NO	YES	YES
Lithuania	YES	YES	YES
Madagascar	NO	YES	YES
Malaysia	YES	YES	YES
Mexico	NO	YES	YES
Monaco	NO	YES	YES
Montenegro	YES	YES	YES
Morocco	NO	YES	YES
Myanmar	NO	NO	NO
New Zealand	YES	YES	YES
Nigeria	YES	NO	
Norway	YES*	YES	YES

Responding countries	I. Protection of Names of States Against Registration as Trademarks		
	1. Under the applicable legislation, names of States are:		
	(a) Generally excluded from registration as trademark for goods	(b) Excluded from registration as trademark for goods if they could be considered descriptive of the origin of the goods in respect of which registration is sought	(c) Excluded from registration as trademark for goods if the use of the name of a State could be considered to be misleading as to the origin of the goods in respect of which registration is sought
Oman	YES	YES	YES
Peru	NO	YES	YES
Poland	YES	YES	YES
Portugal	YES	YES*	YES
Republic of Korea	YES	YES	YES
Republic of Moldova	YES	YES	YES
Romania	NO	YES	YES
Russian Federation	NO	YES	YES
San Marino	NO	YES	YES
Serbia	YES	YES	YES
Singapore	YES	YES	YES
Slovakia	YES	YES	YES
Slovenia	NO	YES	YES
South Africa	YES	YES	YES
Spain	YES	YES	YES
Sri Lanka	YES	YES	YES
Sweden	NO	YES	YES
Switzerland	NO	YES	YES
Syrian Arab Republic	YES	YES	YES
Trinidad and Tobago	YES	YES	YES
Turkey	YES	YES	YES
Ukraine	YES	YES	YES
United Kingdom	NO	YES	YES
United Republic of Tanzania	YES	YES	YES
United States of America	NO*	YES	YES
Uruguay	YES	YES	YES

*Additional comments

BARBADOS:

Question 1(b)
See Trademarks Act 1981, Section 9(1)(b).

CANADA:

Question 1(b)
Unless the Office receives confirmation from the trademark owner that the goods emanate from that geographical place. Also subject to acquired distinctiveness provisions.

FINLAND:

Even though names of States are not “generally excluded” under the applicable legislation, names of States as word marks are not considered distinctive marks in practice.

JAMAICA:

Question 1

Where the mark consists exclusively of the name of the State, it is generally excluded from registration. Where the word is included as part of the trademark, the mark as a whole is registered and the name of the State disclaimed.

JAPAN:

Question 1(a)

Under Japanese trademark law, there are no provisions which provide to "generally" exclude names of States from registration as trademarks for goods and services. However, names of States are generally refused registration because they are considered to be the source of origin or indicate the quality of the goods and services according to the Trademark Examination Manual.

NORWAY:

Question 1(a)

Generally if it is a word mark. However, if it is a word and device mark, it depends how dominant the name of State element is in the mark.

PORTUGAL:

Question 1(b)

When composed solely by the name of a State.

UNITED STATES OF AMERICA

Question 1(a)

Country names are not specifically excluded from eligibility for trademark protection. However, marks composed of or consisting of geographic signs, including names of States, submitted for trademark registration undergo analysis as part of a full substantive examination to determine if the proposed mark is geographically descriptive, geographically deceptively misdescriptive or deceptive in relation to the nature of the goods and/or services. U.S. law provides grounds for refusal of marks containing geographic source identifiers, including prohibitions on the registration of marks that consist of or comprise, among other things, “deceptive... matter” or that are “primarily geographically deceptively misdescriptive.” U.S. law further prohibits registration of marks which, when used on or in connection with the goods or services of an applicant, are “primarily geographically descriptive” of them.

Responding countries	I. Protection of Names of States Against Registration as Trademarks			
	1. Under the applicable legislation, names of States are:			
	(d) Excluded from registration as trademark for goods if they otherwise lack any distinctive character	(e) Excluded from registration as trademark for goods if they can be considered incorrect as to the origin of the products for which registration is sought	(f) Excluded from registration as trademark for goods for other reasons	(g) Registrable as trademark for goods provided an authorization by the competent authority is granted
Albania			YES	NO
Australia	YES	YES	YES	NO
Austria	YES	YES	NO	NO
Azerbaijan				
Bangladesh	YES	YES	YES	YES
Barbados	YES	YES	YES	YES
Belarus				
Brazil	YES	YES	YES	NO
Bulgaria	NO	YES	NO	YES*
Canada	YES	YES	YES	NO
Chile	YES	YES	YES	NO
China	YES	YES	YES	YES
Hong Kong SAR	YES	YES	YES	NO
Croatia	YES	NO	NO	NO
Czech Republic	YES	YES	YES	YES
Denmark	YES	YES	NO	NO
Dominican Republic	YES	YES	YES	YES
Estonia	YES	YES	NO	NO
Finland	YES	YES	NO	NO
France	YES	*	NO	NO
Georgia	YES	YES	NO	NO
Germany	YES	YES	YES	NO
Greece				YES
Guatemala	YES	YES	NO	YES
Hungary	YES	YES	NO	NO
Iran (Islamic Republic of)	YES	YES	NO	YES
Ireland	YES	YES	NO	NO
Italy	YES	NO	NO	YES
Jamaica	YES	YES	NO	NO
Japan	YES	YES	NO	NO
Jordan	YES	NO	NO	YES
Kazakhstan	YES	YES	NO	NO
Kenya	YES	YES	NO	YES
Kyrgyzstan	YES	YES	YES	YES
Latvia	YES	YES	NO	NO
Lithuania	YES	YES	YES	YES
Madagascar	YES	YES	NO	NO
Malaysia	YES	YES	NO	YES
Mexico	YES	NO	NO	NO
Monaco	YES	NO	NO	YES
Montenegro	YES	YES	YES	YES
Morocco	YES	YES	NO	YES
Myanmar	NO	NO	YES	YES
New Zealand	YES	NO	NO	YES
Nigeria	YES			NO
Norway	YES	YES	YES	NO

Responding countries	I. Protection of Names of States Against Registration as Trademarks			
	1. Under the applicable legislation, names of States are:			
	(d) Excluded from registration as trademark for goods if they otherwise lack any distinctive character	(e) Excluded from registration as trademark for goods if they can be considered incorrect as to the origin of the products for which registration is sought	(f) Excluded from registration as trademark for goods for other reasons	(g) Registrable as trademark for goods provided an authorization by the competent authority is granted
Oman	YES	YES	YES	YES
Peru	YES	NO	NO	NO*
Poland	YES	YES	NO	YES
Portugal	YES	YES	YES	NO
Republic of Korea	YES	YES	YES	NO
Republic of Moldova	YES	YES	NO	NO
Romania	YES	NO	NO	NO
Russian Federation	YES	YES	NO	NO
San Marino	YES	NO	NO	NO
Serbia	YES	YES	NO	YES
Singapore	YES	NO	NO	NO
Slovakia	YES	NO	YES	YES
Slovenia	YES	YES		YES
South Africa	YES	NO	YES	NO
Spain	YES	YES	NO	YES
Sri Lanka	YES	YES	NO	YES
Sweden	YES	YES	YES	NO
Switzerland	YES	YES	YES	NO
Syrian Arab Republic	YES	YES	NO	YES
Trinidad and Tobago	YES	YES	NO	YES
Turkey	YES	NO	NO	YES
Ukraine	NO	NO	NO	YES
United Kingdom	NO	YES	NO	NO
United Republic of Tanzania	YES	YES	YES	YES
United States of America	YES	YES*	NO	
Uruguay	YES	YES	NO	YES*

Question 1(f): Under the applicable legislation, names of States are excluded from registration as trademark for goods for other reasons (specify the reasons):

ALBANIA:

Article 142, paragraph (1), letter (g) of Law No 9947 dated 07.07.2008 "On Industrial Property" provides that: "A sign is not registered as a trademark if it consists of the name of a State". In interpretation of this provision, the implementing regulation of the above mentioned law provides that if a trademark consists only of the name of a State, that trademark is to be refused on absolute grounds for refusal because of lack of distinctive character. If the trademark contains other elements that are sufficient to give distinctive character to the trademark, then the trademark can be registered but the name of the State should, in any case, be disclaimed from the protection by the applicant because it is an element that refers to the geographical origin of the goods and as such the exclusive right to use the name of a State cannot be granted to any applicant.

AUSTRALIA:

If the trademark is substantially identical or deceptively similar to an earlier registered or pending trademark that claims the same or similar goods and/or services.

BANGLADESH:

According to section 8(F) of the Trademarks Act, 2009, if a Court decides that the mark is otherwise not entitled to protection, it is not registrable.

BRAZIL:

Geographic indications, imitations thereof likely to cause confusion or signs that might falsely suggest a geographic indication; signs that suggest a false indication with respect to origin, source, nature, quality or utility of the product or service to which the mark is directed; signs of a generic, necessary, common, usual or simply descriptive character, when related to the product or service to be distinguished, or those commonly used to designate a characteristic of the product or service with respect to its nature, nationality, weight, value, quality and moment of production or of giving a service, except when presented in a sufficiently distinctive manner; reproductions or imitations, in whole or in part, even with additions, of a mark registered by a third party, to distinguish or certify a product or service that is identical, similar and which are likely to mislead or cause confusion or association with a third party's mark.

CANADA:

Subject to grounds applicable to all trademarks such as confusion with an existing mark, or identical/likely to be mistaken for an official mark.

CHILE:

Article 20(a) of the Law 19.039 on Prohibitions from Registrations prohibits registration of State names.

CZECH REPUBLIC:

Common name used in course of trade, bad faith.

DOMINICAN REPUBLIC:

If they reproduce or imitate a registered appellations of origin, or are identical or similar with a registered trademark.

FINLAND:

However there can be likelihood of confusion with earlier rights.

GERMANY:

The name of State may be a generic term (e.g. JAVA: island and programming language).

HONG KONG SAR:

1. Names of States which have become customary in the current language or in the honest and established practices of the trade are *prima facie* unregistrable as trademarks.
2. Names of States which are identical or similar to the earlier trademark(s) in respect of identical goods or services are *prima facie* unregistrable as trademarks.

LITHUANIA:

As a general rule, a trademark is not registered if it falls under any absolute grounds of refusal. A trademark consisting of the name of the State is nevertheless subject to examination with regard to absolute grounds for refusal, even if an authorization is granted by the competent authority.

Generally, name of a State may be registered, if an authorization was granted by a competent authority. For instance, permission for the use of Lithuanian State symbols in a mark or design shall be granted if these symbols are used respectfully, do not diminish the name of the Lithuanian State, are not contrary to public order and morality, and the applicant demonstrates that he meets at least one the following requirements:

- 1) represents or will represent the Lithuanian State and public interests in other countries or international organizations whose activities are compatible with legal acts of the Republic of Lithuania;
- 2) performs or will perform activities, or will elaborate products in the interest of Lithuanian public policy, economics, science and culture;
- 3) the goods or services are common in Lithuania; they represent or will represent its culture or traditions of manufacture;
- 4) uses or will use a trade mark or design to represent Lithuanian culture, science, historical or cultural heritage, traditions of manufacture, as well as to promote the image of Lithuania.

NORWAY:

Earlier protected trademarks – if there is a likelihood of confusion.

PORTUGAL:

When an earlier trademark (being also the name of a State) acquires distinctive character through use, the subsequent trademark can be refused via relative grounds.

SLOVAKIA:

Signs which contain geographical indications and are filed with respect to wines or for spirits not having that origin.

SWEDEN:

If the mark is confusingly similar to the name or trade name of another party, or to the trademark of another party registered on the basis of an earlier application, or to the trade symbol of such party, which was already established on the market when the application was made.

SWITZERLAND:

If they are considered contrary to the applicable law in Switzerland, including international treaties ratified by Switzerland.

UNITED REPUBLIC OF TANZANIA:

Likelihood of confusion.

* Additional comments

BULGARIA:

Question 1(g)

Only if the trademark has inherent distinctiveness - it is not a word mark and it has other additional distinctive elements such as specific colors, figurative elements, which make it capable of distinguishing the goods of one person from those of other persons.

FRANCE

Question 1(e)

The “incorrect” notion does not exist in national legislation.

PERU:

Question 1(g)

Grounds for refusal concern the non-distinctive, descriptive or misleading character of the sign and do not depend on the authorization from a competent authority.

UNITED STATES OF AMERICA

Question 1(e)

Incorrect in the sense the proposed sign is deceptive, primarily geographically deceptive, misdescriptive or primarily geographically descriptive as to the nature of the goods/services.

URUGUAY:

Question 1(g)

Article 5(1) of the Trademark Law: the following trademarks cannot be registered: flags, coats of arms, letters, words and other signs that identify foreign States or international intergovernmental organizations, provided that their commercial use is not authorized by a certificate issued by the State or organization concerned.

Responding countries	1. Protection of Names of States Against Registration as Trademarks		
	2. Under the applicable legislation, names of States are:		
	(a) Generally excluded from registration as trademark for services	(b) Excluded from registration as trademark for services if they could be considered descriptive of the origin of the services in respect of which registration is sought	(c) Excluded from registration as trademark for services if the use of the name of a State could be considered to be misleading as to the origin of the services in respect of which registration is sought
Albania	YES		
Australia	YES	YES	YES
Austria	NO	YES	YES
Azerbaijan	YES		
Bangladesh	YES	YES	YES
Barbados	NO	YES	YES
Belarus	YES		
Brazil	NO	YES	YES
Bulgaria	YES	YES	YES
Canada	YES	YES*	YES
Chile	YES	YES	YES
China	YES	YES	YES
Hong Kong SAR	YES	YES	YES
Croatia	NO	YES	YES
Czech Republic	NO	YES	YES
Denmark	NO	YES	YES
Dominican Republic	YES	YES	YES
Estonia	YES	YES	YES
Finland	NO*	YES	YES
France	NO	YES	YES
Georgia	YES	YES	YES
Germany	YES	YES	YES
Greece	YES		
Guatemala	NO	YES	YES
Hungary	NO	YES	YES
Iran (Islamic Republic of)	YES	YES	YES
Ireland	NO	YES	YES
Italy	YES	YES	YES
Jamaica	NO*	NO*	YES
Japan	YES*	YES	YES
Jordan	YES	YES	YES
Kazakhstan	YES	YES	YES
Kenya	YES	YES	YES
Kyrgyzstan	YES	YES	YES
Latvia	NO	YES	YES
Lithuania	YES	YES	YES
Madagascar	NO	YES	YES
Malaysia	YES	YES	YES
Mexico	NO	YES	YES
Monaco	NO	YES	YES
Montenegro	YES	YES	YES
Morocco	NO	YES	YES
Myanmar	NO	NO	NO
New Zealand	YES	YES	YES
Nigeria	YES		
Norway	YES*	YES	YES

Responding countries	1. Protection of Names of States Against Registration as Trademarks		
	2. Under the applicable legislation, names of States are:		
	(a) Generally excluded from registration as trademark for services	(b) Excluded from registration as trademark for services if they could be considered descriptive of the origin of the services in respect of which registration is sought	(c) Excluded from registration as trademark for services if the use of the name of a State could be considered to be misleading as to the origin of the services in respect of which registration is sought
Oman	YES	YES	YES
Peru	NO	YES	YES
Poland	YES	YES	YES
Portugal	YES	YES*	YES
Republic of Korea	YES	YES	YES
Republic of Moldova	YES	YES	YES
Romania	NO	YES	YES
Russian Federation	NO	YES	YES
San Marino	NO	YES	YES
Serbia	YES	YES	YES
Singapore	YES	YES	YES
Slovakia	YES	YES	YES
Slovenia	NO	YES	YES
South Africa	YES	YES	YES
Spain	YES	YES	YES
Sri Lanka	YES	YES	YES
Sweden	NO	YES	YES
Switzerland	NO	YES	YES
Syrian Arab Republic	YES	YES	YES
Trinidad and Tobago	YES	YES	YES
Turkey	YES	YES	YES
Ukraine	YES	NO	YES
United Kingdom	NO	YES	YES
United Republic of Tanzania	YES	YES	YES
United States of America	NO*	YES	YES
Uruguay	YES	YES	YES

* Additional comments

CANADA:

Question 2(b)

Unless the Office receives confirmation from the trademark owner that the goods emanate from that geographical place. Also subject to acquired distinctiveness provisions.

FINLAND:

Even though names of states are not “generally excluded” under the applicable legislation, names of states as word marks are not considered distinctive marks in practice.

JAMAICA:

Question 2(a) and (b)

Where the mark consists exclusively of the name of the State, it is generally excluded from registration. Where the word is included as part of the trademark, the mark as a whole is registered and the name of the State disclaimed.

JAPAN:

Question 2(a)

Under Japanese trademark law, there are no provisions which provide to “generally” exclude names of States from registration as trademarks for goods and services. However, names of States are generally refused registration because they are considered to be the source of origin or indicate the quality of the goods and services according to the Trademark Examination Manual.

NORWAY:

Question 2(a)

Generally if it is a word mark. However, if it is a word and device mark – depends on how dominant the name of State – element is in the mark.

PORTUGAL:

Question 2(b)

When composed solely by the name of a State.

UNITED STATES OF AMERICA

Question 2(a)

Country names are not specifically excluded from eligibility for trademark protection. However, marks composed of or consisting of geographic signs, including names of States, submitted for trademark registration undergo analysis as part of a full substantive examination to determine if the proposed mark is geographically descriptive, geographically deceptively misdescriptive or deceptive in relation to the nature of the goods and/or services. U.S. law provides grounds for refusal of marks containing geographic source identifiers, including prohibitions on the registration of marks that consist of or comprise, among other things, “deceptive... matter” or that are “primarily geographically deceptively misdescriptive.” U.S. law further prohibits registration of marks which, when used on or in connection with the goods or services of an applicant, are “primarily geographically descriptive” of them.

Responding countries	I. Protection of Names of States Against Registration as Trademarks			
	2. Under the applicable legislation, names of States are:			
	(d) Excluded from registration as trademark for services if they otherwise lack any distinctive character	(e) Excluded from registration as trademark for services if they can be considered incorrect as to the origin of the services for which registration is sought	(f) Excluded from registration as trademark for services for other reasons	(g) Registrable as trademark for services provided an authorization by the competent authority is granted
Albania			YES	NO
Australia	YES	YES	YES	NO
Austria	YES	NO	NO	NO
Azerbaijan				
Bangladesh	YES	YES	YES	YES
Barbados	YES	YES	YES	YES
Belarus				
Brazil	YES	YES	YES	NO
Bulgaria	NO	YES	NO	YES
Canada	YES	YES	YES	NO
Chile	YES	YES	YES	NO
China	YES	YES	YES	YES
Hong Kong SAR	YES	YES	YES	NO
Croatia	YES	NO	NO	NO
Czech Republic	YES	YES	YES	YES
Denmark	YES	YES	NO	NO
Dominican Republic	YES	YES	YES	YES
Estonia	YES	YES	NO	NO
Finland	YES	YES	NO	NO
France	YES	*	NO	NO
Georgia	YES	YES	NO	NO
Germany	YES	YES	YES	NO
Greece				YES
Guatemala	YES	YES	NO	YES
Hungary	YES	YES	NO	NO
Iran (Islamic Republic of)	YES	YES	NO	YES
Ireland	YES	YES	NO	NO
Italy	YES	NO	NO	YES
Jamaica	YES	YES	NO	NO
Japan	YES	YES	NO	NO
Jordan	YES	YES	NO	YES
Kazakhstan	YES	YES	NO	NO
Kenya	YES	YES	NO	YES
Kyrgyzstan	YES	YES	YES	YES
Latvia	YES	YES	NO	NO
Lithuania	YES	YES	YES	YES
Madagascar	YES	YES	NO	NO
Malaysia	YES	YES	NO	YES
Mexico	YES	NO	NO	NO
Monaco	YES	NO	NO	YES
Montenegro	YES	YES	YES	YES
Morocco	YES	YES	NO	YES
Myanmar	NO	NO	NO	NO
New Zealand	YES	NO	NO	YES
Nigeria			YES	NO
Norway	YES		YES	NO

Responding countries	I. Protection of Names of States Against Registration as Trademarks			
	2. Under the applicable legislation, names of States are:			
	(d) Excluded from registration as trademark for services if they otherwise lack any distinctive character	(e) Excluded from registration as trademark for services if they can be considered incorrect as to the origin of the services for which registration is sought	(f) Excluded from registration as trademark for services for other reasons	(g) Registrable as trademark for services provided an authorization by the competent authority is granted
Oman	YES		YES	YES
Peru	YES	NO	NO	NO*
Poland	YES	YES	NO	NO
Portugal	YES	YES	YES	NO
Republic of Korea	YES	YES	YES	YES
Republic of Moldova	YES	YES	NO	NO
Romania	YES	NO	NO	NO
Russian Federation	YES	YES	NO	NO
San Marino	YES	NO	NO	NO
Serbia	YES	YES	NO	YES
Singapore	YES	NO	NO	NO
Slovakia	YES	NO	NO	YES
Slovenia	YES	YES		YES
South Africa	YES	NO	YES	NO
Spain	YES	YES	NO	YES
Sri Lanka	YES	YES	NO	YES
Sweden	YES	YES	YES	NO
Switzerland	YES	YES	YES	NO
Syrian Arab Republic	YES	YES	NO	YES
Trinidad and Tobago	YES	YES	NO	YES
Turkey	YES	NO	NO	YES
Ukraine	NO	NO	NO	YES
United Kingdom	NO	YES	NO	NO
United Republic of Tanzania	YES	YES	YES	YES
United States of America	YES	YES*	NO	
Uruguay	YES	YES	NO	YES*

Question 2(f): Under the applicable legislation, names of States are excluded from registration as trademark for services for other reasons (specify the reasons):

ALBANIA:

Article 142 paragraph (1) letter (g) of Law No 9947 dated 07.07.2008 "On Industrial Property" provides that: "A sign is not registered as a trademark if it consists of the name of a State". In interpretation of this provision, the implementing regulation of the above mentioned law provides that if a trademark consists only of the name of a State, that trademark is to be refused on absolute grounds for refusal because of lack of distinctive character. If the trademark contains other elements that are sufficient to give distinctive character to the trademark, then the trademark can be registered but the name of the State should, in any case, be disclaimed from the protection by the applicant because it is an element that refers to the geographical origin of the goods and as such the exclusive right to use the name of a State cannot be granted to any applicant.

AUSTRALIA:

If the trademark is substantially identical or deceptively similar to an earlier registered or pending trademark that claims the same or similar goods and/or services.

BANGLADESH:

According to section 8(F) of the Trademarks Act, 2009, if a Court decides that the mark is otherwise not entitled to protection, it is not registrable.

BRAZIL:

Geographic indications, imitations thereof likely to cause confusion or signs that might falsely suggest a geographic indication; signs that suggest a false indication with respect to origin, source, nature, quality or utility of the product or service to which the mark is directed; signs of a generic, necessary, common, usual or simply descriptive character, when related to the product or service to be distinguished, or those commonly used to designate a characteristic of the product or service with respect to its nature, nationality, weight, value, quality and moment of production or of giving a service, except when presented in a sufficiently distinctive manner; reproductions or imitations, in whole or in part, even with additions, of a mark registered by a third party, to distinguish or certify a product or service that is identical, similar and which are likely to mislead or cause confusion or association with a third party's mark.

CANADA:

Subject to grounds application to all trademarks such as confusion with an existing mark, or identical/likely to be mistaken for an official mark.

CHILE:

Article 20(a) of the Law 19.039 on Prohibitions from Registrations prohibits registration of State names.

CZECH REPUBLIC:

Common name used in course of trade, bad faith.

DOMINICAN REPUBLIC:

If they reproduce or imitate a registered appellations of origin, or are identical or similar with a registered trademark.

FINLAND:

However there can be likelihood of confusion with earlier rights.

GERMANY:

The name of State may be a generic term (f.e. JAVA: island and programming language).

HONG KONG SAR:

1. Names of States which have become customary in the current language or in the honest and established practices of the trade are *prima facie* unregistrable as trademarks.
2. Names of States which are identical or similar to the earlier trademark(s) in respect of identical goods or services are *prima facie* unregistrable as trademarks.

LITHUANIA:

As a general rule, a trademark is not registered if it falls under any absolute grounds of refusal. A trademark consisting of the name of the State is nevertheless subject to examination with regard to absolute grounds for refusal, even if an authorization is granted by the competent authority.

Generally, name of a State may be registered, if an authorization was granted by a competent authority. For instance, permission for the use of Lithuanian State symbols in a mark or design shall be granted if these symbols are used respectfully, do not diminish the name of the Lithuanian State, are not contrary to public order and morality, and the applicant demonstrates that he meets at least one the following requirements:

- 1) represents or will represent the Lithuanian state and public interests in other countries or international organizations whose activities are compatible with legal acts of the Republic of Lithuania;
- 2) performs or will perform activities, or will elaborate products in the interest of Lithuanian public policy, economics, science and culture;
- 3) the goods or services are common in Lithuania; they represent or will represent its culture or traditions of manufacture;
- 4) uses or will use a trade mark or design to represent Lithuanian culture, science, historical or cultural heritage, traditions of manufacture, as well as to promote the image of Lithuania.

NORWAY:

Earlier protected trademarks – if there is a likelihood of confusion.

PORTUGAL:

When an earlier trademark (being also the name of a State) acquires distinctive character through use, the subsequent trademark can be refused via relative grounds.

SWEDEN:

If the mark is confusingly similar to the name or trade name of another party, or to the trademark of another party registered on the basis of an earlier application, or to the trade symbol of such party, which was already established on the market when the application was made.

SWITZERLAND:

If they are considered contrary to the applicable law in Switzerland, including international treaties ratified by Switzerland.

UNITED REPUBLIC OF TANZANIA:

Likelihood of confusion.

* Additional comments

BULGARIA:

Question 2(g)

Only if the trademark has inherent distinctiveness - it is not a word mark and it has other additional distinctive elements such as specific colors, figurative elements, which make it capable of distinguishing the goods of one person from those of other persons.

FRANCE

Question 2(e)

The “incorrect” notion does not exist in national legislation.

PERU:

Question 2(g)

The grounds for refusal concern the non-distinctive, descriptive or misleading character of the sign and do not depend on the authorization from a competent authority.

UNITED STATES OF AMERICA:

Question 2(e)

Incorrect in the sense the proposed sign is deceptive, primarily geographically deceptive, misdescriptive or primarily geographically descriptive as to the nature of the goods/services.

URUGUAY:

Question 2(g)

Article 5(1) of the Trademark Law: the following trademarks can not be registered: flags, coats of arms, letters, words and other signs that identify foreign States or international intergovernmental organizations, provided that their commercial use is not authorized by a certificate issued by the State or organization concerned.

Responding countries	I. Protection of Names of States Against Registration as Trademarks					
	3. If the name of a State is excluded from registration as trademark in respect of goods, this ground					
	(a) Is raised <i>ex officio</i> by the Office as part of the examination of an application	If the answer to the subquestion above is in the affirmative, can this ground be raised:		(b) Can be raised by third parties in opposition procedures	If the answer to the subquestion above is in the affirmative, can this ground be raised:	
independently from other grounds		only together with other grounds	independently from other grounds		only together with other grounds	
Albania	YES	YES		NO		
Australia	YES	YES		YES	YES	
Austria	YES	YES		NO		
Azerbaijan	YES	YES		NO		
Bangladesh	YES	YES		YES	YES	
Barbados	YES	YES		YES	YES	
Belarus	YES	YES				
Brazil	YES	YES		YES	YES	
Bulgaria	YES	YES		YES	YES	
Canada	YES*	YES		YES	YES	
Chile	YES	YES		YES	YES	
China	YES	YES		YES	YES	
Hong Kong SAR	YES	YES		YES	YES	
Croatia	YES		YES	NO		
Czech Republic	YES	YES		NO		
Denmark	YES	YES		YES	YES	
Dominican Republic	YES	YES		YES	YES	
Estonia	YES	YES		YES	YES	
Finland	YES	YES		YES	YES	
France	YES	YES		NO		
Georgia	YES	YES		YES	YES	
Germany	YES	YES		NO		
Greece	YES	YES		YES		
Guatemala	YES	YES		YES	YES	
Hungary	YES	YES		NO		
Iran (Islamic Republic of)	YES	YES		YES	YES	
Ireland	YES	YES		YES	YES	
Italy	YES	YES		NO*		
Jamaica	YES	YES		NO		
Japan	YES	YES		YES	YES	
Jordan	YES	YES		YES	YES	
Kazakhstan	YES	YES		NO		
Kenya	YES	YES		YES	YES	
Kyrgyzstan	YES	YES		YES	YES	
Latvia	YES	YES		YES	YES	
Lithuania	YES	YES		YES	YES	
Madagascar	YES	YES		NO		
Malaysia	YES	YES		YES	YES	
Mexico	YES	YES		NO		
Monaco	YES	YES		NO		
Montenegro	YES		YES	YES		YES
Morocco	NO			YES	YES	
Myanmar	YES	YES		NO		

Responding countries	I. Protection of Names of States Against Registration as Trademarks					
	3. If the name of a State is excluded from registration as trademark in respect of goods, this ground					
	(a) Is raised <i>ex officio</i> by the Office as part of the examination of an application	If the answer to the subquestion above is in the affirmative, can this ground be raised:		(b) Can be raised by third parties in opposition procedures	If the answer to the subquestion above is in the affirmative, can this ground be raised:	
independently from other grounds		only together with other grounds	independently from other grounds		only together with other grounds	
New Zealand	YES	YES		YES	YES	
Nigeria	YES	YES				
Norway	YES	YES		YES	YES	
Oman	YES	YES			YES	
Peru	YES	YES		YES	YES	
Poland	YES	YES		YES	YES	
Portugal	YES	YES		YES	YES	
Republic of Korea	YES	YES		YES	YES	
Republic of Moldova	YES	YES		NO		
Romania	YES	YES		NO		
Russian Federation	YES	YES				
San Marino	YES	YES		YES	YES	
Serbia	YES	YES		NO		
Singapore	YES	YES		YES	YES	
Slovakia	YES	YES		NO		
Slovenia	YES	YES		NO		
South Africa	YES	YES		YES	YES	
Spain	YES	YES		YES	YES	
Sri Lanka	YES	YES		YES	YES	
Sweden	YES	YES		YES	YES	
Switzerland	YES		YES	NO		
Syrian Arab Republic	YES			NO		
Trinidad and Tobago	YES	YES		*	YES*	
Turkey	YES	YES		YES	YES	
Ukraine	YES	YES		YES	YES	
United Kingdom	YES	YES		YES	YES	
United Republic of Tanzania	YES	YES		YES	YES	
United States of America	YES	YES		YES	YES	
Uruguay	YES	YES		YES	YES	

* Additional comments

CANADA:

Question 3(a)
Except for distinctiveness

ITALY:

Question 3(b)

The opposition procedure is not yet in force in the Office

TRINIDAD AND TOBAGO:

Question 3(b)

If third party means a person who is not party to the opposition procedures, then the answer to this question is NO. If third party means a person who is a party to the opposition procedures, then the answer to this question is YES.

Responding countries	I. Protection of Names of States Against Registration as Trademarks					
	3. If the name of a State is excluded from registration as trademark in respect of goods, this ground					
	(c) Can be raised by third parties as an observation	If the answer to the subquestion above is in the affirmative, can this ground be raised:		(d) Can be raised by third parties in post registration invalidation procedures	If the answer to the subquestion above is in the affirmative, can this ground be raised:	
independently from other grounds		only together with other grounds	independently from other grounds		only together with other grounds	
Albania	NO			YES	YES	
Australia	YES	YES		YES	YES	
Austria	NO			YES	YES	
Azerbaijan	NO			NO		
Bangladesh	NO			YES	YES	
Barbados	YES	YES		YES	YES	
Belarus				YES	YES	
Brazil	YES	YES		YES	YES	
Bulgaria	NO			YES	YES	
Canada	NO			YES	YES	
Chile	NO			YES	YES	
China	NO			YES	YES	
Hong Kong SAR	NO			YES	YES	
Croatia	YES		YES	YES		YES
Czech Republic	YES	YES		YES	YES	
Denmark	YES	YES		YES	YES	
Dominican Republic	NO			YES	YES	
Estonia	NO			YES	YES	
Finland	YES	YES		YES	YES	
France	YES	YES		YES	YES	
Georgia	NO	YES		YES	YES	
Germany	NO			YES	YES	
Greece	NO			YES	YES	
Guatemala	NO	YES		YES	YES	
Hungary	YES	YES		YES	YES	
Iran (Islamic Republic of)	YES	YES		YES	YES	
Ireland	YES	YES		YES	YES	
Italy				YES*	YES	
Jamaica	NO			YES	YES	
Japan	YES	YES		YES	YES	
Jordan	NO			NO		
Kazakhstan	NO			NO		
Kenya	YES	YES			YES	
Kyrgyzstan	YES	YES				
Latvia	NO			YES	YES	
Lithuania	NO			YES	YES	
Madagascar	NO			YES	YES	
Malaysia	YES	YES		YES	YES	
Mexico	YES	YES		YES	YES	
Monaco	NO			YES	YES	
Montenegro	YES		YES	YES		YES
Morocco	NO			YES	YES	
Myanmar						
New Zealand	NO			YES	YES	

Responding countries	I. Protection of Names of States Against Registration as Trademarks					
	3. If the name of a State is excluded from registration as trademark in respect of goods, this ground					
	(c) Can be raised by third parties as an observation	If the answer to the subquestion above is in the affirmative, can this ground be raised:		(d) Can be raised by third parties in post registration invalidation procedures	If the answer to the subquestion above is in the affirmative, can this ground be raised:	
independently from other grounds		only together with other grounds	independently from other grounds		only together with other grounds	
Nigeria						
Norway	YES	YES		YES	YES	
Oman		YES			YES	
Peru	YES	YES		YES	YES	
Poland	YES	YES		YES	YES	
Portugal	YES	YES		YES	YES	
Republic of Korea	YES	YES		YES	YES	
Republic of Moldova	YES	YES		YES	YES	
Romania	YES	YES		YES	YES	
Russian Federation	YES	YES		YES	YES	
San Marino	YES	YES		YES	YES	
Serbia	YES	YES		YES	YES	
Singapore	NO			YES	YES	
Slovakia	YES	YES		YES	YES	
Slovenia	YES	YES		YES	YES	
South Africa	NO			YES	YES	
Spain	YES	YES		YES	YES	
Sri Lanka	NO					
Sweden	YES	YES		YES	YES	
Switzerland	NO			YES		YES
Syrian Arab Republic	NO			NO		
Trinidad and Tobago					YES*	
Turkey	YES	YES		YES	YES	
Ukraine	NO			YES	YES	
United Kingdom	YES	YES		YES	YES	
United Republic of Tanzania	YES	YES		YES	YES	
United States of America	YES	YES		YES	YES	
Uruguay	NO			YES	YES	

* Additional comments

ITALY:

Question 3(d)

Not before the Office but only before the competent Court.

TRINIDAD AND TOBAGO:

Question 3(c)

Observations are not recognized under the Trademark Law.

Question 3(d)

If third party means a person who is not party to the invalidation procedures, then the answer to this question is NO. If third party means a person who is a party to the invalidation opposition procedures, then the answer to this question is YES.

Responding countries	I. Protection of Names of States Against Registration as Trademarks					
	4. If the name of a State is excluded from registration as trademark in respect of services, this ground					
	(a) Is raised <i>ex officio</i> by the Office as part of the examination of an application	If the answer to the subquestion above is in the affirmative, can this ground be raised:		(b) Can be raised by third parties in opposition procedures	If the answer to the subquestion above is in the affirmative, can this ground be raised:	
independently from other grounds		only together with other grounds	independently from other grounds		only together with other grounds	
Albania	YES	YES		NO		
Australia	YES	YES		YES	YES	
Austria	YES	YES		NO		
Azerbaijan	YES	YES		NO		
Bangladesh	YES	YES		YES	YES	
Barbados	YES	YES		YES	YES	
Belarus	YES	YES				
Brazil	YES	YES		YES	YES	
Bulgaria	YES	YES		YES	YES	
Canada	YES*	YES		YES	YES	
Chile	YES	YES		YES	YES	
China	YES	YES		YES	YES	
Hong Kong SAR	YES	YES		YES	YES	
Croatia	YES		YES			
Czech Republic	YES	YES		NO		
Denmark	YES	YES		YES	YES	
Dominican Republic	YES	YES		YES	YES	
Estonia	YES	YES		YES	YES	
Finland	YES	YES		YES	YES	
France	YES	YES		NO		
Georgia	YES	YES		YES	YES	
Germany	YES	YES		NO		
Greece	YES	YES		YES	YES	
Guatemala	YES	YES		YES	YES	
Hungary	YES	YES		NO		
Iran (Islamic Republic of)	YES	YES		YES	YES	
Ireland	YES	YES		YES	YES	
Italy	YES	YES		NO		
Jamaica	YES	YES		NO		
Japan	YES	YES		YES	YES	
Jordan	YES	YES		YES	YES	
Kazakhstan	YES	YES		NO		
Kenya	YES	YES		YES	YES	
Kyrgyzstan	YES	YES		YES	YES	
Latvia	YES	YES		YES	YES	
Lithuania	YES	YES		YES	YES	
Madagascar	YES	YES		NO		
Malaysia	YES	YES		YES	YES	
Mexico	YES	YES		NO		
Monaco	YES	YES		NO		
Montenegro	YES		YES	NO	YES	
Morocco	NO					
Myanmar	NO					

Responding countries	I. Protection of Names of States Against Registration as Trademarks					
	4. If the name of a State is excluded from registration as trademark in respect of services, this ground					
	(a) Is raised <i>ex officio</i> by the Office as part of the examination of an application	If the answer to the subquestion above is in the affirmative, can this ground be raised:		(b) Can be raised by third parties in opposition procedures	If the answer to the subquestion above is in the affirmative, can this ground be raised:	
independently from other grounds		only together with other grounds	independently from other grounds		only together with other grounds	
New Zealand	YES	YES		YES	YES	
Nigeria	YES					
Norway	YES	YES		YES	YES	
Oman	YES		YES	YES		YES
Peru	YES	YES		YES	YES	
Poland	YES	YES		YES	YES	
Portugal	YES	YES		YES	YES	
Republic of Korea	YES	YES		YES	YES	
Republic of Moldova	YES	YES		NO		
Romania	YES	YES		NO		
Russian Federation	YES	YES				
San Marino	YES	YES		YES	YES	
Serbia	YES	YES		NO		
Singapore	YES	YES		YES	YES	
Slovakia	YES	YES		NO		
Slovenia	YES	YES		NO		
South Africa	YES	YES		YES	YES	
Spain	YES	YES		YES	YES	
Sri Lanka	YES	YES		YES	YES	
Sweden	YES	YES		YES	YES	
Switzerland	YES		YES	NO		
Syrian Arab Republic	YES			NO		
Trinidad and Tobago	YES	YES			YES*	
Turkey	YES	YES		YES	YES	
Ukraine	YES	YES		YES	YES	
United Kingdom	YES	YES		YES	YES	
United Republic of Tanzania	YES	YES		YES	YES	
United States of America	YES	YES		YES	YES	
Uruguay	YES	YES		YES	YES	

* Additional comments

CANADA:

Question 4(a)
Except for distinctiveness

TRINIDAD AND TOBAGO:

Question 4(b)

If third party means a person who is not party to the opposition procedures, then the answer to this question is NO. If third party means a person who is a party to the opposition procedures, then the answer to this question is YES.

Responding countries	I. Protection of Names of States Against Registration as Trademarks					
	4. If the name of a State is excluded from registration as trademark in respect of services, this ground					
	(c) Can be raised by third parties as an observation	If the answer to the subquestion above is in the affirmative, can this ground be raised:		(d) Can be raised by third parties in post registration invalidation procedures	If the answer to the subquestion above is in the affirmative, can this ground be raised:	
independently from other grounds		only together with other grounds	independently from other grounds		only together with other grounds	
Albania	NO			YES	YES	
Australia	YES	YES		YES	YES	
Austria	NO			YES	YES	
Azerbaijan	NO			NO		
Bangladesh	NO			YES	YES	
Barbados		YES		YES	YES	
Belarus				YES	YES	
Brazil	YES	YES		YES	YES	
Bulgaria	NO			YES	YES	
Canada	NO			YES	YES	
Chile	NO			YES	YES	
China	NO			YES	YES	
Hong Kong SAR	NO			YES	YES	
Croatia	YES		YES	YES		YES
Czech Republic	YES	YES		YES	YES	
Denmark	YES	YES		YES	YES	
Dominican Republic	NO			YES	YES	
Estonia	NO			YES	YES	
Finland	YES	YES		YES	YES	
France	YES	YES		YES	YES	
Georgia	NO	YES		YES	YES	
Germany	NO			YES	YES	
Greece	NO			YES	YES	
Guatemala	NO	YES		YES	YES	
Hungary	YES	YES		YES	YES	
Iran (Islamic Republic of)	YES	YES		YES	YES	
Ireland	YES	YES		YES	YES	
Italy	YES	YES		NO*	YES	
Jamaica				YES	YES	
Japan	YES	YES		YES	YES	
Jordan	NO			NO		
Kazakhstan	NO			NO		
Kenya	YES	YES		YES	YES	
Kyrgyzstan	YES	YES		YES	YES	
Latvia	NO			YES	YES	
Lithuania	NO			YES	YES	
Madagascar	NO			YES	YES	
Malaysia	YES	YES		YES	YES	
Mexico	YES	YES		YES	YES	
Monaco	NO			YES	YES	
Montenegro	YES		YES	YES		YES
Morocco				YES	YES	
Myanmar						

Responding countries	I. Protection of Names of States Against Registration as Trademarks					
	4. If the name of a State is excluded from registration as trademark in respect of services, this ground					
	(c) Can be raised by third parties as an observation	If the answer to the subquestion above is in the affirmative, can this ground be raised:		(d) Can be raised by third parties in post registration invalidation procedures	If the answer to the subquestion above is in the affirmative, can this ground be raised:	
independently from other grounds		only together with other grounds	independently from other grounds		only together with other grounds	
New Zealand	NO			YES	YES	
Nigeria						
Norway	YES	YES		YES	YES	
Oman	YES		YES	YES		YES
Peru	YES	YES		YES	YES	
Poland	YES	YES		YES	YES	
Portugal	YES	YES		YES	YES	
Republic of Korea	YES	YES		YES	YES	
Republic of Moldova	YES	YES		YES	YES	
Romania	YES	YES		YES	YES	
Russian Federation	YES	YES		YES	YES	
San Marino	YES	YES		YES	YES	
Serbia	YES	YES		YES	YES	
Singapore	NO			YES	YES	
Slovakia	YES	YES		YES	YES	
Slovenia	YES	YES		YES	YES	
South Africa	NO			YES	YES	
Spain	YES	YES		YES	YES	
Sri Lanka	NO					
Sweden	YES	YES		YES	YES	
Switzerland	NO			YES		YES
Syrian Arab Republic	NO			NO		
Trinidad and Tobago					YES*	
Turkey	YES	YES		YES	YES	
Ukraine	NO			YES	YES	
United Kingdom	YES	YES		YES	YES	
United Republic of Tanzania	YES	YES		YES	YES	
United States of America	YES	YES		YES	YES	
Uruguay	NO			YES	YES	

* Additional comments

ITALY:

Question 4(d)

Not before the Office but only before the competent Court.

TRINIDAD AND TOBAGO:

Question 4(c)

Observations are not recognized under the Trademark Law.

Question 4(d)

If third party means a person who is not party to the invalidation procedures, then the answer to this question is NO. If third party means a person who is a party to the invalidation procedures, then the answer to this question is YES.

Responding countries	I. Protection of Names of States Against Registration as Trademarks	
	5. In determining whether the inclusion of a name of a State in a trademark would be a ground for refusing the registration of that trademark for goods and/or services, consideration must be given to the potential deception of consumers as to the origin of the goods and/or services on, or in connection with which the trademark is proposed to be used	6. If under the applicable legislation, names of States are generally excluded from registration as trademark for goods and/or services, are there any exceptions to such exclusion?
Albania	NO	NO
Australia	YES	NO
Austria	YES	
Azerbaijan	NO	NO
Bangladesh	YES	YES
Barbados	YES	YES
Belarus	YES	NO
Brazil	YES	NO
Bulgaria	YES	YES
Canada	YES	
Chile	NO*	NO
China	NO	YES
Hong Kong SAR	YES	YES
Croatia	YES	
Czech Republic	YES	
Denmark	NO	
Dominican Republic	YES	YES
Estonia	YES	YES
Finland	YES*	
France	YES	
Georgia	YES	NO
Germany	YES	NO
Greece	NO	NO
Guatemala	YES	YES
Hungary	YES	NO
Iran (Islamic Republic of)	YES	YES
Ireland	YES	NO
Italy	NO*	YES
Jamaica	YES	YES
Japan	YES	YES
Jordan	YES	YES
Kazakhstan	YES	YES
Kenya	YES	YES
Kyrgyzstan	YES	NO
Latvia	YES	
Lithuania	YES	YES
Madagascar	NO	NO
Malaysia	YES	NO
Mexico	YES	
Monaco	YES	
Montenegro	YES	NO
Morocco	YES	
Myanmar	NO	NO
New Zealand	YES	NO
Nigeria	YES	NO
Norway	YES	NO

Responding countries	I. Protection of Names of States Against Registration as Trademarks	
	5. In determining whether the inclusion of a name of a State in a trademark would be a ground for refusing the registration of that trademark for goods and/or services, consideration must be given to the potential deception of consumers as to the origin of the goods and/or services on, or in connection with which the trademark is proposed to be used	6. If under the applicable legislation, names of States are generally excluded from registration as trademark for goods and/or services, are there any exceptions to such exclusion?
Oman	YES	YES
Peru	YES	NO
Poland	YES	NO
Portugal	YES	NO
Republic of Korea	NO	NO
Republic of Moldova	YES	YES
Romania	NO	
Russian Federation	YES	
San Marino	YES	
Serbia	YES	YES
Singapore	YES	YES
Slovakia	YES	NO
Slovenia	YES	
South Africa	YES	YES
Spain	YES	
Sri Lanka	YES	YES
Sweden	YES	
Switzerland	NO	
Syrian Arab Republic	YES	NO
Trinidad and Tobago	YES	YES
Turkey	YES	YES
Ukraine	NO	YES
United Kingdom	YES	NO
United Republic of Tanzania	YES	YES
United States of America	YES	YES
Uruguay	YES	YES

Question 6

If under the applicable legislation, names of States are generally excluded from registration as trademark for goods and/or services, are there any exceptions to such exclusion? If yes, specify:

BANGLADESH:

Registrable if permission is granted by the competent authority (Section 8(F) of the Law).

BARBADOS:

Excepted by Section 9 (1) (g) of the Trademarks Act 1981. Unless its use is authorized by an authority in the country concerned, that is competent to authorize the use of the mark as a trade mark or service mark.

BULGARIA

The names of the States are registrable as a trademark for goods and/ or services only when:

- an authorization by the competent authority of the State is granted
- and the trademark has inherent distinctiveness, i.e. it is not a word mark and it has other additional distinctive elements such as specific colors, figurative elements etc. which make it capable of distinguishing the goods of one person from those of other persons.

CHINA:

If an authorization by the competent authority is provided.

DOMINICAN REPUBLIC:

In case of submission of the authorization from a competent authority in the State concerned.

ESTONIA:

There are no specific provisions in the Estonian Trade Marks Act for the grounds of refusal for the names of States. Legal protection shall not be granted to the sign which consists exclusively of geographical origin. The trademark is registrable, if it contains a geographical name and other elements which are distinctive (such geographical name constitutes an element of the trade mark which is not subject to protection). Legal protection shall not be granted if the geographical name is of such a nature to deceive the consumer as to the geographical origin of the goods and services. The applicant has to limit the list of goods and services to eliminate this decisive effect.

GUATEMALA:

According to Article 16(2) and 20(D) of the national Industrial Property Law.

HONG KONG SAR:

1. If names of States are refused for registration *prima facie* as trademarks for goods and/or services under section 11(1)(b), (c) or (d) of the trademarks Ordinance of Hong Kong SAR, they may be registrable as trademarks if evidence is filed to show that before the date of application the names have in fact acquired a distinctive character as a result of the use made of them.
2. Names of States which designate the geographical origin of goods or services may be registered as certification marks or collective marks.

IRAN (ISLAMIC REPUBLIC OF):

In the case of authorization from the competent authorities

JAMAICA:

If the name is being used in a fanciful manner or if the name of the State is not considered to be well-known in the Jamaican jurisdiction.

JAPAN:

A trademark consisting of the names of States could be registered if it has acquired distinctiveness through use (secondary meaning).

KAZAKHSTAN:

Names of States can be included into the registration as trademark for goods and/or services as unregistrable element of a trademark.

KENYA:

When accompanied by other elements that would make the mark as a whole distinctive. However, such marks would only be registered with disclaimers on the use of such names. Other instances would be through provision of letters of consent from the cited authorities or evidence of having registered the said mark in the country with the same name.

LITHUANIA:

Generally, name of a State may be registered, if an authorization was granted by a competent authority. For instance, permission for the use of Lithuanian State symbols in a mark or design shall be granted if these symbols are used respectfully, do not diminish the name of the Lithuanian State, are not contrary to public order and morality, and the applicant demonstrates that he meets at least one the following requirements:

- 1) represents or will represent the Lithuanian State and public interests in other countries or international organizations whose activities are compatible with legal acts of the Republic of Lithuania;
- 2) performs or will perform activities, or will elaborate products in the interest of Lithuanian public policy, economics, science and culture;
- 3) the goods or services are common in Lithuania; they represent or will represent its culture or traditions of manufacture;
- 4) uses or will use a trade mark or design to represent Lithuanian culture, science, historical or cultural heritage, traditions of manufacture, as well as to promote the image of Lithuania.

REPUBLIC OF MOLDOVA:

The applicant may appeal to the Art. 6quinquies of the Paris Convention for the registration "telle quelle", in case the applicant has the origin from the State concerned and there is no ground of refusal.

Also, the applicant can take action before the competent judicial authority providing sufficient proof that the requested trademark has acquired distinctive character in the territory of the Republic of Moldova.

SERBIA:

Registrable as a trademark provided an authorization by the competent authority is granted if the name of the State is only one element of the complex trademark which is not considered to be misleading of the origin for goods and/or services, and which can be considered simply as information of the origin for goods and/or services.

SINGAPORE:

If the mark as a whole is distinctive, does not consist exclusively of descriptive or generic elements, is not contrary to public policy or to morality, does not deceive the public, the use of the mark is not prohibited by any written law or rule of law and the mark is not applied for in bad faith, the mark may be registered.

TURKEY:

If the name of a State has a different meaning in Turkish, this can be considered as an exception. If authorization by the competent authority is granted, names of States are registrable.

UNITED REPUBLIC OF TANZANIA:

With an authorization from the competent authority.

UNITED STATES OF AMERICA:

"Indications of regional origin" are not prohibited and may be registered as collective and certification marks. In addition, where an applicant can demonstrate that a geographic term has become associated with its goods or services and thus has acquired distinctiveness with respect to those goods or services, registration is permitted.

URUGUAY:

- when used by the State and local government as such
- public entities not depending on the State
- participative companies of the State
- geographical indications as stated in the law.

* Additional comments

CHILE:

Question 5

The name of a State would not be registrable as a trademark because the test of misleading or confusing sign would not be applicable. The situation would be different if the name of the State is accompanied by other words, in which case protection would be granted to the mark as a whole.

FINLAND:

In practice no consideration is made if the mark is a word mark consisting only of a name of the State and the applicant is from another State. In other cases possible deceptiveness is always considered.

ITALY

Question 5

The Office can not examine whether the trademark is deceptive.

PERU:

The grounds for refusal concern the non-distinctive or misleading character of the sign. There is no exclusion of registration only based on the fact that the sign includes a State name. In the case of signs considered a priori not distinctive or descriptive, secondary meaning can be claimed and has to be established.

Responding countries	II. Protection of Names of States Against Use as Trademarks	
	7. Under the applicable legislation, names of States are excluded from use as trademarks for goods	8. Under the applicable legislation, names of States are excluded from use as trademarks for services
Albania	NO	NO
Australia	YES	YES
Austria	NO	NO
Azerbaijan	NO	NO
Bangladesh	NO	NO
Barbados		
Belarus	YES	YES
Brazil	YES	YES
Bulgaria	YES	YES
Canada	YES*	YES
Chile	YES	YES
China	YES	YES
Hong Kong SAR	NO	NO
Croatia	NO	NO
Czech Republic	NO	NO
Denmark	NO	NO
Dominican Republic	YES	YES
Estonia	NO	NO
Finland	NO	NO
France	NO	NO
Georgia	NO	NO
Germany	YES	YES
Greece	YES	YES
Guatemala	YES	YES
Hungary		
Iran (Islamic Republic of)	YES	YES
Ireland	NO	NO
Italy	NO	NO
Jamaica	NO	NO
Japan	NO*	NO*
Jordan	NO	NO
Kazakhstan	YES	YES
Kenya	NO	NO
Kyrgyzstan	YES	YES
Latvia	NO	NO
Lithuania	YES	YES
Madagascar	NO	NO
Malaysia	YES	YES
Mexico	NO	NO
Monaco	NO	NO
Montenegro	NO	NO
Morocco	NO	NO
Myanmar	NO	NO
New Zealand	YES	YES
Nigeria	YES	YES
Norway	NO	NO
Oman	YES	YES
Peru	NO	NO
Poland	YES	YES
Portugal	YES	NO
Republic of Korea	YES	YES

Responding countries	II. Protection of Names of States Against Use as Trademarks	
	7. Under the applicable legislation, names of States are excluded from use as trademarks for goods	8. Under the applicable legislation, names of States are excluded from use as trademarks for services
Republic of Moldova	YES	YES
Romania	NO	NO
Russian Federation	YES	YES
San Marino	NO	NO
Serbia	NO	NO
Singapore	NO	NO
Slovakia	NO	NO
Slovenia	YES	YES
South Africa	NO	NO
Spain	NO	NO
Sri Lanka		
Sweden	NO	NO
Switzerland	NO	NO
Syrian Arab Republic	YES	YES
Trinidad and Tobago	YES	YES
Turkey	NO	NO
Ukraine	YES	YES
United Kingdom	NO	NO
United Republic of Tanzania	YES	YES
United States of America	NO*	NO*
Uruguay	NO	NO

* Additional comments

CANADA:

Question 7

If misleading or deception

JAPAN:

Questions 7 and 8

Japan does not have a comprehensive law that provides to “generally” exclude or prohibit the “use names of States as trademarks” for goods and services, but the act of causing mislead the public as to the source of origin or quality of the products are prohibited under the Unfair Competition Prevention Law (Article 2(1)(13)).

UNITED STATES OF AMERICA:

Question 7

However, an interested party is entitled to bring a civil action under Section 43(a) of the Trademark Act which prevents the use of signs or any false designation of origin, false or misleading description of fact, or false or misleading representation of fact, which is likely to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection, or association of such person with another person, or as to the origin, sponsorship, or approval of his or her goods, services, or commercial activities by another person. In addition, unfair competition laws may be applicable.

Question 8

However, an interested party is entitled to bring a civil action under Section 43(a) of the Trademark Act which prevents the use of signs or any false designation of origin, false or misleading description of fact, or false or misleading representation of fact, which is likely to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection, or association of such person with another person, or as to the origin, sponsorship, or approval of his or her goods, services, or commercial activities by another person. In addition, unfair competition laws may be applicable.

Responding countries	II. Protection of Names of States Against Use as Trademarks			
	9. Where the applicable legislation excludes names of States from use as trademarks for goods and/or services, such exclusion is being provided			
	Under trademark law	Law against unfair competition	General tort law (passing off)	Other
Albania				
Australia	YES	YES	YES	
Austria				
Azerbaijan				
Bangladesh				
Barbados				
Belarus	YES			
Brazil				YES*
Bulgaria	YES			
Canada	YES	YES	YES	
Chile	NO	YES		
China	YES			
Hong Kong SAR				
Croatia				
Czech Republic				
Denmark	NO	NO	NO	YES*
Dominican Republic	YES			
Estonia	NO	NO	NO	
Finland				
France				
Georgia	NO	NO	NO	
Germany	YES	YES	YES	
Greece	YES			
Guatemala	YES	NO	NO	
Hungary				
Iran (Islamic Republic of)	YES	YES	YES	
Ireland				
Italy				
Jamaica				
Japan				
Jordan				
Kazakhstan	YES	YES	YES	
Kenya			YES	
Kyrgyzstan	YES	NO	NO	
Latvia				
Lithuania	YES			YES*
Madagascar	NO	NO	NO	
Malaysia	YES			
Mexico				
Monaco				
Montenegro	YES	NO	NO	
Morocco				
Myanmar	NO	NO	NO	
New Zealand	YES	YES	YES	
Nigeria	YES			
Norway				
Oman	YES	NO	YES	
Peru				
Poland	NO	YES	NO	
Portugal	NO	NO	YES	

Responding countries	II. Protection of Names of States Against Use as Trademarks			
	9. Where the applicable legislation excludes names of States from use as trademarks for goods and/or services, such exclusion is being provided			
	Under trademark law	Law against unfair competition	General tort law (passing off)	Other
Republic of Korea	YES	NO	NO	
Republic of Moldova	NO	YES	YES	YES*
Romania	NO	NO	NO	
Russian Federation		YES		YES*
San Marino				
Serbia				
Singapore				
Slovakia				
Slovenia	NO	YES	NO	
South Africa	NO	YES	YES	
Spain	NO	NO	NO	
Sri Lanka		YES	YES	
Sweden				
Switzerland				
Syrian Arab Republic	NO			
Trinidad and Tobago	YES	YES	YES	
Turkey		YES		
Ukraine	YES	NO	NO	
United Kingdom				
United Republic of Tanzania	YES			
United States of America	YES	YES	YES	
Uruguay	NO	NO	NO	

Question 9. Where the applicable legislation excludes names of States from use as trademarks for goods and/or services, such exclusion is being provided by (please specify):

BRAZIL:

Law 9279 of May 14, 1996 (Chapter V) Infringement of Geographical Indication and Other Indications. Art. 194: Using a mark, commercial name, title of establishment, insignia, advertising expression or sign or any other form that indicates a source other than the true one, or selling or exhibiting for sale a product carrying such signs. Penalty – detention of 1 (one) to 3 (three) months, or a fine. Consumer Protection Law, September 11, 1990.

DENMARK:

The Danish Marketing Practices Act, Section 3, prohibits use of misleading or undue indications, just as it establishes an obligation for traders to be able to substantiate by documentation any factual statements made in their marketing or on their goods. Thus, false or misleading indications of the origin of the goods or services that are marketed by a trader or service provider are prohibited.

LITHUANIA:

- The Law on Possession, Use and Disposal of State and Municipal Assets of the Republic of Lithuania of 12 May 1998 No. VIII-729;
- The Law on Lithuanian National Emblem, Other Coats of Arms and Other Armorial Marks of the Republic of Lithuania of 10 April 1990 No. 1-130 (as last amended on 1 April 2008 No. X-1471);

- The Order of the Government of the Republic of Lithuania of 12 February 2001 No. 155 on Authority Concerned with Authorization to Use Official or Traditional (Abbreviated) State Name of the Republic of Lithuania, of Armorial Bearings, Flag or Other State Heraldic Objects or any Imitation from a Heraldic Point of View, also Official Signs and Hallmarks Indicating Control and Warranty, Stamps, Medals or Marks of Distinction in Trademarks and Designs;
- Regulation on Permission to Use Official or Traditional (Abbreviated) State Name of the Republic of Lithuania, of Armorial Bearings, Flag or Other State Heraldic Objects or any Imitation from a Heraldic Point of View, also Official Signs and Hallmarks Indicating Control and Warranty, Stamps, Medals or Marks of Distinction in Trademarks and Designs, approved by the Order of the Minister of Justice of the Republic of Lithuania on 10 April 2001 No. 65 (as last amended on 25 November 2008 No.1 R-449).

REPUBLIC OF MOLDOVA:

Decree of the Government of the Republic of Moldova No. 1425 of 02.12.2003 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.

RUSSIAN FEDERATION:

Law on protection of consumers' rights.

Responding countries	II. Protection of Names of States Against Use as Trademarks		
	10. If under the applicable legislation, names of States are generally excluded from use as trademark, are there any exceptions to such exclusion?	11. In determining whether there is a conflict between a trademark that is being used for goods and/or services and a name of a State, consideration must be given to a potential deception of consumers as to the origin of the goods or services on which the trademark is proposed to be used.	12. Use of names of States as trademark on goods and/or services is considered to constitute a potential case for the application of Article 10 of the Paris Convention for the Protection of Industrial Property, which prescribes <i>inter alia</i> certain measures applicable in cases of the "direct or indirect use of a false indication of the source of goods".
Albania			YES
Australia	NO	YES	YES
Austria		YES	YES
Azerbaijan	NO	NO	YES
Bangladesh	NO	YES	YES*
Barbados		YES	YES
Belarus	NO	YES	YES
Brazil	NO	YES	YES
Bulgaria	NO	YES	YES
Canada	YES	YES	NO*
Chile	YES	YES	YES
China	YES	NO	NO
Hong Kong SAR		YES	YES
Croatia		YES	NO
Czech Republic		YES	YES
Denmark		YES	YES
Dominican Republic	YES	YES	YES
Estonia	NO	NO	NO
Finland		YES	YES
France		YES	YES
Georgia	NO	NO	NO
Germany	NO	YES	YES
Greece	NO	YES	YES
Guatemala	YES*	YES	YES
Hungary		YES	YES
Iran (Islamic Republic of)	YES	YES	YES
Ireland	NO	YES	YES
Italy	NO	NO	YES
Jamaica	NO	YES	YES
Japan		YES*	YES*
Jordan		YES	YES
Kazakhstan	NO	YES	YES
Kenya	NO	YES	YES
Kyrgyzstan		NO	YES
Latvia		YES	YES
Lithuania	YES	YES	YES
Madagascar	NO	NO	NO
Malaysia	NO	YES	YES
Mexico		YES	YES
Monaco		YES	NO
Montenegro	NO	YES	YES
Morocco		YES	YES
Myanmar	NO	NO	NO
New Zealand	NO	YES	YES

Responding countries	II. Protection of Names of States Against Use as Trademarks		
	10. If under the applicable legislation, names of States are generally excluded from use as trademark, are there any exceptions to such exclusion?	11. In determining whether there is a conflict between a trademark that is being used for goods and/or services and a name of a State, consideration must be given to a potential deception of consumers as to the origin of the goods or services on which the trademark is proposed to be used.	12. Use of names of States as trademark on goods and/or services is considered to constitute a potential case for the application of Article 10 of the Paris Convention for the Protection of Industrial Property, which prescribes <i>inter alia</i> certain measures applicable in cases of the "direct or indirect use of a false indication of the source of goods".
Nigeria	NO	YES	NO
Norway		YES	YES
Oman	YES	YES	YES
Peru			
Poland	NO	YES	YES
Portugal	YES	YES	YES
Republic of Korea	NO	NO	YES
Republic of Moldova	YES	YES	YES
Romania		NO	
Russian Federation	NO	YES	YES
San Marino		YES	YES
Serbia		YES	YES
Singapore		YES	
Slovakia		YES	YES
Slovenia		YES	YES
South Africa	NO	YES	YES
Spain		YES	YES
Sri Lanka			NO
Sweden		YES	YES
Switzerland		NO	YES
Syrian Arab Republic	NO	YES	YES
Trinidad and Tobago	YES	YES	YES
Turkey		YES	YES
Ukraine	YES	YES	NO
United Kingdom	NO	YES	YES
United Republic of Tanzania	YES	YES	YES
United States of America		YES	YES
Uruguay	NO	NO	NO

Question 10. If under the applicable legislation, names of States are generally excluded from use as trademark, are there any exceptions to such exclusion? If yes, specify:

CANADA:

If misleading or deception

CHILE:

The name of a State would not be registrable as a trademark because the test of misleading or confusing sign would not be applicable. The situation would be different if the name of the State is accompanied by other words, in which case protection would be granted to the mark as a whole.

CHINA:

If an authorization by the competent authority is provided.

DOMINICAN REPUBLIC:

In case of submission of the authorization from a competent authority in the State concerned.

IRAN (ISLAMIC REPUBLIC OF):

In the case of authorization from the competent authorities.

LITHUANIA:

Article 5 of the Law on Lithuanian National Emblem, Other Coats of Arms and Other Armorial Marks provides for the list of entities entitled to use the Lithuanian national emblem and cases where the national emblem is used. If a trademark which consists of the name of the State is not registered, the use of such sign must comply with the Law on Possession, Use and Disposal of State and Municipal Asset, which states that the right to use the name of the State and the right to use armorial objects of the Republic of Lithuania is provided by the laws or prescribed by the order of the Government, if legislation does not establish the order for the use of such rights (Article 12). There are special Government orders, which enable the use of the name of a State in certain occasions, for instance, the Order of the Government of the Republic of Lithuania of 7 October 2009 No. 1272 on Approval of the Rules for the Use of State Name of Lithuania in Internet Domain Names, The Order of the Government of the Republic of Lithuania of 15 April 2009 No. 326 on the Right to Use the Name of State (the authorization was granted for internet domain lietuva1000.lt).

PORTUGAL:

Court decisions.

REPUBLIC OF MOLDOVA:

In case the trademark is used for a justified purpose and is not considered misleading or false as to the origin of the goods/services in respect of which registration is sought.

UNITED REPUBLIC OF TANZANIA:

With an authorization from the competent authority.

* Additional comments

BANGLADESH:

Question 12

Use of false origin of the goods is included under the use of false trademark and trade description; this is punishable under section 73 of the Trademark Act 2009. If any citizen of Bangladesh is found guilty of instigating such offence outside Bangladesh, he will be punishable under the same section. Section 15 of the customs Act 1969 prohibits the importation of goods containing untrue indication of origin of goods. Under section 17 of the same Act, the Customs Authority is competent to confiscate the goods. Any interested person is authorized to lodge a complaint under the aforesaid sections.

CANADA:

Article 10 is not self-executing in Canada

GUATEMALA:

Question 10

According to Article 16(2) and 20(D) of the national Industrial Property Law.

JAPAN:

Questions 11 and 12

Based on paragraph 1 of Article 10 of the Paris Convention and Article 1 of the Madrid Agreement (Source of Origin), the act of misleading the public as to the source of origin or quality of the products or the quality of the service are prohibited under the Unfair Competition Prevention Law (Article 2(1)(13)), although Japan does not have a comprehensive law that prohibits or excludes the "use of the names of States as trademarks" for goods and services.

[Annex II follows]

Quantitative Summary of Replies to the Questionnaire Concerning the Protection of Names of States Against Registration and Use as Trademarks (document SCT/24/6)

Questions		Replies	YES	%	NO	%
I. Protection of Names of States Against Registration as Trademarks						
1. Under the applicable legislation, names of States are:	(a) Generally excluded from registration as trademark for goods	72	44	61.1%	28	38.9%
	(b) Excluded from registration as trademark for goods if they could be considered descriptive of the origin of the goods in respect of which registration is sought	68	65	95.9%	3	4.1%
	(c) Excluded from registration as trademark for goods if the use of the name of a State could be considered to be misleading as to the origin of the goods in respect of which registration is sought	67	66	98.5%	1	1.5%
	(d) Excluded from registration as trademark for goods if they otherwise lack any distinctive character	68	64	94.1%	4	5.9%
	(e) Excluded from registration as trademark for goods if they can be considered incorrect as to the origin of the products for which registration is sought	66	51	77.3%	15	22.7%
	(f) Excluded from registration as trademark for goods for other reasons	67	25	37.3%	42	62.7%
	(g) Registrable as trademark for goods provided an authorization by the competent authority is granted	69	33	47.8%	36	52.2%

Questions		Replies	YES	%	NO	%
2. Under the applicable legislation, names of States are:	(a) Generally excluded from registration as trademark for services	72	46	63.9%	26	36.1%
	(b) Excluded from registration as trademark for services if they could be considered descriptive of the origin of the services in respect of which registration is sought	67	64	95.5%	3	4.5%
	(c) Excluded from registration as trademark for services if the use of the name of a State could be considered to be misleading as to the origin of the services in respect of which registration is sought	67	66	98.5%	1	1.5%
	(d) Excluded from registration as trademark for services if they otherwise lack any distinctive character	67	63	94.1%	4	5.9%
	(e) Excluded from registration as trademark for services if they can be considered incorrect as to the origin of the services for which registration is sought	64	49	76.6%	15	23.4%
	(f) Excluded from registration as trademark for services for other reasons	68	24	31.8%	44	68.2%
	(g) Registrable as trademark for services provided an authorization by the competent authority is granted	69	32	46.4%	37	53.6%
3. If the name of a State is excluded from registration as trademark in respect of goods, this ground	(a) Is raised <i>ex officio</i> by the Office as part of the examination of an application	72	71	98.6%	1	1.4%
	independently from other grounds	71	67	94.4%	0	0%
	only together with other grounds	71	3	4.2%	0	0%

Questions		Replies	YES	%	NO	%
	(b) Can be raised by third parties in opposition procedures	67	45	67.2%	22	32.8%
	independently from other grounds	45	45	100%	0	0%
	only together with other grounds	45	1	2.2%	0	0%
	(c) Can be raised by third parties as an observation	66	35	53.1%	31	46.9%
	independently from other grounds	35	36	102.8% [*]	0	0%
	only together with other grounds	35	2	5.7%	0	0%
	(d) Can be raised by third parties in post registration invalidation procedures	65	61	93.8%	4	6.2%
	independently from other grounds	61	61	100%	0	0%
	only together with other grounds	61	3	4.9%	0	0%
4. If the name of a State is excluded from registration as trademark in respect of services, this ground	(a) Is raised <i>ex officio</i> by the Office as part of the examination of an application	72	70	97%	2	3%
	independently from other grounds	70	63	90%	0	0%
	only together with other grounds	70	4	5.7%	0	0%
	(b) Can be raised by third parties in opposition procedures	65	44	67.7%	21	32.3%
	independently from other grounds	44	45	102.3% [*]	0	0%
	only together with other grounds	44	1	2.3%	0	0%

Questions		Replies	YES	%	NO	%
	(c) Can be raised by third parties as an observation	65	36	55.4%	29	44.1%
	independently from other grounds	36	36	100%	0	0%
	only together with other grounds	36	3	8.3%	0	0%
	(d) Can be raised by third parties in post registration invalidation procedures	68	63	92.6%	5	7.4%
	independently from other grounds	63	61	96.8%	0	0%
	only together with other grounds	63	4	6.3%	0	0%
5. In determining whether the inclusion of a name of a State in a trademark would be a ground for refusing the registration of that trademark for goods and/or services, consideration must be given to the potential deception of consumers as to the origin of the goods and/or services on, or in connection with which the trademark is proposed to be used		72	58	80.5%	14	19.5%
6. If under the applicable legislation, names of States are generally excluded from registration as trademark for goods and/or services, are there any exceptions to such exclusion?		54	28	51.8%	26	48.2%
II. Protection of Names of States Against Use as Trademarks						
7. Under the applicable legislation, names of States are excluded from use as trademarks for goods		69	29	42%	40	58%
8. Under the applicable legislation, names of States are excluded from use as trademarks for services		69	28	40.6%	41	59.4%

Questions		Replies	YES	%	NO	%
9. Where the applicable legislation excludes names of States from use as trademarks for goods and/or services, such exclusion is being provided	Under trademark law	38	23	60.5%	15	39.5%
	Law against unfair competition	31	16	51.6%	15	48.4%
	General tort law (passing off)	29	14	48.3%	15	51.7%
	Other	5	5	100%	0	0%
10. If under the applicable legislation, names of States are generally excluded from use as trademark, there are any exceptions to such exclusion		41	13	31.7%	28	68.3%
11. In determining whether there is a conflict between a trademark that is being used for goods and/or services and a name of a State, consideration must be given to a potential deception of consumers as to the origin of the goods or services on which the trademark is proposed to be used.		69	57	82.6%	12	17.4%
12. Use of names of States as trademark on goods and/or services is considered to constitute a potential case for the application of Article 10 of the Paris Convention for the Protection of Industrial Property, which prescribes <i>inter alia</i> certain measures applicable in cases of the "direct or indirect use of a false indication of the source of goods".		69	57	82.6%	12	17.4%

[End of Annex II and of document]

* The percentages corresponding to the sub-questions under questions 3(c) and 4(b) have been calculated on the basis of the replies provided to the main question. In cases where countries replied to the sub-questions and did not reply to the main question, the percentages exceed 100%.