

COUNTRY PRESENTATIONS:
CURRENT STATUS TOWARDS ACCESSION TO THE MADRID SYSTEM

SRI LANKA

WIPO Workshop on Measures for Accession to, and Effective Use of, the Madrid System
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Marks in Sri Lanka

- ▣ Intellectual Property Act No: 36 of 2003 governs the Intellectual Property regime in Sri Lanka including marks-trade marks and service marks, etc.,
- ▣ Marks are generally protected in Sri Lanka upon registration. Unregistered marks may receive protection under some laws such as unfair competition and passing off.
- ▣ The applicant who is the first to make the application or to claim the earliest priority is entitled to registration.
- ▣ Any visible sign which is capable of distinguishing the goods or services and not subject to prohibitions such as deceptive similarity can be registered as a mark.
- ▣ The registration is accorded after a thorough formal and substantial examination including publication and opposition proceedings.
- ▣ The registration is valid for a period of 10 years but, can be renewed for consecutive periods of 10 years.

Importance of Trademarks to Sri Lanka

- ▣ It is the policy of the government to promote Sri Lanka as a commercial hub in Asia
- ▣ Thus, promotion of trade and attraction of more investment are crucially important.
- ▣ In this context, trademarks can play a deciding role and therefore Sri Lanka is interested in the promotion of trademark environment for both internal trade and exports.

Madrid System

- ▣ Accession to Madrid System mainly depends on the policy of the government and the needs of the users.
- ▣ Consequently, the signals are positive

Current Status

- ▣ A proposal by the Director-General of Intellectual Property on the possible accession to the Madrid System is being examined by the Intellectual Property Advisory Commission which is mandated to advise the Minister of Industry and Commerce on the matters of Intellectual Property.
- ▣ Advantages and disadvantages of the Madrid System to the country and the mechanisms to minimize the disadvantages, if any are receiving serious consideration.

Strengths

We see the following strengths in the process.

- ▣ Overall government policy
- ▣ Interests shown by private sector
- ▣ Fairly organized IP Office
- ▣ Use of automated support in trademarks administration

Challenges

We face many challenges as well such as

- Increase of the staff
- Training
- Minimizing objections particularly from the legal practitioners
- Changing the law

Challenges

Table 2: Composition of Exports

Product	1990	2010
Textile and Garments	32.0	42.2
Tea	25.0	16.6
Rubber products	2.0	7.0
Diamond and Jewellery	5.0	4.0
Total	64.0	69.8
Other	36.0	30.2

Source: Central Bank of Sri Lanka

Table 3: Direction of Exports

Country	1990	2010
E.U.	26.0	35.0
U.S.A.	25.0	21.1
India	1.0	5.6
Russia	*2.0	2.9
Singapore	2.0	2.2
Japan	5.0	2.0
Total	61.0	68.8
Other	39.0	31.2

*USSR Source: Central Bank of Sri Lanka

Challenges

No of Exported Products - Small
No of Export Markets - Small
Own export brands - Small

What motivates international registration?

Why should someone else use your trade mark?

How do you create commercial value?

IF NO ONE KNOWS YOUR TRADE MARK, NO COMMERCIAL VALUE
NO ONE WILL COPY/USE, WHAT IS THERE TO PROTECT?

Accession to Madrid System should be a part of a coherent
export/trade strategy

It should not be done in isolation

Also, one should not only focus on institutional and operational
capacity and need for change of legislation

It is important to focus on other policy changes/ government support
required to ensure that the country/business community has the
capacity to benefit from the system

The ultimate goal should not be just the number of registrations....whilst
it is a good indication, that alone is not sufficient

The ultimate goal should be increased exports, increase in value of
exports, ability to penetrate into new markets etc.

THANK YOU!