



STANDING COMMITTEE ON FOREIGN AFFAIRS AND DEFENCE

Consolidated Review Report on the:

- a) Madrid Agreement Concerning the International Registration of Marks 1981 (Madrid Agreement);**
- b) Protocol Relating to the Madrid Agreement (Madrid Protocol), (together known as the Madrid System); and**
- c) Paris Convention for the Protection of Industrial Property**



PARLIAMENT OF THE REPUBLIC OF FIJI
Parliamentary Paper No. 66 of 2020

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Chairperson's Foreword

I am pleased to present the Committee's Review Report to the House.

On the 28th May 2020, the Parliament of the Republic of Fiji referred the following treaties to the Standing Committee on Foreign Affairs.

- a) Madrid Agreement Concerning the International Registration of Marks 1981 (Madrid Agreement);
- b) Protocol Relating to the Madrid Agreement (Madrid Protocol), (together known as the Madrid System); and
- c) Paris Convention for the Protection of Industrial Property.

The Madrid Agreement was established in 1891 to provide a mechanism that would allow for a single and inexpensive international trademark registration and to eliminate the need for filing, prosecuting or maintaining separate registrations in multiple countries. It came into force in 1892.

The Madrid Protocol was established in 1989. It was created to address perceived defects in the Madrid Agreement and to make the international system of registration of marks more flexible and compatible with the domestic legislation of individual States.

The Paris Convention was established in 1883. It was created to provide protection for industrial property, including patents, trademarks, industrial designs, utility models, service marks, trade names, geographical indications (indications of source and appellation of origin) and to repress unfair competition.

The Committee heard submissions from stakeholders online using the Microsoft Office 365 Teams Applications for the duration 8th June to 17th August 2020 and also received oral and written submissions from Government, Law Firms, Fiji Performing Rights Association (FPRA) and Intellectual Property Office New Zealand (IPONZ).

The Committee also visited Fiji Intellectual Property Office (FIPO) on Monday 17th August 2020 to ascertain the readiness of FIPO to meeting the requirements of the Madrid Systems. The Government and statutory authorities affirmed that Fiji is ready to accede to the above Protocols for its benefits as follows:

1. Acceding to the Conventions will demonstrate Fiji's commitment to the development of its legal framework with respect to intellectual property. In addition, acceding to the Conventions also reinforces Fiji's intent to uplift its business and investment climate by enhancing the ease of doing business and the digitalFIJI initiatives.

2. The intent of the Conventions are to provide a streamlined system of international registration of marks where applicants can protect their marks in several jurisdictions by filing one application, paying one set of fees and in one language.
 3. Additionally, the Paris Convention intends to provide for the protection of industrial designs, trade names, and indications of source and to protect against unfair competition.
- 4 Accession to the Conventions will ensure that Fiji is compliant with its international obligations for the protection of intellectual property.

There was disagreement from the Fiji Law Firms noting that:

- a) The relevant laws are not in place to effect the rigours or the challenges of the Madrid Systems;
- b) FIPO does not have the capacity to meet the requirements of the Madrid Systems that include a digital process and timely processing;
- c) The win –win situation is to maintain the imperial system and raise fees whilst Fiji builds capacity to accede to the Madrid Systems in time.

The Committee recommends:

1. Fiji accedes to the Convention and adopts without reservation after passing the following Bills in Parliament:
 - a) Trademarks Bill 2020;
 - b) Patents Bill 2020;
 - c) Designs Bill 2020; and
 - d) WIPO certifies that FIPO is compliant to implement the requirements of the Madrid Systems.
2. Government direct and strengthen resources to the Fiji Performing Rights Association (FPRA) to protect Copyrights and pass the Traditional Knowledge and Traditional Culture laws.

The Committee acknowledges and commends the contributions by stakeholders in Fiji and in New Zealand that assisted in the preparation of this report.

I take this opportunity to thank members of my Committee including and the Secretariat for compiling this bipartisan report.

On behalf of the Standing Committee on Foreign Affairs and Defence, I submit this report to the Parliament.



Hon. Alexander O'Connor
Chairperson

Acronyms

ADB	Asian Development Bank
ERA	Employment Relations Act
FDI	Foreign Direct Investment
FIPO	Fiji Intellectual Property Office
IPONZ	Intellectual Property Office New Zealand
MCTTT	Ministry of Commerce Trade, Tourism and Transport
MOFA	Ministry of Foreign Affairs
MSMEs	Micro Small and Medium Enterprises
MS Teams	Microsoft Office 365 Teams Application
SDGs	Sustainable Development Goals
SGs Office	Office of the Solicitor General
SO	Standing Orders
TKTC	Traditional Knowledge Traditional Culture
TNCs	Transnational Corporations
WIPO	World Intellectual Property Office
WCT	WIPO Copyright Treaty
WPPT	WIPO Performances and Phonogram Treaty

Recommendations

The Committee recommends that:

3. Fiji accedes to the Convention and adopts without reservation after passing the following Bills in Parliament:
 - a) Trademarks Bill 2020;
 - b) Patents Bill 2020;
 - c) Designs Bill 2020; and
 - d) WIPO certifies that FIPO is compliant to implement the requirements of the Madrid Systems.

4. Government strengthen resources to the Fiji Performing Rights Association (FPRA) to protect Copyrights and pass the Traditional Knowledge and Traditional Culture laws.

1.0 Introduction

1.1 Background and Terms of Reference

The Committee had its first virtual online meeting on Monday 1st June 2020 and reviewed the Consolidated Review Report on the:

- a) Madrid Agreement Concerning the International Registration of Marks 1981 (Madrid Agreement);
- b) Protocol Relating to the Madrid Agreement (Madrid Protocol), (together known as the Madrid System); and
- c) Paris Convention for the Protection of Industrial Property.

From 8th June to 17th August 2020 stakeholders made virtual online submissions on the MS Office Teams application in Suva and New Zealand to the Committee as listed in sub-heading 1.3.

THE MADRID AGREEMENT

The Madrid Agreement was established in 1891 to provide a mechanism that would allow for a single and inexpensive international trademark registration and to eliminate the need for filing, prosecuting or maintaining separate registrations in multiple countries. It came into force in 1892.

Article 1 of the Madrid Agreement provides for the establishment of a Special Union for the International registration of marks which allows nationals of any of the contracting parties to secure protection for their marks, registered in the country of origin, in all other countries party to the Madrid Agreement by filing the said marks at the International Bureau of Intellectual Property.

Article 2 of the Madrid Agreement provides that nationals of countries who have not acceded to the Madrid Agreement but have satisfied the conditions outlined under Article 3 of the Paris Convention must be treated in the same manner as nationals of the contracting countries.

THE MADRID PROTOCOL

The Madrid Protocol was established in 1989. It was created to address perceived defects in the Madrid Agreement and to make the international system of registration of marks more flexible and compatible with the domestic legislation of individual States.

Article 1 provides that states party to the Madrid Protocol shall be members of the same Union that contracting countries to the Madrid Agreement are members, even when states party to the Madrid Protocol are not a party to the Madrid Agreement.

Article 2 provides that a proprietor of a registered mark filed with the office of a contracting party may make an application to the International Bureau of the World Intellectual Property Organization for international registration. Article 3 outlines procedures and the manner in which an international application may be made.

THE PARIS CONVENTION

The Paris Convention was established in 1883. It was created to provide protection for industrial property, including patents, trademarks, industrial designs, utility models, service marks, trade names, geographical indications (indications of source and appellation of origin) and to repress unfair competition.

Article 1 of the Paris Convention provides that the countries to which the Paris Convention applies constitute a Union for the protection of industrial property. Furthermore, Article 1 also prescribes that the protection of industrial property relates to patents, utility models, industrial designs, trademarks, service marks, trade names, indications of source or appellation of origin, as well as the repression of unfair competition. Article 1 states that industrial property must be understood in the broadest sense, and should include agricultural and extractive industries as well as manufactured and natural products, for example, wines and beers. Additionally, patents should also include the various kinds of industrial patents recognised by the laws of other countries, for example, the patents of importation.

Article 2 provides that the nationals of any country of the Union shall be given the same advantages in all other countries of the Union that their respective laws grant to their own nationals, in terms of the protections and legal remedy against any infringement. Article 2 also provides that there shall be no requirement as to their domicile or establishment in the country where protection is claimed.

Article 3 provides that the nationals of countries outside of the Union who are domiciled or have industrial or commercial establishments in the territory of one of the countries of the Union shall be given the same treatment as the nationals of the countries of the Union.

The Report is divided into three parts:

- I. **Part One** - focuses on the Committee recommendations
- II. **Part Two** - covers the Findings of the report to Parliament
- III. **Part Three** -covers the Conclusion

1.2 Committee Remit and Composition

Pursuant to Standing Orders 109(2) (e) that the Standing Committee on Foreign Affairs and Defence is mandated to look into matters related to Fiji's relations with other countries, development aid, foreign direct investment, oversight of the military and relations with multi-lateral organisation.

The members of the Standing Committee on Foreign Affairs and Defence are as follows:

- 1.2.1 Hon. Alexander O'Connor – Chairperson
- 1.2.2 Hon. Dr. Salik Govind - Deputy Chairperson
- 1.2.3 Hon. Selai Adimaitog – Member
- 1.2.4 Hon. Anare Jale - Member
- 1.2.5 Hon. Pio Tikoduadua – Member

Opposition MP Hon.Anare Jale substantive member of the Committee by way of SODEPLPA Party suspension from Parliament was not able to participate in the Committee proceedings in June 2020. As a result of the lifting of the suspension and SODELPA Party re-joining Parliament as per decision of the Registrar of Political Parties, Hon. Jale was able to participate in the Committee deliberations on the above Treaties.

1.3 Procedure and Program

The Standing Committee on Foreign Affairs and Defence commenced its deliberation on the 8th June to 25th August 2020 in the Parliament using the online MS Office Teams, also received a written and oral submissions from stakeholders with the following attendees:

- Siwatibau & Sloan
- Munro Leys Law Firm
- Sherani & Co
- Office of the Solicitor General
- Fiji Intellectual Property Office (FIPO)
- Ministry of Foreign Affairs
- Fiji Performing Rights Association (FPRA)
- Ministry of Commerce, Trade, Tourism and Transport (written submission)
- Intellectual Property Office New Zealand (IPONZ), Wellington video conferencing on 11th August 2020.
- FIPO site visit on 17th August 2020, Level 3, Suvavou House.

2.0 Committee Deliberation and Analysis

2.1 Committee Findings

The Committee's findings are outlined below:

Law Firms:

Positives:

1. The Madrid Protocol is the more cost-effective avenue for gaining international trademark protection, as compared to the country-by-country under the Paris Convention.
2. The ideal thing now is to have an orderly programme of capacity building and adopting legislative framework prior to joining the Madrid System. The Madrid System is probably the desired end point when Fiji is ready.
3. We have no principled objection to acceding to the Paris Convention but are unable to comment on acceding to that Convention in the absence of the proposed legislation.

Negatives:

1. Accession to the Madrid System will benefit international brand owners who wish to register trade-marks in Fiji. With increased globalisation, multi-national businesses who export goods to many different countries in the world want IP protection in each country and the Madrid System gives them the benefit of doing so with ease.
2. Loss of revenue. Under the current system, local law firms bring in foreign exchange (estimated at around FJD3-4 million) from work for foreign brand owners. VAT and income tax are paid on these fees. Additionally some stamp duty is payable on assignments. This income (and resulting tax revenue is likely to fall dramatically).
3. Favour international IP owners.
4. Lack of current legislations to support implementation after ratification. The current process is premature because the relevant Bills have not been circulated for comment or study. Joining the Madrid System or the Paris Convention does not make Fiji compliant with them. Fiji still has to ensure that its (new) IP laws meet the requirements of the Madrid System and the Convention.
5. Lack of capacity to digitize applications and to deliver timely the outcome of applications.
6. A Tribunal is yet to sit in the FIPO to adjudicate on opposition to trademark filed since 2010.
7. There appears to be some fundamental misunderstanding in Government about what Fiji's obligations are and the most efficient way for Fiji to proceed.
8. Currently, FIPO is not equipped to deal with the rigours of the Madrid System in terms of dealing with the deadlines it imposes (which could create "default" trademark registrations in Fiji which are undesirable) or the IP disputes that will be generated (and in which there is an international expectation of quick, efficient resolution according to international IP law standards).
9. Disruption of local IP practices will result in some loss of foreign exchange, jobs and tax revenue. The Government can increase its own revenue in the IP area by increasing its trade-mark registration fees without joining the Madrid System. This is a matter for Fiji as a sovereign government.
10. Accession is unlikely to benefit Fijian brand owners as they (with a few exceptions) have little incentive to register in multiple jurisdictions. It may disadvantage local businesses as it gives international businesses an easy way to claim exclusive rights to common words and images in Fiji (and prevent local businesses from using them) even though the international businesses may have no plans to use those trademarks here.
11. Fiji is not ready to accede to the Madrid system. It does not meet any of the criteria in paragraph 5.1 of the analysis paper namely –
 - a. A Madrid-compatible trademarks legislation in place;
 - b. institutional organisation;
 - c. staff trained in the Madrid international registration system;
 - d. operational procedures in place for handling international applications;

- e. an agreement with WIPO on sending and receiving information in the Madrid international registration system; and
 - f. ensure that the national office has an online system of registration that can communicate with WIPO. (For this digital platform, WIPO is able to provide technical assistance to implement the WIPO Industrial Property Automation System, upon receiving Fiji' request). This would include properly understanding the demands of the Madrid System, what work is required in terms of the laws to be prepared and the administrative systems to be set up and the skills to be acquired. All of this can be done while preserving (and indeed improving) foreign exchange, jobs and Government revenue. In the short term, the Madrid System is probably the desired end point when Fiji is ready.
- Accession would result in a large drop in national trademark filings in Fiji, because international brand owners will usually choose the ease of the Madrid System. This will reduce demand for IP services in Fiji by a factor of anywhere between 50 and 70%. For example, Munro Leys currently has a Trade-Marks team comprising seven employees. We anticipate that if Fiji joins the Madrid System, this number would fall to two positions.
 - Under the current system, local law firms bring in foreign exchange (estimated at around FJD3-4 million) from work for foreign brand owners. VAT and income tax are paid on these fees. Additionally, some stamp duty is payable on assignments. This income (and resulting tax revenue is likely to fall dramatically.
 - The response from FIPO may be that Government direct revenue is likely to rise as Government will receive its share of filing fees from WIPO. This is because currently the prescribed filing fees are very low (for example F\$10.90 (VIP) for a trade-mark application in one class). So, Fiji's share of the Madrid fees which are at an international level will increase the return to Government. If this was the only consideration, then it would be difficult to disagree with accession to the Madrid System. However, the implications are more complex than this.
 - The Trademark registries in Fiji, are not computerized so searches are still conducted manually. At the moment it takes between 10 months – several years for a mark to be registered and this does not reflect well on our country, the registry and the systems currently in place, needs to improve before we consider ratifying international treaties where the mechanisms would be to the international standard.

- One of the drawbacks of the Madrid Protocol however, is that by virtue of one international registration serving as the basis of the applicant's protection in the designated countries, if the application or registration in the home country that supports the international registration is cancelled or denied, then the international registration will also be cancelled or denied. This problem doesn't occur under the Paris Convention.
- The application and registration system in Fiji including its records are all done and kept manually. Our registry is greatly under resourced.
- Costly to maintain a registration system that complies with the treaties.
- Costly to train highly qualified human resources that will manage and operate the system of registrations compliant with the treaties.
- The registry will be required to keep a watch and comply with strict timelines under the treaties when processing applications otherwise Fiji may lose its right to oppose any application.
- The Madrid System may unintentionally and unknowingly promote cultural misappropriation of traditional knowledge because one of the aspects of the process of an international registration application is that WIPO can register a mark if Fiji does not issue a notice of refusal within the prescribed timeframe under the international treaties.

Government Ministries and Statutory Bodies

Positives:

1. Acceding to the Conventions will demonstrate Fiji's commitment to the development of its legal framework with respect to intellectual property. In addition, acceding to the Conventions also reinforces Fiji's intent to uplift its business and investment climate by enhancing the Ease of Doing Business and the digitalFIJI initiatives.
2. The intent of the Conventions are to provide a streamlined system of international registration of marks where applicants can protect their marks in several jurisdictions by filing one application, paying one set of fees and in one language.
3. Additionally, the Paris Convention intends to provide for the protection of industrial designs, trade names, indications of source and to protect against unfair competition.

4. Accession to the Conventions will ensure that Fiji is compliant with its international obligations for the protection of intellectual property.¹
5. No loss of revenue for the Fijian Government.
6. No loss of jobs for the Fijian people.
7. The Agreement is key to counter unfair trading practices such as in situations where foreign industries replicates and manufacture local patents without consent, thus limiting Fiji's trade potential, revenue thus denying employment to our nationals.
8. The Agreement safeguards our infant industries and local designers in light of the substantial demand for trade under the IT platform or ecommerce. It provides the assurance to local practitioners that their patents are covered, and business protected. Fiji has the authority to liaise with other Contracting Parties in case of any contravention.
9. In ratifying the Madrid System, Fiji will join more than 100 countries who represent more than 80% of world trade, with potential for expansion as membership grows. This is another opportunity that Fiji may wish to explore through its subscription to these Agreements.
10. The Madrid System for international registration of marks has advantages for the trademark owners, national economies and Governments, as well as for professionals, like agents and attorney in the field of trademarks.
11. The Fijian Government has a strong focus on nurturing and growing the MSMEs. Therefore, Fiji being party to the Madrid System will provide impetus for MSMEs to actively protect their trademarks internationally.
12. The Madrid System can also benefit the national/regional economy and the Government's finances, in particular. The overall volume of work for local trademark agents is expected to increase by accession to the Madrid System.
13. The Madrid System will also support Fiji's exports to the extent that it simplifies protecting trademarks abroad. Furthermore, it allows individuals and companies established in other Contracting Parties of the Madrid System to have easier access to the protection of their marks in the country/regional territory, since they can seek protection of the mark in any of the applicable Contracting Parties by merely designating these in the international application, or in a subsequent designation. This facility helps to strengthen the climate for foreign investment.

¹ Written Analysis – Office of the Solicitor General

14. Where trademark protection is sought by filing direct to national/regional Offices, most of these Offices require the applicant to appoint a local representative to act on their behalf before the Office, at the time of filing of the application.
15. The companies most affected by the considerable cost involved in registering and maintaining marks abroad are Micro Small and Medium Enterprises (“MSMEs”). While a large company may afford to devote considerable funds to protect its marks abroad, an MSMEs cannot afford the registration of marks abroad, due to the high procedural costs.
16. The Madrid System is used by one-third of worldwide applicants seeking protection of their marks. Of these, about 80 per cent is categorised as an MSME, having a small portfolio of one or two marks.
17. It is important to note that trademarking products and services can also protect businesses and consumers from counterfeit products. As such, trademarks are also used to protect consumers. Counterfeit goods cause billions of dollars of losses each year to brand owners. Often, the more successful a brand, product, or service becomes, the more it is targeted by counterfeiters. In addition to direct monetary losses, trademark piracy and counterfeiting can lead to harm to reputation and goodwill.
18. A further important advantage is that changes subsequent to registration, such as a change in the name or address of the holder, or a change (total or partial) in ownership can be recorded with effect for several designated Contracting Parties through a single, simple and centralised procedure with the International Bureau of the WIPO and with the payment of a single fee. Moreover, there is only one expiry date and only one registration to renew, which makes it for easy portfolio management.
19. The Madrid System can also benefit the national/regional economy and the Government’s finances, in particular. The overall volume of work for local trademark agents is expected to increase by accession to the Madrid System.
20. Trademark agents can expect to engage, in addition to tasks ensuing from the filing of applications, in tasks like searches, responses to objections, raising of objections, requests for annulment or cancellation, dispute settlements, license and assignment contracts, among others.

Negatives:

1. The MSMEs sector of developing countries is not financially strong to afford the fees for the international registration of marks via Madrid Protocol.
2. The international trademark remains dependent of the base country trademark for five years since the international filing date. If during the first five years, the base country trademark is rejected, removed, cancelled or limited, the international trademark will be cancelled. This is known as “Central Attack”.²
3. The staff requirements, capacity building of the staff, workload analysis and automation requirements are also the key factors before accession to the Madrid Protocol. Training programmes for officials need to be provided to gear up for the anticipated influx of applications, both from Fijian and foreign companies.
4. Capacity building of the MSMEs sector of Fiji to understand the importance of registration of marks through public awareness campaigns. Financial support to the SME sector may need to be provided before the international registration of marks via Madrid System.

IPONZ:

Strategies implemented

- **New Zealand’s path to Madrid**
 - In 2006 the New Zealand Government made the decision to accede to the Madrid Protocol and Nice Agreement and to ratify the Singapore Treaty
 - The Trade Mark Amendment Act passed in 2011
 - On 10 September 2012 New Zealand deposited the “instrument of accession” to the Madrid Protocol with WIPO
 - In October 2012 the drafting of Trade Marks (International Registration) Regulations 2012 was completed
 - On 10 December 2012 Madrid Protocol entered into force in New Zealand
- **Public Policy Objectives:**
 - To reduce compliance costs associated with seeking and maintaining trade mark protection both in New Zealand and overseas
 - To encourage and facilitate New Zealand businesses to expand into overseas markets

² Written Submission by the Ministry of Commerce, Trade, Tourism and Transport

- **Formal Stakeholder Consultations:**
 - Discussion document when Government assessed whether to join the Madrid Protocol
 - Trade Marks Amendment Bill - Engage with stakeholders – government and industry.
 - Discussion document on proposed Trade Mark (International Registration) Regulations including the New Zealand’s declarations. Invite discussion and submissions on the declarations and legislation and regulatory reform³.
 - Press releases:
 - “Treaties like the Madrid Protocol are specifically designed to remove trade barriers and reduce the transaction costs for business wanting to trade and invest overseas....”
 - To more closely align New Zealand’s trade mark system with leading trading partners
- **Stakeholder awareness**
 - Kept informed
 - Assessed likely volumes
 - Provided as much information as possible:
 - seminars
 - onsite visits
 - meetings
 - website material
 - Training sessions were largely on board with change
- **Trade Mark Law Reform**
 - Trade Mark Regulations 2003 updated
 - 100% electronic filing
 - The Madrid Protocol was one part of New Zealand trade mark law reform. Looked at other opportunities for reform. Singapore Treaty: New Zealand Trade Mark law largely compliant, introduced “continued processing”.
 - Minimal changes for Nice as New Zealand been using for about 60 years

³ Intellectual Property Office New Zealand (IPONZ) Submission

- 100% electronic filing was a big change which has provided substantial benefits (this is not required however to join Madrid)Singapore Treaty and Nice Agreement
 - Hearings updates
- IPONZ joined Madrid as part of a major business transformation⁴.
- **Madrid preparation**
 - Learnt from other IP offices (Singapore, Australia)
 - WIPO advice
 - New trade mark examination search tool
 - New IT system (map, build, test)
 - Streamline processes (especially around formalities)
 - Stakeholders given an early indication of IPONZ thinking
- **Outcomes of joining the Madrid Protocol**
 - Strong uptake of New Zealand businesses using the Madrid Protocol to protect their trademarks overseas (in the upper range of predictions)
 - 40% of New Zealand's total trade mark filings are via the Madrid Protocol
 - New Zealand's trade mark legislation is aligned with major trading partners
- Madrid Protocol has contributed to customers and IPONZ efficiency⁵.

Fiji Performing Rights Association (FPRA)

Positives:

1. The Convention also provides for ""Moral Rights2"", that is, the right to claim authorship of the work and the right to object to any mutilation, deformation or other modification of, or other derogatory action in relation to, the work that would be prejudicial to the author's honour or reputation⁶.
2. Being in the Public Domain leaves it open to use, and possible abuse, by anybody in the world with consequent loss of meaning, relevance, value and national pride to Fiji and its peoples. However, we have a choice...temporarily at least, by extending the Duration of Copyright retroactively to Life + 100 years.

⁴ ibid

⁵ ibid

⁶Fiji Performing Rights Association(FPRA) Submission

3. Fiji has NOT incorporated these 2 Treaties (WCT & WPPT) into the Fiji Copyright Act 1999, resulting in widespread blatant abuse and piracy of Copyright Owners' musical works over the Internet and other digital domains. This must be curbed as a matter of priority as it has other profound implications globally equals to our Government may be accused of not honouring its bilateral Agreements including the Bernes Convention, WIPO Membership and the TRIPS Agreement (Trade-Related Aspects of Intellectual Property Rights), which may result in its suspension as a member nation of the World Trade Organization (WTO).
4. There is an urgent and critical need for the protection of IPR in Traditional Knowledge such as Art (e.g. Tapa design), Craft (e.g. Canoe building), Navigation (ocean voyages), Traditional Biological Knowledge (e.g. Herbal medicines), Dances (Meke), Chants (e.g. Vakalutuivoce, Vakavunigasau), Games (e.g. Veitiqa), Legends (e.g. Fire-walkers of Beqa), Story-telling (I Tukuni), amongst others⁷

Impact of the Convention

The intent of the Conventions are to provide a streamlined system of international registration of marks where applicants can protect their marks in several jurisdictions by filing one application, paying one set of fees and in one language.

Additionally, the Paris Convention intends to provide for the protection of industrial designs, trade names, indications of source and to protect against unfair competition.

Accession to the Conventions will ensure that Fiji is compliant with its international obligations for the protection of intellectual property

Requirements for Implementation

To accede to the Conventions, Fiji must have the following:

- (i) a madrid-compatible trademarks legislation in place;
- (ii) institutional organisation;
- (iii) staff trained in the madrid international registration system;
- (iv) operational procedures in place for handling international applications;
- (v) an agreement with wipo on sending and receiving information in the madrid international registration system; and
- (vi) ensure that the national office has an online system of registration that can communicate with WIPO. (For this digital platform, WIPO is able to provide technical

⁷ ibid

assistance to implement the WIPO Industrial Property Automation System, upon receiving Fiji's request); and

Furthermore, since Fiji was not a signing party to the Conventions, Fiji may accede to the Conventions by depositing the instruments of accession with the International Bureau of WIPO.

Challenges

1. Current capacity of the FIPO to handle the international treaty demands of the Madrid Systems and Paris Conventions.
2. Better nationwide consultations on the modernising of Fiji's IP laws given the relevant bills recently approved by Cabinet in March 2020.
3. In-depth consultations by the relevant line ministries with local stakeholders: law firms, universities, musicians, composers, entrepreneurs, industry and business, urban and rural populations.
4. Need for the relevant line ministries and agencies to take firm and positive steps on the local Traditional Knowledge and Traditional Culture (TKTC) in terms of relevant bills for Cabinet approval moving forward.

2.2 Oral and Written Evidence Received

The Committee received oral and written submissions from stakeholders and the public as listed in *Appendix A*.

3.0 Gender Analysis

The Madrid Systems and Paris Convention discussed impacts on SDG No.8: Good Jobs and Economic Growth and aligned to National Development Plan (NDP) 3.2.5 modernising the business regulatory environment with due regard to both genders.

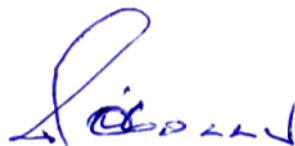
“A sound regulatory environment for inclusive and sustainable private sector development”. The private sector plays a vital role in development, job creation and innovation. Government is continuously working towards improving the enabling environment for the private sector to thrive and expand.

4.0 Conclusion

The Standing Committee on Foreign Affairs and Defence has fulfilled its mandate approved by Parliament which is to review reviewed the Consolidated Treaties Review Report on the:

- a) Madrid Agreement Concerning the International Registration of Marks 1981 (Madrid Agreement);
- b) Protocol Relating to the Madrid Agreement (Madrid Protocol), (together known as the Madrid System); and
- c) Paris Convention for the Protection of Industrial Property.

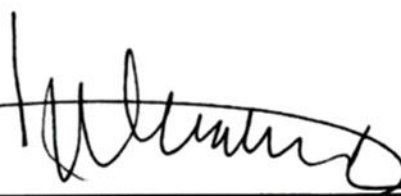
5.0 Members Signature



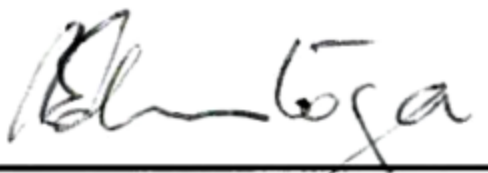
Hon. Alexander O'Connor
Chairperson



Hon. Dr. Salik Govind
Deputy Chairperson



Hon. Pio Tikoduadua
Member



Hon. Selai Adimaitoga
Member



Hon Anare Jale
Member

6.0 Appendices

All other written and transcribed evidences gathered during the public submissions and public consultations will be made accessible on the Parliament website on: <http://www.parliament.gov.fj/committees/standing-committee-on-foreign-affairs-and-defence/>

No	Date	Agency/Organisation	Written Evidence	Oral Evidence (Online MS Teams submission)
1.	8.6.2020	Siwatibau & Sloan	✓	✓
2.	9.6.2020	Munro Leys Law Firm	✓	✓
3.	16.6.2020	Ministry of Commerce, Trade, Tourism and Transport	✓	
4.	19.6.2020	Sherani & CO	✓	✓
5.	22.6.2020	Ministry of Foreign Affairs	✓	✓
		Fiji Performing Rights Association Limited	✓	✓
6.	11.8.2020	Intellectual Property Office New Zealand (IPONZ), Wellington	✓	✓
7.	17.8.2020	Fiji Intellectual Property Office (FIPO), Committee Site Visit, Level 3, Suvavou House, Victoria Parade, Suva.		

