

# Madrid System & Caribbean Overseas Territories

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### Who can use the Madrid System?

- Need <u>personal or business connection</u> to a "Contracting Member State"
  - domiciled in or have commercial establishment in, or be a citizen of one of the 117 countries.

Contacting Member State = Office of Origin

### **Members of Madrid Union:**

- Contracting parties of
  - (i) Madrid Agreement
  - (ii) Madrid Protocol
- has 101 members, covering 117 countries



### A **State** or **intergovernmental organisation (IGO)** can accede to the Madrid Protocol

#### **IGO**

- European Union
- African Intellectual Property Organisation.
  - CARICOM is eligible

### Parties to Madrid Protocol in the Caribbean

- Antigua and Barbuda
- Cuba
- Curaçao, Sint Maarten, Bonaire, Sint Eustatius and Saba
- Guadeloupe, Martinique, Saint Martin and Saint Barthélemy



### **Status of Territories**

### The Kingdom of the Netherlands:

- The Netherlands
  - Bonaire, Sint Eustatius and Saba Madrid Protocol applies
- Aruba
  - Member of Madrid Agreement, but <u>not Madrid Protocol</u>
- Curação Madrid Protocol applies
- Sint Maarten Madrid Protocol applies

### France: - Accession to Madrid Protocol included all Overseas Departments and Territories

- Guadeloupe
- Martinique
- Saint-Barthélemy
- Saint Martin
- French Guiana.



### Status of Territories

**UK British Overseas Territories** – None of them are parties to the Madrid Protocol

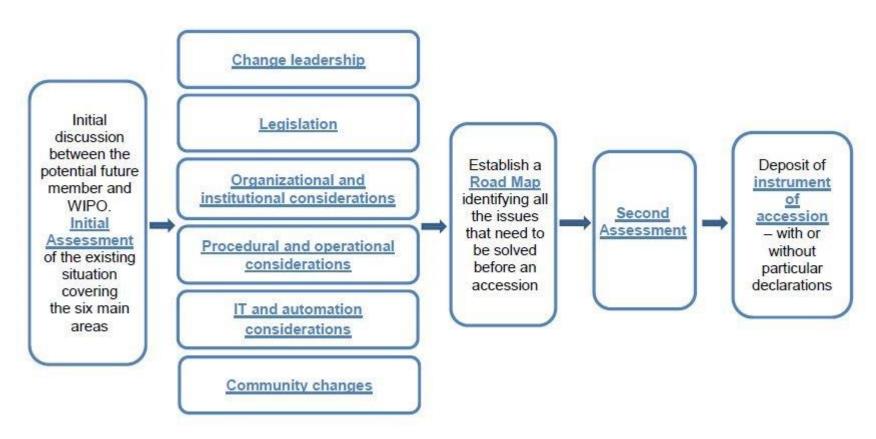
- Caribbean BOTs
  - Anguilla
  - Bermuda
  - British Virgin Islands
  - Cayman Islands
  - Montserrat
  - Turks and Caicos Islands

### **UK Crown Dependencies**

- Guernsey
- Jersey
- Isle of Man Madrid Protocol applies



#### Madrid Protocol Accession - protocols



http://www.wipo.int/madrid/en/future-members/accession-guide/



## Advantages of Accession by Territories to Madrid Protocol

- Financial Services a major part of economy for most Territories
  - Attract IPHoldCo's to jurisdiction
  - IP HoldCo's in Contracting Member States will be able to be proprietor of Madrid Protocol IRs issued by other States
- With accession the Territories are on the same footing as mother country.



# Advantages of Accession by Territories to Madrid Protocol

- Employment generation IP registry/Private Sector
- IPHoldCo's -> moving towards 'physical presence' to satisfy OECD's BEPS.
- Advantages for multinationals
  - Expedited processing
  - Cost Savings



### Cons

- home country application may include a 'clear and definite identification of goods and/or services'...whereas other member countries might allow broader identifications, including claiming an entire international class.
  - e.g. International Class 25 for clothing, footwear and headgear. Since all filing under the Madrid Protocol will be based on a trademark owner's home country. application or registration, the trademark owner will not be able to take advantage of the broader identifications available in other member countries



Questions?