

12 IMPROVEMENTS IN THE PROTECTION OF TRADITIONAL KNOWLEDGE IN AMAZONIAN COUNTRIES

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ABSTRACT

This article discusses recent advances in the protection of traditional knowledge in Amazonian countries comprising Bolivia, Brazil, Colombia, Ecuador, Peru, Suriname, and Venezuela. It highlights the trends in these countries towards registration for the protection of traditional knowledge associated with genetic resources, and collective marks and denominations of origin for the protection of traditional cultural knowledge. The article concludes that these countries should strengthen joint efforts to promote effective protection mechanisms holistically.

Keywords: *Traditional knowledge, indigenous, legal protection, Amazonian countries*

I. INTRODUCTION

Access to genetic resources and protection of associated traditional knowledge are topics that have gained considerable importance internationally since the approval of the Convention on Biological Diversity in 1992. The Convention aims, *inter alia*, to ensure the fair and equitable sharing of the benefits arising from the utilization of genetic resources.¹

A discussion regarding the protection of traditional knowledge systems requires an assessment of whether conventional intellectual property (IP)

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¹ Rodrigo de la Cruz, *Pueblos Indígenas y sus posiciones en las negociaciones internacionales sobre conocimientos tradicionales: (Taller de expertos para la discusión de propuestas regionales sobre la prevención y combate a la biopiratería y uso indebido de conocimientos tradicionales para países Miembros de la OTCA. Brazil, Noviembre, 2013).*

systems, or the adoption of *sui generis* legislation, or a combination of both, can provide effective protection of traditional knowledge. In this context, representatives of indigenous international organizations believe that traditional knowledge must be viewed holistically. Traditional knowledge should not be considered as separate, as stated in the Convention on Biological Diversity, which refers only to traditional knowledge associated with genetic resources.

II. POLICIES AND THE INTERNATIONAL REGULATION OF TRADITIONAL KNOWLEDGE

A number of factors contribute to the progressive loss of traditional knowledge systems of indigenous peoples, namely:

- The progressive loss of the languages of indigenous peoples due to other more dominant languages;
- the low value attached to traditional knowledge;
- permanent contact with other cultures;
- various acculturation factors that promote other values;²
- low participation of indigenous representatives in the development of public policies; and
- lack of adequate legislation for the legal protection of traditional knowledge, or ineffective implementation thereof.³

There has been extensive work at the international, regional and local levels to address the issue of the preservation and protection of traditional knowledge, as reflected in international guidelines, agreements, public policies, and proposals for protecting traditional knowledge, either by traditional IP regimes or by a *sui generis* mechanism. These efforts have been led by international organizations such as the World Intellectual Property Organization (WIPO), the World Trade Organization (WTO), the Secretariat of the Convention on Biological Diversity (CBD), the Food and Agriculture Organization of the United Nations (FAO)⁴, and the United Nations Permanent Forum on Indigenous

² Programa de Naciones unidas para el medio ambiente. *Plan de acción para preservación CT.* (2007) UNEP/CDB/WG8I/5/3/Add.

³ Zulay Poggi, 'Avances en la protección de los conocimientos tradicionales en la Amazonía. Expectativas del protocolo de Nagoya' *Revista propiedad Intelectual.* Año X, N° 14. Pg 190-215.

⁴ The International Treaty on Plant Genetic Resources for Food and Agriculture

Issues (UNPFII).⁵ Moreover, international and regional indigenous organizations, such as the Indigenous Forum on Biodiversity (FIIB) and the Coordinator of the Amazon Basin Indigenous Peoples Organization (COICA), have been increasingly involved in discussions and development agreements.

To that end, a proposal is currently before the WIPO Intergovernmental Committee on Intellectual Property, Genetic Resources, Traditional Knowledge and Folklore for a *sui generis* international protection scheme. The Committee is also discussing the adoption of mandatory disclosure of origin for genetic resources in patent applications, particularly for countries that are parties to the Patent Cooperation Treaty (PCT), as well as proof of legal access to genetic resources, prior informed consent, and benefit sharing.

The WTO has been involved as well, largely because the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) is part of the Marrakesh Agreement Establishing the WTO. In April 2011, Brazil and other countries⁶ proposed to amend the TRIPS Agreement by inserting a new Article (29bis)—Disclosure of Origin of Genetic Resources and/or Associated Traditional Knowledge—which would apply when the patent application involves the utilization of genetic resources and/or associated traditional knowledge. This article proposes that Members require applicants to disclose:

- The country providing such resources; and
- the source within the country providing the genetic resources and/or associated traditional knowledge.⁷

The proponents of the proposed article believe that Article 29 of the TRIPS Agreement is incomplete without the disclosure of the origin of genetic resources and/or associated traditional knowledge.

In 2010 the adoption of the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits made several advances

⁵ The United Nations Declaration on the Rights of Indigenous Peoples was adopted by the United Nations General Assembly in 2007.

⁶ China, Colombia, Ecuador, India, Indonesia, Peru, Thailand, the ACP Group, and the African Group.

⁷ WTO Draft Decision to Enhance Mutual Supportiveness between the TRIPS Agreement and the Convention On Biological Diversity. Communication from Brazil, China, Colombia, Ecuador, India, Indonesia, Peru, Thailand, The ACP Group, and The African Group. Trade Negotiations Committee (2011) <http://www.wto.org/english/tratop_e/trips_e/art27_3b_e.htm> accessed 10 January 2013.

in this area. The Protocol proposes, *inter alia*, the development of community protocols for indigenous communities relating to access to traditional knowledge associated with genetic resources, and the fair and equitable sharing of benefits arising out of the utilization of such knowledge (Article 12).

Some Community protocols have been developed to ensure benefit sharing, including the Protocol of the Council for Scientific and Industrial Research (CSIR) in South Africa and the San peoples for the commercialization of the Hoodia plant (with associated traditional knowledge);⁸ the protocol with respect to the access and use of biological resources by the Bushbuckridge Community;⁹ the protocol with respect to access to mining areas in Alto de San Juan, Colombia (2010);¹⁰ and the biocultural community protocol to support the Tanchara community in the Upper West Region of Ghana.¹¹

III. POLICIES AND REGULATING TRADITIONAL KNOWLEDGE IN AMAZONIAN COUNTRIES

Since the Amazon Cooperation Treaty Organization, whose origins date back to 1978, Amazonian countries¹² have implemented a series of strategic plans, programmes and projects, in order to carry out joint actions to preserve the most biodiverse zones in the world, which host about 400 different indigenous groups.

In an effort to regulate the protection of traditional knowledge, some Amazonian countries have implemented policies and rules regarding access to genetic resources and the protection of traditional knowledge through intellectual property regimes or *sui generis* mechanisms. Peru, Venezuela and Brazil have adopted specific laws to protect traditional knowledge. Peru and Venezuela have established

⁸ WIPO 'La Propiedad Intelectual como motor de crecimiento económico. Colaboración de las universidades y la industria'. N° 121 (S). (2003).

⁹ Sibuye Rodney, Uys Marie-Tinka, Cocchiaro Gino, Lorenzen Johan. "PCB Bushbuckridge: Curanderos tradicionales se organizan para el APB en Surafrica". (s/f). <<http://pubs.iied.org/pdfs/G03476.pdf>> accessed 9 November 2013.

¹⁰ PNUMA, IIAP, Natural justice. 'Protocolo Comunitario Biocultural Para el territorio del Consejo Comunitario Mayor del Alto de San Juan'. Asocasan <http://naturaljustice.org/wp-content/uploads/pdf/Alto_San_Juan_BCP.pdf>

¹¹ Kate Kerry and Sarah A Laird, Los Acuerdos de Bioprospección. La Distribución De Beneficios A Las Comunidades Locales (s/f) <http://siteresources.worldbank.org/INTRANETTRADE/Resources/Pubs/303936-1130792844111/PoorPeoplesKnowledge_Chap6_Sp.pdf> accessed 6 February 2014.

¹² Bolivia, Brazil, Colombia, Ecuador, Guiana, Peru, Suriname and Venezuela (all were signatories to the Amazon Cooperation Treaty (ACT) in 1978).

registration systems for the protection of traditional knowledge, and Brazil prevents the unauthorized usage and exploitation thereof. In other countries proposals are being discussed in their respective legislative bodies, for example, in Ecuador and Bolivia.

Different institutions of the various governments of Amazonian countries have been involved in the debate over these topics, for instance, the Public Defender's Offices of Colombia, Ecuador and Venezuela, which have a constitutional mandate to defend the collective rights of indigenous communities, as well as cultural institutions, health, education, and local organizations.

Some Amazonian countries recognize, constitutionally, the collective rights of indigenous people, namely, Bolivia, Colombia, Ecuador, and Venezuela. Others have spelled out the importance of protecting traditional knowledge in strategic biodiversity plans (in all countries excepting Suriname) and others such as Brazil, Peru, and Venezuela in *sui generis* rules.

Universities and Research Centres in Amazonian countries have contributed to the study of biodiversity associated with traditional knowledge and to the development of databases of plants, as well as to the studies of social cartography; for instance, the Nova Cartografía Social projects developed by the Amazonian Estatal University (UEA) and the Federal of Pará University (UFPA).¹³ Other efforts include the creation of institutions supporting indigenous communities such as indigenous universities in Tauca, Venezuela comprising more than 12 different ethnic groups (E'ñepa, Huottöja, Jivi, Kuiva, Malco, Pemón, Pumé, Shiriana, Warao, Ye'kwana and Yukpa). These institutions enable these communities to share their knowledge, experiences, traditions and myths. Another measure is the creation of indigenous museums such as the Museum Maguta in Brazil, whose purpose is to disseminate the traditional knowledge system of the indigenous Ticunas.

Amazonian countries have had some notable experiences with regard to community protocols proposed by the Nagoya Protocol. In Peru, the Potato Park Protocol developed by the local communities establishes minimum criteria for distributing benefits derived from the culture of five traditional communities. A major challenge for these types of protocols is achieving recognition and enforcement by governments.¹⁴

¹³ Proyecto Nueva cartografía Social <<http://novacartografiasocial.com/>> accessed 16 March 2013.

¹⁴ Alejandro Argumedo 'Descolonizando la investigación: el protocolo biocultural del Parque de la Papa para la distribución de beneficios' (2012)

International development funds tend to provide economic benefits based on the collective nature of traditional knowledge. For instance, Amazonian countries have developed the 'Forest Peoples Fund' in Suriname.¹⁵ In Peru, Law 27,811 establishes the creation of the Fund for the Development of Indigenous Peoples, which aims to contribute to the development of indigenous peoples through financing projects and other activities.

All this reflects the growing trend in Amazon countries towards addressing these topics in an inter-institutional and multidisciplinary manner, which is in itself progress.

IV. *SUI GENERIS* MECHANISM TO PROTECT TRADITIONAL KNOWLEDGE IN AMAZONIAN COUNTRIES

Bolivia adopted Andean Decision 391¹⁶, aimed at regulating access to genetic resources and associated traditional knowledge; and regulation Decree No. 24676 of 1997 enforces that decision. However, Andean countries have encountered difficulties implementing this decision, mainly because of deficiencies in the technical capacity of their institutions

In 2012, Bolivia presented a draft law before the Assembly for the promotion and protection of traditional and ancestral knowledge. This law proposes the implementation of a community register and a reserved recording of traditional knowledge.

Bolivia has experience establishing contract agreements for access to genetic resources. For example, in 2003 the Federation of Cooperatives (Migros) applied for access to native varieties of potato plants (*Solanum tuberosum*) for their exportation, propagation, and commercialization. In 2011, PROINPA and EMBRAPA¹⁷ requested access to wild peanuts and their use in breeding programmes for molecular studies.¹⁸

<<http://www.cbd.int/abs/infokit/revise/web/all-files-es.pdf>> accessed 10 May 2014.

¹⁵ Forest Peoples Programme 'Consentimiento Libre, Previo e Informado: Dos Casos en Surinam' (2007) <<http://www.forestpeoples.org/sites/fpp/files/publication/2010/08/fpicsurinamemar07sp.pdf>> accessed 19 February 2014.

¹⁶ Decision 391. Common Regime on Access to Genetic Resources.

¹⁷ Proinpra Foundation in Bolivia. (EMBRAPA) *Brazilian Agricultural Research Corporation*.

¹⁸ Rafael Murillo, 'La protección de conocimientos tradicionales en Bolivia' (Taller de expertos para la discusión de propuestas regionales sobre la prevención y combate a la biopiratería y uso indebido de conocimientos tradicionales para países Miembros de la OTCA. Brazilia, Noviembre 2013).

In 2001, Brazil approved Provisional Measure 2186-16 for regulating access to genetic heritage and the protection of associated traditional knowledge against illicit use and exploitation, which lays down sanctions and fines (Article 30). This measure established criteria for the authorization to: (1) access genetic heritage; and (2) access associated traditional knowledge. It also established criteria for benefit sharing, including prior consent (access for research, technological development, or bioprospecting).

According to experts in Brazil, Provisional Measure 2186-16 fails to regulate the issue of access authorization and benefit sharing at the border, an omission, which requires correction.¹⁹

Another example is Resolution 207/09 INPI, which requires patent applicants to present a declaration of the origin of the genetic resources, as well as prior and informed consent (Article 2) before the National Institute of Intellectual Property (INPI).²⁰

Colombia has passed a number of bills for the protection of traditional knowledge. Likewise, it has lobbied for the implementation of Article 8j of the Convention on Biological Diversity by creating several committees (interinstitutional²¹ and interethnic²²) that count on the participation of all the actors involved in the process.²³ This has led to capacity building for the indigenous communities and to the elaboration of a plan to implement Article 8j of 2007 through a broad consultation process.

Another regulation related to the protection of traditional knowledge in Colombia is General Culture Law No. 397 of 1997 that establishes a number of provisions relating to the country's cultural heritage. This law provides that the State shall guarantee the collective property rights of ethnic groups and support ethnic education processes, with a view to

protecting their languages, traditions, uses, customs, and wisdom.²⁴

Ecuador is developing a policy to combat biopiracy and provide protection of traditional knowledge through registration, and it has drafted a bill for the protection of traditional knowledge of indigenous and local communities (Montubio people, Afro-descendants and peasants), as well as of associated genetic resources and cultural expressions.

Moreover, the Instituto Ecuatoriano de la Propiedad Intelectual (INPI) is working to establish an office to combat biopiracy in 2015. Like Colombia and Venezuela, Ecuador has a Public Defender's Office that watches over the collective rights of the indigenous nations, peoples and organizations, among which are collective intellectual property rights.²⁵

Guiana has been working on a platform to regulate access to genetic resources by foreign researchers and companies through agreements signed with the Environmental Protection Agency (EPA), which regulates access to biodiversity. To this extent, a number of guidelines are available for research on biodiversity that establish mechanisms to obtain permits for research involving any form of biological resource in the country. Other guidelines facilitate access to genetic resources, based on prior informed consent and benefit sharing.²⁶

Peru adopted Law No. 27811²⁷ for the promotion of fair and equitable distribution of benefits derived from the use of collective knowledge. The law also ensures that the use of the knowledge is contingent on the prior informed consent of indigenous peoples and seeks to avoid situations where patents are granted for inventions made on the basis of traditional knowledge. This Law provides three types of traditional knowledge registers: a national public register, a national confidential register and local registers.

¹⁹ Juliana Santilli, 'Protección jurídica de los conocimientos tradicionales en Brasil' (Taller de expertos para la discusión de propuestas regionales sobre la prevención y combate a la biopiratería y uso indebido de conocimientos tradicionales para países Miembros de la OTCA. Brazilia, Noviembre, 2013).

²⁰ Only for resources accessed starting in June 2000.

²¹ Participant Institutions: Mincomercio, Mincultura, Minagricultura, Minrelext, Minambiente, Mineducación, Mininterior, ICANH, IIAP, SINCHI, IAVH, WWF, IC, Mincomunicaciones, Unal, Uexternado, Colciencias, DNP, Public Defense Office, among others.

²² Formed by representatives of indigenous and local communities of the permanent concertation panel of indigenous peoples, representatives of the ROM (gypsies), Raizales (grassroots), Peasants and Afro Colombians.

²³ Based on the Aide Memoire of the First Interethnic Committee held on 24–25 February 2005 in Bogota.

²⁴ Adriana Lagos 'Assessment of the Implementation of International Agreements Related to the Protection of Traditional Knowledge' (2005). Project to build capacity for the implementation of Article 8(j) of the CBD of the Ministry of Environment, Housing and Territorial Development. Bogota.

²⁵ <<http://www.defensordelpueblo.gov.ec/paginas/ini0.php>>.

²⁶ Environmental Protection Agency Georgetown, Guyana, 'National Policy on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization' (2007)

<<https://www.cbd.int/doc/measures/abs/msr-abs-gv3-en.pdf>> accessed 10 May 2014.

²⁷ Law No. 27811 of 24 July 2002 Introducing a Protection Regime for the Collective Knowledge of Indigenous Peoples derived from Biological Resources.

The national registers will be administered by the National Institute for the Defence of Competition and Protection of Intellectual Property (INDECOPI), the national authority for consumer affairs, unfair trade law, and intellectual property rights. Registration systems for traditional knowledge (a) preserve and safeguard the collective knowledge of indigenous peoples and their rights therein; and (b) provide INDECOPI with information that enables it to defend the interests of indigenous peoples with respect to their collective knowledge.

Additionally, Article 42 of the Law protects the rights of indigenous peoples possessing collective knowledge against disclosure, acquisition, or the use of collective knowledge without their consent, provided that the collective knowledge is not in the public domain.

Law 28216 (2004) also protects access to Peruvian biodiversity and the collective knowledge of indigenous peoples. This Law aims to create a National Commission to protect access to Peruvian biodiversity and traditional knowledge.²⁸ The Commission will also create and maintain a register of biological resources and collective knowledge, providing protection against biopiracy, as well as patent-related protections, including monitoring patent applications for inventions using biological resources and traditional knowledge, and taking legal measures to veto the patent, among others (Article 5).

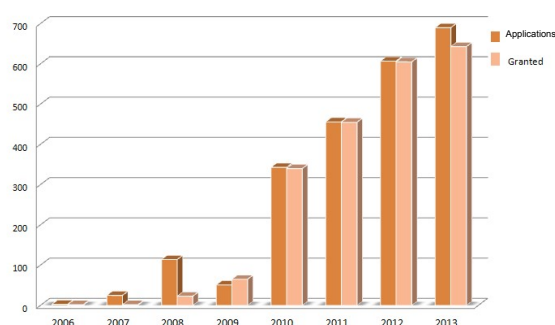
There has been a rapid increase in the registration of traditional knowledge by indigenous and local communities in Peru.²⁹

Venezuela also has several important regulations supporting the protection of traditional knowledge. The Law of the Indigenous Peoples and Communities of 2005 lays down a series of rights protected by the Venezuelan constitution, such as the collective rights of indigenous peoples, which the state shall guarantee and provide.³⁰ The law further establishes that third parties wishing to exploit genetic resources and associated traditional knowledge shall do so in accordance with traditions and customs (Article 102) and subject to prior informed consent (Article 11).

In 2008, Venezuela adopted the Management Biodiversity Law aimed at: (a) implementing mechanisms to ensure fair and equitable benefit sharing of biodiversity and traditional knowledge (Article 18.8); (b) forbidding patents for genetic resources; (c) establishing an authorization process for institutions to access genetic resources and traditional knowledge for scientific and academic purposes (Article 97); (d) facilitating 'contracts of access' with individuals and corporations (Article 98); and (e) creating a requirement of obtaining prior informed consent (Article 100).

In 2009, Venezuela approved the Indigenous Cultural Patrimony Law that created the Register of Indigenous Cultural Patrimonium. While this Law prohibits the protection of traditional knowledge by intellectual property rights, it has created problems because indigenous people, for instance, are unable even to apply for trademarks to protect traditional knowledge.

**Figure 12.1 Registration of traditional rights in Peru
2006-2013**



²⁸ INDECOPI (National Institute for the Defence of Competition and Protection of Intellectual Property), which presides it, CONAM (National Environment Council), INRENA (National Institute of Natural Resources), CONAPA (National Commission of Andean, Amazonian and Afro Peruvian Peoples), among others.

²⁹ According to the 2012 and 2013 INDECOPI Statistical Yearbook in 2012, the local communities, register 607 Traditional knowledge, and in 2013, 690 (547 confidential and 143 public).

³⁰ The protection of traditional knowledge receives special treatment in Chapter V of this law entitled 'Of the Knowledge and Collective Intellectual Property of Indigenous Peoples'.

Table 12.1 Advances in the protection of traditional knowledge in Amazonian Countries

Country	Policy	National Constitution	Traditional Knowledge	Access to Genetic Resources
Bolivia	Bolivia is developing policies to protect traditional knowledge obtained from public, confidential and communities' registers. Promotes the protection of traditional cultural knowledge through collective marks and denominations of origin.	Political Constitution (2009). The State shall protect knowledge and expertise through the registration of intellectual property to safeguard the intangible rights of indigenous peoples. (Article 100)	Draft law for the promotion and protection of traditional knowledge and ancestral knowledge (2012)	Andean Decision 391. The Common Regime on Access to Genetic Resources (Decision of the Andean Community – CAN Bolivia, Colombia, Ecuador and Peru). Regulation of Decision 391 Decree No. 24676 of 1997
Brazil	Policy to protect and regulate traditional knowledge through various relevant institutions.		Provisional Ruling 2186-16 (2001) Resolution 207/09 INPI (Establish criteria for patent applications derived from genetic heritage and traditional knowledge). Resolution 207/09 of 2009. Implements and regulates procedures for the application for patents derived from genetic heritage and associated traditional knowledge. Resolution No. 34 of 2009 C GEN related to permission to access genetic resources	Provisional Ruling 2186-16 (2001) establishes criteria for authorization to access genetic resources and associated traditional knowledge
Colombia	Policy consultation with local communities based on the implementation of Article 8(j) of the CBD.	The Political Constitution (1991) lays down the grounds for the development of regulations, including the protection of collective rights related to property and the environment, among others (Article 88).	Law 70/93 (proposed to protect plant varieties and traditional knowledge). Act 397 of 1997. Act of Culture which provides some standards on cultural heritage in Colombia.	Andean Decision 391 – Decree 1376 of 2013 regulating permission to collect wild specimens of biological diversity for scientific research. Decree 1375 regulating biological collections
Ecuador	Ecuador is developing policies to counter biopiracy and to protect traditional knowledge with the establishment of a register.	The Constitution (1998) incorporates collective rights, including the rights to protect systems, knowledge and traditional medicine practices (Article 84).	Draft law on the protection of traditional knowledge for indigenous people (Montubo people, Afro-descendants and peasants) and associated genetic resources and cultural expressions (2009). Intellectual Property Law No. 320 (Article 377 1998) proposes <i>sui generis</i> protection.	Andean Decision 391 The Common Regime on Access to Genetic Resources Regulated by Decree No. 908 2011

Country	Policy	National Constitution	Traditional Knowledge	Access to Genetic Resources
Guyana	Promotes access to genetic resources through guidelines.		Guyana does not have regulations to protect traditional knowledge.	National Policy on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization (2006)
Peru	Peru has developed policies to promote the protection of traditional knowledge through a register and to combat biopiracy. Development of programmes for monitoring patents related to Amazonian biological resources.	The National Constitution (1993) recognizes the existence of peasant, native and indigenous communities and considers them autonomous legal entities in their organization, community work and the use and free disposal of their lands (Article 89)	Law No. 27811 Introduces a Protection Regime for the Collective Knowledge of Indigenous Peoples Derived from Biological Resources. Law 28216 - Creation of the National Commission against Biopiracy (7 April 2004)	Andean Decision 391. The Common Regime on Access to Genetic Resources Regulated by Ministerial Resolution No. 087-2008-MINAM
Venezuela	Venezuela has developed a regulatory framework that promises to protect the rights of indigenous peoples- but difficult to implement.	The Constitution (2000) recognizes the collective intellectual property of indigenous peoples over their knowledge, technologies and innovations, and determines that all activities related to genetic resources and traditional knowledge must pursue collective benefits.	Law on Indigenous Peoples and Communities (2005). Law on Indigenous Cultural Patrimonium (2009). Recognizes the Register of Indigenous Cultural Patrimonium. Law on Indigenous Artisans (2010). Criminal Law for the Protection of the Environment (2012) (Articles 46-50)	Law on the Management of Biodiversity, 2008

V. INTELLECTUAL PROPERTY FOR THE PROTECTION OF TRADITIONAL CULTURAL KNOWLEDGE IN AMAZONIAN COUNTRIES

There have been some advances in the protection of traditional knowledge through intellectual property rights. For instance, Amazonian countries have used collective marks and geographical indications to obtain rights for food, handicrafts and other goods.

The Guarani, who inhabit South-Eastern Bolivia, near the border with Paraguay and Argentina, have started producing coffee, chocolate, and flour prepared from the fruit tree 'cupes' (*Prosopis chilensis*); the sheath is high in calcium and phosphorus. The ancient techniques of roasting and drying also impart unique characteristics to these products. Capitanía Indígena Mayor de las Comunidades Indígenas filed a collective trademark application with the National Service of Intellectual Property in order to distinguish those products.

Table 12.2 Other examples of intellectual property for the protection of traditional cultural knowledge in Amazonian countries

Year	Countries	Collective Mark	Product	Applicant
2002	Bolivia	CIMCI Capitanía Indígena Mayor de las Comunidades Indígenas	Products prepared with <i>Prosopis chilensis</i>	Indigenous peoples' organization 'Capitanía del Alto y Bajo Izozog'
2009	Bolivia	Quinoa Real de Lipez	Quinoa Real de Lipez (<i>Chenopodium quinoa</i>)	Local community producer 'Quinoa de real Lipez'
2010	Ecuador	Asociación Hambí Kiea	Productos naturales procesados	Local community 'Asociación Jambi Kiwa (Chimborazo)'
2010	Brazil	'Arroz Tierra Libre'	Arroz	24 communities Río Grande do Sul, Cootap and Santa Rita and Tapes cooperatives
2011	Bolivia	Comart Tukuypay	Tissues, woods, textiles	Artisans' local organizations Sierra, Cruz, Potosí, La Paz, Oruro, Sucre
2011	Colombia	Zenu	Tejeduría Zenú	Indigenous communities 'Resguardo indígena Zenu de Sotavento'
2012	Colombia	Kankui.	Kankuanas backpacks	Asoarka. Kankumas artisans community
2013	Colombia	Palo Sangre	Furniture, mirrors, picture frames, and goods of wood	Amazon Artisans Community
2013	Colombia	Palma estera del Cesar	Carpets, rugs, mats and matting, linoleum and other materials for covering existing floors; wall hangings (non-textile)	Chimichagua artisans community (dpto del Cesar)
2013	Colombia	'Minajoya'	Precious metals and their alloys and goods in precious metals or coated therewith, not included in other classes; jewelry, precious stones; horological and chronometric instruments	Nariño artisans community
2013	Colombia	'Artesanías de Colosó'	Furniture, mirrors, picture frames, and goods of wood	Sucre artisans' community
2013	Colombia	'Palo Sangre'	Household or kitchen utensils and containers; combs and sponges; brushes brush-making materials; articles for cleaning purposes	Artisans' communities 'cerámica de Coco Viejo Atuma, de Puerto Inírida'

Year	Countries	Collective Mark	Product	Applicant
2013	Colombia	Asoimola	Textiles and textile goods, not included in other classes; bed covers; table covers.	Association of women artisans from Antioquia
2013	Colombia	Arhuaco	Mochilas Arhuacas	Indigenous community Arhuaco

Peru and Colombia have some experience of the protection of traditional knowledge through geographical names (Denominations of Origin). In July 2006, the INDECOPI governmental office of Peru granted the denomination of origin 'Chulucanas' to three organizations - Centro de Innovación de la Cerámica, Asociación de Ceramistas Vicus Chulucanas and Asociación de Ceramistas de Tierra Encantada - after determining that the ceramics were the 'result of the interaction of natural factors from the area (clay, sand, climate, mango leaf) and humans (TK Tallan and Vicus rescued—500 years AC), [thereby demonstrating the necessary] connection between geographical origin and product characteristics'.³¹

In March 2008, INDECOPI recognized the Regulatory Council of the Denomination of Origin 'Chulucanas' and granted the first six authorizations to use the denomination of origin. Today, 11 other ceramic crafters have obtained authorization to use that denomination, showing that previously their production complies with the requirements defined by relevant rules. Pursuant to the Lisbon Agreement, Peru has filed applications with the International Bureau of WIPO for recognition of the following appellations of origin: 'Pisco', 'Cusco Giant White Corn', 'Chulucanas Pallar Ica', and 'Café Villa Rica'.

There are other examples of supporting local communities' traditional knowledge. In 2009, the Superintendencia de industria y comercio of Colombia, granted the denomination of origin 'Guacamayas' for artisanal products from the Boyacá Department³² and in 2010, the denomination of origin 'Ráquira' for handmade pottery.³³

VI. CONCLUSION

The common weaknesses of protection of traditional knowledge in Amazonian countries are:

- Difficulties in implementing access regulations;
- deficient coordination between institutions involved in the protection of traditional knowledge and indigenous communities;
- lack of specific regulations to protect traditional knowledge in certain Amazon countries;
- lack of mechanisms for granting prior informed consent and benefit sharing; and
- lack of a joint Amazonian position.

Yet, there has been some success in ensuring the protection of traditional knowledge as well:

- (a) Amazonian countries have an integral vision and relevant institutions are involved;
- (b) a number of countries have prior experience in implementing regulations to protect traditional knowledge;
- (c) there is a trend towards incorporating indigenous communities in discussions about the protection of traditional knowledge;
- (d) the capacity exists to detect cases of misappropriation of genetic resources and traditional knowledge; and
- (e) the collective rights of indigenous communities have been incorporated into some constitutions.

Moving forward, it is important to consider the viewpoint of indigenous peoples, who have increasingly greater expectations of their right to prior informed consent and respect and preservation of their traditional knowledge. There is no doubt that collaboration between government institutions, non-governmental organizations (NGOs), universities, and indigenous communities is crucial, with a

³¹ Resolution 011517 OSD-2006. File 23038-2006.

³² Resolution 30000 19 June 2009.

³³ Resolución 66272 I 29 November 2010.

view to achieving the protection and preservation of traditional knowledge associated with Amazonian biodiversity. In order to ensure such protection and preservation, it is crucial to establish connections between institutions in the different Amazonian countries.

Institutional capacity is strengthening. But Amazonian countries must design policies to strengthen access mechanisms for genetic resources and traditional knowledge. Countries must also exchange experiences in these areas and promote the development of biocultural community protocols that define mechanisms for consultation, engagement and sharing of benefits. They must carry out joint actions to prevent biopiracy, and create a Benefit-Sharing Fund for indigenous communities of the Amazon Transboundary.

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