Protection of Traditional Knowledge of Indigenous Peoples: The Peruvian Experience

Submitted by: Peru
PROTECTION OF TRADITIONAL KNOWLEDGE OF INDIGENOUS PEOPLES: THE PERUVM EXPERIENCE

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AGENDA

- Background
- The Law 2781: Protection regime for the traditional knowledge of Peruvian indigenous peoples derived from biological resources
- Implementation of the Law 2781
- Progress and Results
- Challenges
- Future Actions

1996: Andean Decision 345 was regulated through the Supreme Decree. 008-96-ITINCI.


1999: A proposal for a Protection Regime for the Traditional Knowledge of Indigenous Peoples and Access to Genetic Resources was published.

2000: Andean Decision 486 (Article 26.i and 75h).

THE LAW 27811

“Protection Regime for the traditional Knowledge of Indigenous Peoples related to Biological Resources”

(August 10, 2002)
1. To promote respect for and the protection, preservation, wider application and development of the traditional knowledge of indigenous peoples.
2. To ensure that the use of the knowledge takes place with the prior informed consent of the indigenous peoples.
3. To promote the fair and equitable distribution of the benefits derived from the use of that traditional knowledge.
4. To avoid situations where patents are granted for inventions made or developed on the basis of traditional knowledge of Peruvian indigenous peoples without taking into account that knowledge as prior art in the patent examination.
5. To promote the strengthening and development of the potential of indigenous peoples.
Indigenous peoples possessing traditional knowledge shall be protected against the disclosure, acquisition or use of that collective knowledge without their prior informed consent and against the unfair use provided that the collective knowledge is not in the public domain (Article 42).
Other mechanisms of the Law 27811

Specialized Council for the protection of traditional knowledge;
Monitoring and follow up implementation of the regime and the Administrative Committee of the Fund for the Development of Indigenous Peoples (Article 65 and Article 66).

Infringements of rights of the indigenous peoples (Article 43).

The burden of proof will fall upon the accused (Article 44).

Resolutions of discrepancies between indigenous peoples (Article 46).

Sanctions - Imposition of a fine (Article 62).

Specialized Council for the Protection of Traditional Knowledge

Administrative Committee of the Fund for the Development of Indigenous Peoples

INDECOPI

Supervise

Support

Monitoring of the Regime implementation

Advice

Representatives of indigenous peoples

Development Projects
Implementation of the Law 27811

Progress and Results

MAIN DEVELOPMENTS

2002: Implementation of the procedures for registration

2003 to date: Strategic Alliances (Peruvian Society for Environmental Law – SPDA, Confederation of Nationalities of the Peruvian Amazon - CONAP, Centre for Indigenous Cultures of Peru–CHIRAPAQ).

2003 to date: Generating discussion spaces with representatives of Indigenous Peoples.

2004: Creation of a Web Site and Implementation of National Register of collective knowledge in the public domain (Bibliographic Information)

2005: Preparation and approval of the implementation project by INDECOPI: fully self-funded.

2006: The proceedings of the Law 27811 were declared free of costs - Ministerial ResolutionN° 076-2006-PCM.
2007 to date: Training in Rural communities and Jungle communities. Support and guidance in Local Registers.

2008: 2 Consultancies (to implement the Fund for the Development of Indigenous Peoples).

2006: Research study about the representation of Indigenous Peoples in Peru, aimed at proposing and developing better mechanisms for communication with indigenous organizations.

2006: Implementation of the project “Collective knowledge registration in communities of indigenous people”: design of specialized materials (in Spanish and indigenous languages, printed and audio), training to the indigenous people.

MAIN RESULTS

RESULT:
220 RECORDS IN THE NATIONAL REGISTER OF TRADITIONAL KNOWLEDGE IN THE PUBLIC DOMAIN
Source: bibliographic information
MAIN RESULTS

Confidential National Register of Traditional Knowledge

2006
3 Applications

2007
25 Applications

2008
35 Applications

CHALLENGES

To strengthen communication with the main indigenous organizations.

To promote opportunities for negotiation.

To integrate all the existing information at the national level in the database.

To promote its inclusion as minimal information consultation (PCT).

To improve the access protocol to the National Register of Traditional knowledge in the public domain, and the structure of the database which support it.

To strengthen Local Register of Traditional knowledge.
To Continue with the diffusion of Law 27811, advocacy and strengthening of Capacities of indigenous peoples.

To promote the implementation of the Fund for the Development of Indigenous Peoples (Studies).

Strategic alliances with institutions that can assist the process of Registration (For example Taxonomic identification).

To Search for permanent mechanisms of consultation with Indigenous Peoples.

Active participation in forums where has been studying and discussing the protection of traditional knowledge (CBD, WIPO, WTO).

Support the permanent discussions on the topic on the agenda of the IPEG.

INDECOPI THANKS YOU FOUR YOUR ATTENDANCE
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