Workshop on Traditional Knowledge Documentation in Africa:
The Peruvian Experience

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National Anti- Biopiracy Commission
Peru

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Biodiversity in Peru
National Anti-Biopiracy Commission

• Establish and maintain a register of biological resources and traditional knowledge.

• Provide protection against acts of biopiracy.

• Identify and follow up patent applications made or patents granted abroad that relate to Peruvian biological resources or collective knowledge of the indigenous peoples of Peru.

• Make technical evaluations of the above-mentioned applications and patent grants.

• Issue reports on the cases studied.

• Lodge objections or institute actions for annulment concerning the above-mentioned patent applications or patent grants.
Search for possible cases of biopiracy

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7592 Patent documents
Biopiracy cases detected

Maca

- Extract Of Lepidium Meyenii Roots For Pharmaceutical Applications (US 6297995)
  - Tres solicitudes divisionales:
  - 09/878,141 (abandonada)
  - 10/002,757 (otorgada)
  - 10/138,030 (abandonada)
- Treatment Of Sexual Dysfunction With An Extract Of Lepidium Meyenii Roots (US 6,428,824)
- Compositions And Methods For Their Preparation From Lepidium (WO 0051548)
- Functional Food Product Containing Maca (Publicación N° 2004-000171)
- Ameliorant For Sleep Disturbance (Jp2007031371)
- The Manufacturing Method And Composition Of A Maca Extract (Kr20070073663)
- Testosterona Increasing Composition (Jp2005306754)
- Agent for preventing on treating osteoporosis” (2010-235533)
- A preparation for infertility treatment (WO2008012628)
- Beverage for antioxidative activations and improving memory comprising lepidium meyenii extracts and preparation method thereof (10-2009-0037706)
Sacha inchi
• An extract of a plant belonging to the genus Plukenetia volubilis and its cosmetic use. (WO/2006/048158)
• Utilisation d’huile et de protéines extraites de graines de Plukenetia volubilis linneo dans des préparations osmétiques, dermatologiques et nutraceutiques. (FR 2880278)

Camu camu
• Preserves of fruit of Myrciaria dubia (Publicación N° 09 – 215475)

Yacón
• Method for recovering and ameliorating diabetes (2011-079806)

Pasuchaca
• Inhibidor de α-glycosidase (P2005-200389)

Ambrosia
• utilisation cosmetique d’un extrait 548)
Granted patents and patent applications related to Maca
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“The Regime for the Protection of Collective Knowledge of Indigenous Peoples related to Biological Resources”
(August 10, 2002)
Recognition of the Rights
(Title I, Article 1)

The Peruvian State recognizes the right and the power of indigenous peoples and communities to decide on their collective knowledge (traditional knowledge related to biological resources)

Collective nature of the knowledge

The protective knowledge protected under this regime shall be that which belongs to an indigenous people and not to particular individuals forming part of that people. It may belong to two or more indigenous peoples (Article 10)
Objectives of the regime (Article 5)

1. To promote respect, the protection, preservation of the collective 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 collective knowledge.
Objectives of the regime (Article 5)

4. To avoid situations where patents are granted for inventions made or developed on the basis of collective knowledge of the indigenous peoples of Peru without any account being taken of that knowledge as prior art in the examination of patentability.

5. To promote the strengthening and development of the capacities of the indigenous peoples and their traditional mechanism for sharing and distributing the benefits collectively generated.
Protection conferred by this Regime

Indigenous peoples possessing collective knowledge shall be protected against the disclosure, acquisition or use of that collective knowledge without their consent and in an improper manner provided that the collective knowledge is not in the public domain (Article 42)

Second Complementary Provision
Submission of the license contract as a previous formal requirement in the process for obtaining a patent.
Prior Informed Consent (Article 6)

Permission to access the knowledge

Registration of license contracts (Article 7,27)

Access for commercial and industrial use (Previous Informed Consent) Fair and equitable sharing of benefits

Traditional Knowledge Registers (Title VI)

Confidential Register (Preservation and test date)
Public Register (Avoid Biopiracy); Local Register (Preservation).

Fund for the Development of Indigenous Peoples

Strengthening capacities of Indigenous Peoples; fair and equitable sharing of benefits
Obligations when using traditional Knowledge

TK

Public Domain

No

PIC+
Licence contract (5%* Indigenous People + 10%* Fund for the Development of Indigenous Peoples)

Yes

Before

1982

No obligation

After

% Fund for the Development of Indigenous Peoples
Collective knowledge in the public domain

For the purposes of this regime, it shall be understood that collective knowledge is in the public domain when it has been made accessible to persons other than the indigenous peoples by mass communication media such as publication or, when the properties, uses or characteristics of a biological resource are concerned, where it has become extensively known outside the confines of the indigenous peoples and communities.
Public National Register of Collective Knowledge of Indigenous Peoples

The Public National Register of Collective Knowledge of Indigenous Peoples shall contain such collective knowledge as is in the public domain. INDECOPI shall register the collective knowledge that is in the public domain in the Public National Register of Collective Knowledge of Indigenous Peoples.
NATIONAL PUBLIC REGISTERS (EX OFFICIO):

RESULT:
1200 REGISTERS IN THE NATIONAL PUBLIC REGISTER related about 500 plants species
Source: Bibliographic Information
Confidential National Register of Collective Knowledge of Indigenous Peoples

The Confidential National Register of Collective Knowledge of Indigenous Peoples may not be consulted by third parties.
Local registers of collective knowledge of indigenous peoples

Indigenous peoples may organize local registers of collective knowledge in accordance with their practices and customs. INDECOPI shall lend technical assistance in the organization of such registers at the request of the indigenous peoples.
Applications for the registration of collective knowledge of indigenous peoples shall be filed with INDECOPI through the representative organizations of the said peoples, and shall contain the following:

(a) Identity of the indigenous people applying for registration of its knowledge;
(b) Identity of the representative;
(c) Designation of the biological resource to which the collective knowledge relates, it being possible to use the indigenous name;
(d) A mention of the use or uses that are made of the biological resource concerned;
(e) A clear and full description of the collective knowledge to be registered;
(f) The instrument embodying the agreement of the indigenous people to the registration of the knowledge.
Application

10 days

Yes/No

Six months

No

Yes

* * *

Granted
# Public and Confidential National Granted Registers

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**1895 Granted Registers**
TRADITIONAL KNOWLEDGE WEBSITE

http://www.indecopi.gob.pe/portalctpi
Difusion Materials:

MANUAL EXPlicativo DE LA ley 27811
Régimen DE protección DE los
conocimientos Colectivos
de los pueblos indígenas
Vinculados a los recursos
Biológicos

MANUALS
Difusion Materials:

GUIDES

GUÍA para el REGISTRO de CONOCIMIENTOS COLECTIVOS

¿QUÉ SON?

¿PARA QUÉ SIRVEN?

¿QUIÉN REGISTRA?
Promotion and “in situ” register

Indecopi and the Peruvian Amazon Research Institute (IIAP) Representatives

Work Group and indigenous representatives in the Aguaruna Native Community “Wawas”

Work for register TK in the Aguaruna “Pakun” Native Community
CHALLENGES

To strengthen communication with the main indigenous organization

Strengthen Local TK Register

To promote the inclusion of National Public Register as Minimal information PCT

To improve the structure of the National Public Register database (Structure and Access)

To promote negotiation opportunities

To integrate all the information on the public domain from National Public Register database
Continue the diffusion of the Law 27811, promoting and strengthening the capacities in indigenous communities and to users of TK.

Support the implementation of the Fund for the Development of Indigenous Peoples.

Forming strategic alliances with institutions working on issues of relevance for Indigenous Peoples (national and privates)

Form strategic alliances with institutions that can assist the process of registration (e.g., taxonomic identification).
THANK FOR YOUR ATENTION

www.biopiratería.gob.pe
avalladolid@indecopi.gob.pe