

## PANAMA

### LEGISLATIVE ASSEMBLY

LAW No. 20

(of June 26, 2000)

On the special intellectual property regime upon collective rights of indigenous communities, for the protection of their cultural identities and traditional knowledge, and whereby set forth other provisions.

### THE LEGISLATIVE ASSEMBLY

#### DECREES:

#### CHAPTER 1

##### PURPOSE

Article 1. The purpose of this law is to protect the collective rights of intellectual property and traditional knowledge of the indigenous communities upon their creations such as inventions, models, drawings and designs, innovations contained in the pictures, figures, symbols, illustrations, old carved stones and others; likewise, the cultural elements of their history, music, art and traditional artistic expressions, capable of commercial use, through a special registration system, promotion, commercialization of their rights in order to stand out the value of the indigenous cultures and to apply social justice.

Article 2. The customs, traditions, believing, spirituality, religiosity, folkloric expressions, artistic manifestations, traditional knowledge and any other type of traditional expressions of the indigenous communities, constitute part of their cultural assets: consequently, cannot be object of any form of exclusive right by unauthorized third parties under the intellectual property system such as copyrights, industrial models, trademarks, geographical indications and others, unless the application is filed by the indigenous community. However, rights previously recognized under the legislation on the matter will be respected and will not be affected.

#### CHAPTER II

##### OBJECTS SUSCEPTIBLE OF PROTECTION

Article 3. It is recognized as traditional dresses of indigenous communities, those used by the communities of Kuna, Ngobe and Bugle, Embera and Wounaan, Naso and Bre-bre, such as:

1. Dule Mor. It consists in the combined use of the garment by which the Kuna men and women identify the culture, history and representation of their community. Morsen, Saburedi, Olassu and Wini constitute this.
2. Jio. It consists in the combined use of the garment by which the Emberas and the Wounaán men and women identify the culture, history and representation of their community. The women use Ua (Paruma), Boró Barí, Dyidi Dyidi, Kondita, Neta, Parata Kerá, Manía, Soritja

Kipará (Jagua), Karichí (achiote), and Kera Patura. The men use the same garments with exception of the Paruma, and also use earflap, breast strap, Amburá and Andía.

3. Nahua. It consists in the garment by which the Ngobes and Buglés identify the culture, history and representation of their community. This dress is of a single piece. It is wide and it covers half of the leg; it is made with plain cloths of attractive colors, decorated with geometric applications of the cloths of contrasting colors and it includes a wide necklace made with chaquiras. The technical description of these traditional dresses will be contained in their respective registrations.

Article 4. The collective rights of the indigenous communities are recognized on their musical instruments, music, dances or form of performance, oral and written expressions contained in their traditions that constitutes their historical, cosmological and cultural expression.

The application for registration of these collective rights shall be filed by the respective general congresses or indigenous traditional authorities, before the General Office for the Registry of the Industrial Property of the Ministry of the Commerce and Industry here in after referred to as DIGERPI or before the National Copyright Office of the Ministry of Education, depending on the case, for its approval and registration.

Article 5. The collective rights of the indigenous communities are recognized on their work instruments and traditional art, as well as the technique for making them, expressed in the national basic materials, through the elements of the nature, their method of process, elaboration, combination of natural dyes, such as the carved tagua (ivory plant) and wood (cocobolo and nazareno), traditional baskets, nuchus, chaquiras, chacaras and any other cultural expression of traditional aspects of these communities.

The registration of these rights shall be requested by the general congresses or indigenous traditional authorities before the offices mentioned in the previous article.

Article 6. Registrable objects susceptible of protection, as this Law determines to protect their originality and authenticity, are deemed to be collective rights.

### CHAPTER III

#### REGISTRATION OF COLLECTIVE RIGHTS

Article 7. The department of Collective Rights and Folkloric Expressions shall be created within DIGERPI, through which will be granted, among others, the registration of the collective rights of the indigenous communities.

This registration shall be requested by the general congresses or indigenous traditional authorities in order to protect their dresses, arts, music and any other traditional rights susceptible of protection.

The registrations of the collective rights of the indigenous communities will not expire, neither will have duration. The procedure before DIGERPI will not require the service of a lawyer and it is exempt of any payment. The administrative appeals against this registration shall be notified personally to the representative of the general congresses or indigenous traditional authorities.

Article 8. The provisions on collective marks and guarantees contained in the Law 35 of 1996 will be applicable to the present regime, as long as they do not harm the rights recognized in the present Law.

Article 9. DIGERPI will create a position of examiner on indigenous collective rights, for the protection of the intellectual property and other traditional rights of the indigenous communities. This public officer will have the power to examine all the applications that are filed before DIGERPI related with the collective rights of the indigenous communities, so the registration will not be granted against this law.

## CHAPTER IV

### PROMOTION OF THE INDIGENOUS ARTS AND CULTURAL EXPRESSIONS

Article 10. The arts, the craftsmanship, the dresses and other forms of cultural expression of the indigenous community, will be object of promotion and development by General Office for the Registry of the Industrial Property of the Ministry of the Commerce and Industry.

The General Directorate of National Craftsmanship or the Provincial Directorate of the mentioned Ministry, with awareness of the local indigenous authorities and by the request of interest party, will seal, print or stamp, without any cost, a certification in the artistic work, dress, craft or other protected forms of industrial property or copyright, in which shows that it has been elaborated by means of the traditional indigenous procedures and or by indigenous hands. For this purpose, the Directorate that issues the certificate is authorized to inspect the workshops, materials, finished products and procedures used.

Article 11. The Ministry of Commerce and Industry shall do the necessary task in order to assure the participation of the indigenous craftsmen in the national and international fairs and to expose their handcrafts. The General Directorate of National Craftsmanship will do the required to carry out the celebration of the indigenous artisan's day with the sponsor of this Ministry.

Article 12. In the national and international presentations of the Panamanian indigenous culture, the exhibition of their dresses, dances and traditions will be mandatory.

Articles 13. The Ministry of Education shall include in the school curriculum contents related to the indigenous artistic expressions, as integral part of the national culture.

Article 14. The public institutions vested with legal power are authorized to disclose and to promote, in agreement with the general congresses and indigenous traditional authorities, the history, customs, values and artistic and traditional expressions (including the garments) of the indigenous communities, as integral part of the national culture.

The exhibition and sale of indigenous crafts elaborated by students shall be allowed in the school fairs for the benefit of their school center.

## CHAPTER V

### RIGHTS OF USE AND COMMERCIALIZATION

Article 15. The rights of use and commercialization of the art, crafts and other cultural expressions based on the tradition of the indigenous community, must be governed by the regulation of each indigenous communities, approved and registered in DIGERPI or in the National Copyright Office of the Ministry of Education, according to the case.

Article 16. The folkloric dance groups that perform artistic presentations in the national and international level will be exempt of the compliance of the previous article. However, the natural or legal person that organizes artistic presentations to stand out the indigenous culture, whole or in part, he (she) shall include members of this communities for this performance. If the recruiting of these is not possible, the authorization of the respective general congress or indigenous traditional authority is required, in order to preserve its authenticity. The National Institute of Culture will look after for the compliance of this obligation.

## CHAPTER VI

### PROHIBITIONS AND SANCTIONS

Article 17. The literal j is added to the article 439 of the Fiscal Code, amending as follow:

Article 439. Foreign goods originating from all countries can be imported except the following:

j. The non-original products, recorded, embroidered, weave or any other articles that imitate, in whole or partly, the making of the traditional dresses of the indigenous communities, as well as musical instruments and traditional artistic works of these communities.

Article 18. The numeral 7 is added to the article 16 of the Law 30 of 1984, amending as follow:

Article 16. The following acts constitute the crime of smuggling:

7. The possession of not expressed, neither declared, neither authorized transitory goods, under the custom regulation, of the not original products that imitate in whole or partly, the traditional dresses of the Panamanian indigenous communities, as well as the materials and musical instruments and artistic or handmade works of these communities.

Article 19. An additional paragraph is added to the article 55 of the Law 30 of 1984, amending as follow:

Article 55. ...

When it is concerned with custom crimes of goods that imitate products belonging to the Panamanian indigenous communities, from fifty percent (50%) of the fine, not transferable to the informer and accusers mentioned in this article, fifty percent (50%) will be destined for the benefit of the National Treasure, and the other fifty percent (50%) will be dedicated to cover the investment expenses of the respective indigenous community or district, according to the procedures that establishes the law.

Article 20. The industrial reproduction, either total or partial, of the traditional dresses and other collective rights recognized in this Law, is forbidden, unless it is authorized by the Ministry of Commerce and Industry, with the previous and express consent of the general congresses and indigenous council, and if it is not against the provision established hereon.

Article 21. In the cases not contemplated in the custom legislation and in that of industrial property, the infringement of this Law will be sanctioned, depending on the seriousness of the act, with the fine of a thousand dollars (\$ 1,000.00) to five thousand dollars (B/.5,000.00). In the repeating event, the fine will be double of the previous quantity. The sanctions established hereon will be applied in addition to the forfeiture and destruction of the products in violation of this law.

The fifty percent (50%) of the imposed fine according to this article will be assigned for the benefit of the National Treasure and the other fifty percent (50%) will be dedicate to cover the investment expenses of the districts or correspondent indigenous communities.

Article 22. The following authorities are vested with the legal power to persecute the offenders of this Law, to take preventive measures on the respective products and goods, and to forward them to the corresponding appointed public officers:

1. The regional governor or the county governor, in case the first one does not exist.
2. The general congress of the corresponding district. For such effects, the traditional authorities will be able to request the cooperation and the support of the Public Force.

Article 23. The small non-indigenous artisans that dedicates to the manufacture, productions and sale of the reproduction of crafts belonging to indigenous Ngobes and Buglés that reside in the districts of Tolé, Remedios, San Félix and San Lorenzo of the Province of Chiriqui are exempt of this law. These small non-indigenous artisans will be able to manufacture and to market these reproductions, but they will not be able to claim the collective rights recognized by this Law to the indigenous group.

## CHAPTER VII

### FINAL PROVISIONS

Article 24. At the day in force of the present law, the small not indigenous artisans who dedicate to the elaboration, reproduction and sale of traditional indigenous crafts registered in the General Office of National Craftsmanship, will be able to carry out this activities, with the awareness of the indigenous traditional authorities.

The Ministry of Commerce and Industry, previous verification of the registration date and issuance of license, will issue the permits and respective authorizations. However, the Panamanian non-indigenous artisans shall affix, print, write or identify in easily visible way that the product is a reproduction, as well as its origin place.

Article 25. For the effects of the protection, use and marketing of the intellectual property collective rights of the indigenous communities contained in this Law, the artistic and traditional expressions of other countries will have the same benefits set forth in hereon, whenever they are made by means of reciprocal international agreements with these countries.

Article 26. This Law will be regulated by the Executive Branch through the Ministry of Commerce and Industry.

Article 27. The present Law adds to the Law 30 of November 8 of 1984, the number 7 to the article 16 and a paragraph to the article 55, as well as the literal j to the article 439 of the Fiscal Code, and it abolishes any disposition contrary to this law.

Article 28. This Law shall enter into force from its promulgation.

LET IT BE KNOWN AND EXECUTED,

Approved in third debate, in the Justo Arosemena Palace, City of Panama, on the fifteen days of the month of May of the year two thousand.

President The General Secretary

ENRIQUE AROSEMENA JOSÉ GOMEZ NUÑEZ

NATIONAL EXECUTIVE BRANCH - PRESIDENCY OF THE REPUBLIC. -  
PANAMA, REPUBLIC OF PANAMA, JUNE 26TH, 2000.

MIREYA MOSCOSO JOAQUIN JACOME TEN  
President of the Republic Minister of Commerce and Industry

MINISTRY OF TRADE AND INDUSTRIES

EXECUTIVE DECREE NO. 12  
(of March 20, 2001)

“Regulating Law No. 20 of June 26, 2000, on the Special Intellectual Property Regime Governing the Collective Rights of Indigenous Peoples for the Protection and Defense of their Cultural Identity and their Traditional Knowledge, and Enacting Other Provisions.”

THE PRESIDENT OF THE REPUBLIC  
In exercise of her constitutional and legal powers

CONSIDERING:

That Law No. 20 of June 26, 2000, has as its purpose the protection of the collective intellectual property rights and the traditional knowledge of indigenous peoples embodied in their creations, such as inventions, models, designs and drawings, innovations contained in images, figures, graphic symbols, petroglyphs and other material, and also the cultural elements of their history, music, art and traditional artistic expressions susceptible of

commercial use, which is to be done through a special system of registration, promotion and marketing of their rights in such a way as to give prominence to the indigenous socio-cultural values and do them social justice;

That, by virtue of the regulatory power conferred upon it by Article 26 by Law No. 20 of June 26, 2000, published in Gaceta Oficial No. 24,083 of June 27, 2000, the Executive, acting through the Ministry of Commerce and Industries, has to regulate Law No. 20 of June 26, 2000, for the better implementation thereof without departing in any case from either its text or its spirit;

That the Executive, acting through the Ministry of Commerce and Industries, following consultation with the sectors connected with the promotion, production and marketing of the arts and handicraft, and also with the holders of indigenous traditional knowledge and especially with the indigenous authorities, 2000, has directed that such Regulations be adopted by this Executive Decree with a view to facilitating the procedures and formalities for the protection and defense of the collective rights, cultural identity and traditional knowledge of indigenous peoples,

Decrees as follows:

## CHAPTER 1

### PURPOSE

Article 1. The purpose of this Decree is to regulate the protection of the collective intellectual property rights and the traditional knowledge of indigenous peoples embodied in their creations, such as inventions, models, designs and drawings, innovations contained in images, figures, graphic symbols, petroglyphs and other material, and also the cultural elements of their history, music, art and traditional artistic expressions, as well as other provisions contained in Law No. 20 of June 26, 2000.

Article 2. For the purposes of this Decree, the following definitions apply:

(i) "Law" means Law 20 of June 26, 2000.

(ii) "Intellectual property" means the right that creators and owners have in the products of their intellect, which, on being recognized by the Law, prohibit third parties from availing themselves thereof without the owner's consent.

(iii) "Traditional knowledge" means the collective knowledge of an indigenous people based on the traditions of centuries, and indeed millennia, which are at once tangible and intangible expressions encompassing their science, technology and cultural manifestations, including their genetic resources, medicines and seeds, their knowledge of the properties of fauna and flora, oral traditions, designs and visual and representative arts.

(iv) "Cosmivision" means the conception that indigenous peoples have, both collectively and individually, of the physical and spiritual world and the environment in which they conduct their lives.

(v) “Collective indigenous rights” means the indigenous cultural and intellectual property rights relating to art, music, literature, biological, medical and ecological knowledge and other subject matter and manifestations that have no known author or owner and no date of origin and constitute the heritage of an entire indigenous people.

(vi) “MICI” means the Ministry of Commerce and Industries.

(vii) “DIGERPI” means the Directorate General of the Industrial Property Registry.

(viii) “Copyright” means the intellectual protection of the rights of authors in their literary, educational, scientific or artistic works, regardless of type, medium of expression, merit or purpose thereof.

(ix) “Collective intellectual property registration” means the exclusive right granted by the State, by virtue of an administrative instrument, to prohibit third parties from the exploitation of collective rights deriving from traditional knowledge or an expression of folklore, the effects and limitations of which shall be determined by the law and this Decree.

(x) “General congresses or traditional authorities” constitutes State recognition of the existence of general congresses or traditional authorities as agencies of maximum expression, decision, consultation and administration adopted by indigenous peoples in accordance with their traditions and the Law Creating the Indigenous Districts and Their Organizational Charter, subject to the safeguards written into the Constitution and laws of the Republic.

(xi) “Representative” means the person or persons designated by the general congress(es) or the traditional authority (authorities) for the management of the registration of collective rights.

(xii) “Rules of use” means the rules that specify the characteristics common to traditional knowledge and subject matter eligible for registration as intellectual property. They are the substantiation of the traditional character of a collective right and its implementation in relation to indigenous peoples.

(xiii) “License contract” means the right of the indigenous people or peoples to grant third parties, by written contract, a registered collective right to the use of knowledge.

(xiv) “Replicas” means reproductions of original object where their similarity in some way evokes traditional and autochthonous objects, including copies of an artistic work.

(xv) “Royalties” means pecuniary rights, exclusive privileges of economic character or grants.

(xvi) “Council of Elders” means the assembly or decision-making body of the Naso people.

(xvii) “Industrial reproduction” means, for the purpose of the implementation of the Law, the production of goods by virtue of a collective right that is registered under and/or covered by the Law, and also the procedures engaged in by virtue of the collective rights of the indigenous people or peoples. Third-party use of registered collective rights for commercial, industrial and scientific purposes, shall be appropriate when it has been authorized by MICI with the express prior consent of the general congresses, traditional authorities or Councils of Elders, as the case may be.



(xviii) “Cognitive processes” means knowledge acquired over time through observation of and experimentation with the environment in which man conducts his existence. It is a specific, special, rich knowledge derived from the relationship of man and nature and also from the need to dominate the environment.

## CHAPTER II

### SUBJECT MATTER ELIGIBLE FOR PROTECTION

Article 3. DIGERPI shall classify subject matter eligible for protection in accordance with the rules of use of indigenous collective rights submitted by the general congress(es) or traditional authority (authorities), which subject matter shall be that described in Article 3, 4 and 5 of the Law and those that are specified below:

(1) Paruma: wa (in the Emberá tongue) h apkajúa (in the Wounaan tongue): this is a clothing article worn round the hips by native Emberá and Wounaan women which consists of a measured amount of palm bark fabric (previously rubber-tree bark), soaked and crushed, or of the textile material currently used.

(2) Olua’a: oval rings or hoops that Kuna women use as clothing accessories (earrings).

(3) Orbirid: pectoral garments made of several sections joined by links to a size sufficient to cover the entire chest of the native Kuna woman. Chest protectors.

(4) Nuchu: carving in balsa wood (*Ochroma limonensis*), used in religious and cultural ceremonies by Kuna natives. Anthropomorphic figure.

(5) Chaquira: Muñon-Kus (in Ngöbe), Crade (in Buglé): necklace of two or more rows produced by threading small colored beads to produce abstract designs. Neckwear used by Ngöbe and Buglé natives.

(6) Wigo: necklace made of small multicolored beads, used as an article of clothing by native Ngöbe and Buglé women.

(7) Canoa/Cayuco/Piragua, Jap (in Wounaan), Jambá (in Emberá): small boat made of a single tree trunk and propelled by oars or sails; mode of transport used at sea or on rivers by Panamanian natives and rural communities.

(8) Cra: purses or bags woven with threads made of various fibers, decorated with traditional designs and patterns and used in various ways by the Ngöbe and Bugle people.

(9) Canalete or Remo, döi (in Wounaan), Dobi (in Emberá): a paddle made of wood and used by natives and rural people to propel a small boat.

(10) Pikiu (in Wounaan), pikiw’a (in Emberá): basket made of reeds by Emberá and Wounaan natives).

(11) Dicha ardi: hostelry, cabin or hut of the Wounaan native.

(12) Medicine stick or baton of rank: Barra (in Emberá) Papörmie (in Wounaan): zoomorphic and anthropomorphic figures carved in wood, forming part of ritual accoutrement.

(13) Hajua (in Wounaan), Antia (in Emberá) or Wuayuco: article of clothing used by natives of Emberá and Wounaan culture. Loincloth or cache-sexe consisting of a narrow strip of cloth secured by a cord (p'ösié) and worn round the hips. The raw material is derived from a palm called ferju by the natives.

(14) Mola (Morra in Kuna); a women's blouse; application of a small decorative piece to a larger piece of fabric with working on the back. A combination of fabrics of many different, striking colors. The technique used is derived from the craft of embroidery (or appliqué). These are hand-made by native Kuna women, and they consist of one or more layers of fabric cut and sewn together in such a way that the color of each of the lower layers shows through. The designs on a Mola are based on cosmivision, while others merely use a geometric shape.

(15) Jiw'a (in Emberá), Hosig di (in Wounaan); chungá basket: small basket made of the tender leaves of the *Astrocaryum standlerianum* palm (or chungá). The tresses are sown together; they may be white or colored, forming a design. The Emberá make masks from this fiber.

(16) Jirak: basket woven from stems of the Jirak bush, made by Wounaan natives.

(17) Kigá: thread or fiber from the Acchmean *mafdalenae* plant, extracted by means of a non-industrial process and used by the Ngöbe natives to make bags.

(18) Kuas (in Wounaan), Jumpe (in Emberá), Pescao Uacuco: name of one of the many baskets made by Emberá and Wounaan natives.

(19) Küchuur (in Wounaan), sweeping basket: funnel-shaped basket, closed at one end, made by Emberá and Wounaan natives.

(20) Turpas: native Kuna name given to the hanging part of the breasts.

(21) Wini: bead necklaces serving as bracelets and anklets, used by native Kuna women as clothing accessories.

(22) Meudau ó Pat'eenb (in Wounaan), N'edau (in Emberá): pieces carved in the wood of the cocobolo (*Delbergia d. retusa*) by Emberá and Wounaan natives. The designs carved on the articles are based on flora and fauna and human manifestations.

(23) H^rp: baskets manufactured by Wounaan natives, woven from the fibers of the reed of the same name.

(24) Jagua: K'ipaar (in Wounaan), Kipar'a (in Emberá): after a handicraft process, the black dye obtained from the fruit of the *Genipa americana* tree is used as a body paint and to dye the fibers of baskets and the ivory nut articles of Panamanian natives.

(25) Nimim (in Emberá), Titiimie (in Wounaan): black dye used by natives for basketwork and ivory nut objects. It is obtained from the *Arrabidaea chica* reed by means of a craft process.

- (26) Nukuata: plant-based cloth manufactured by the Ngöbe natives for making clothes. It is obtained from the bark of the rubber tree (*Castilla elástica*).
- (27) Chir Chir (in Wounaan), Cha (in Emberá): earrings made of silver.
- (28) Choo K'ier (in Wounaan): arrows made by Emberá and Wounaan natives.
- (29) Choo p'o (in Wounaan), Enedruma (in Emberá): bow (throwing weapon used by Emberá and Wounaan natives).
- (30) Hik'oo (in Wounaan), M'ania (in Emberá): bracelets of conical shape made of silver, worn on both hands by Emberá and Wounaan natives.
- (31) H^r rsir: flute: musical instrument used by Wounaan natives in their religious ceremonies.
- (32) Hesapdau: writing, Wounaan alphabet.
- (33) Jait: tool used by the Wounaan for making dugout canoes or pirogues.
- (34) Orejer (in Wounaan). Orej'era (in Emberá): oval-shaped silver earrings used by Emberá and Wounaan natives.
- (35) Sortik (in Wounaan). Sort'ia (in Emberá): ring made of silver, copper or ivory palm seeds.
- (36) Pör sir: type of crown made of gold or another precious metal by Wounaan natives. Used by men who exercise ancestral authority.
- (37) T'ur (in Wounaan), Zokó (in Emberá): large vessel of white clay in which Emberá and Wounaan natives keep their alcoholic and other beverages and water. Also used for cooking.
- (38) Teerjú: bed made of the bark of a palm. This raw material undergoes initial processing, and is used thereafter as a bed by the Wounaan native.
- (39) Taudau: figures carved in ivory palm seeds (*Phytelephas seemannii*), a craft that distinguishes the Wounaan carver.
- (40) Pazadö (in Wounaan), Miaz'u (in Emberá): type of spear used by Emberá and Wounaan natives for hunting.
- (41) P'en sir: toy for Wounaan boys. Type of rattle.
- (42) Pörk'au (in Wounaan), Antougué (in Emberá): Type of bench made of a single tree trunk. Used as a seat or headrest by natives.
- (43) Nangún: one-piece garment made of variously colored fabrics with traditional applications and designs, used by Ngöbe and Buglé women.

- (44) Drü: musical instrument used by the Ngöbe and Buglé people in their ritual activities and traditional entertainments. It is made of material extracted from the vegetation available locally.
- (45) Ka: traditional Ngöbe and Buglé songs used to enliven celebrations, rituals and other activities.
- (46) Picheer (in Wounaan): chest protecting garment, made by mixing glass beads with silver.
- (47) Tamburr (in Wounaan), T'ono'a (in Wounaan): drum.
- (48) P'ip'an (in Wounaan): three-holed flute.
- (49) T'okeemie (in Wounaan), Chir'u (in Emberá): set of minor flutes.
- (50) H^rrsir (in Wounaan). Pi'pano (in Emberá): major flute.
- (51) Haguaserit: music of the Wounaan natives.
- (52) K'ari chipar: Wounaan dances.
- (53) J^di (in Wounaan): sharpening stone.
- (54) U'gu (in Emberá), Patt'er (in Wounaan): blowpipe: reed or tube for firing darts or arrows. Hunting implement whose manufacture involves the cutting of chungá leaves.
- (55) Döt'ur (in Wounaan): pitcher.
- (56) Dear a d'e (in Emberá): traditional Emberá house made of wood and local vegetation.
- (57) Jirab'a (in Emberá): Indian hammock made of lianas, known by the natives as a pinuguilla.
- (58) J'ue por'o (in Emberá), Terjú (in Wounaan): sleeping mat (Esterilla) made by Emberá and Wounaan natives from the bark of the rubber tree.
- (59) Ch'a: arrow made of white cane. Weapon for hunting, propelled with a bow by Emberá natives.
- (60) Jegui: dance of the Ngöbe and Buglé natives.
- (61) Ja Togo Ju Dogwobta: rhythm of a Ngöbe and Buglé song. Song of Mantarraya.
- (62) Noro Tregue (squeezing the flutes): opening song to initiate a dance of the Ngobé and Buglé native peoples.
- (63) Noro: flute: musical instrument used by the Ngobé and Buglé natives.
- (64) Balsería: a sport of the Ngobé and Buglé natives. Practiced on festive occasions.

(65) Amb'ura (in Emberá). P'öcie Cam (in Wounaan): necklace-type ornament worn on the hips by men of the Emberá and Wounaan peoples. Made of beads.

(66) Ne': drawing and artistic skills of the Emberá people.

(67) K'arl: dance. Spiritual performance of the Emberá people.

(68) K'achir'u: bamboo shell used by the medicine men of the Emberá people in their curing ritual.

(69) Boro b'ari: crown made of gold and silver. Used by Emberá women.

(70) K'ewasoso: a craft process that makes use of a local climbing plant and produces a blue dye, which the Emberá and Wounaan use for their baskets and ivory palm work.

(71) J'orop'o: baskets whose manufacture involves the use of the bark and fruit of the "nawala." Indigenous craft of the Emberá and Wounaan peoples.

(72) Nek'a (in Emberá): Basket made by the Emberá and Wounaan natives out of fibers of the chungu leaf (*Astrocaryum standlerianum*) and the "nawala." Characterized by the variegated colors and designs used by the artisans in making them.

(73) Jebdop (in Wounaan): Clay bowl made by Wounaan and Emberá natives.

(74) Sip'inpa (in Wounaan): fishing rod of the Emberá and Wounaan natives.

(75) Pir: works wrought in gold and silver by the Wounaan people. Rings.

(76) Som Dau (in Wounaan): necklaces of beads worn by native Emberá and Wounaan women.

(77) Pa j^g Dee (in Wounaan): perfume extracted from plants.

Article 4. Applications for the registration of collective native rights may be filed with the traditional native authorities where the applicant indigenous community does not have a general congress.

Article 5. Objects eligible for protection may come from two or more indigenous communities, but registration with DIGERPI shall be the responsibility of the congress(es) or traditional native authority (authorities), as the case may be, which meets or meet the prescribed requirements.

Sole Paragraph: The traditional knowledge of indigenous peoples consists of creations shared by the members of several communities, and the benefits are construed as accruing to all of them collectively.

### CHAPTER III

#### REGISTRATION OF COLLECTIVE RIGHTS

Article 6. The application for registration of collective rights shall specify the following:

- that a collective right is involved;
- that it belongs to one of the indigenous peoples of the country;
- the technique used (in the case of an object);
- history (tradition) and brief description; this shall be accompanied by the agreement (or record) constituting the application for registration of the collective right with the departments designated by the Law. The application shall be supported by the inclusion of a copy of the rules of use of the indigenous collective right.

Article 7. The rules of use of the collective right shall be drawn up on a form which shall be manufactured by the Registry, and with which the following particulars and material shall be enclosed:

- (i) the indigenous people or peoples applying for registration of their traditional knowledge or of an object eligible for registration;
- (ii) the general congress(es) or traditional native authority (authorities) filing the application for registration;
- (iii) the indigenous collective right filed for registration; it should be identified by its name and content in the native language, with a literal translation in Spanish;
- (iv) the use or uses that are made of the traditional knowledge or of the object qualifying for protection;
- (v) the history (tradition) of the collective right;
- (vi) the dependent communities and population benefited;
- (vii) a specimen of the traditional object qualifying for registration.

Article 8. The registration authorities designated by the Law shall satisfy themselves, within a period of 30 days of the filing of the application, that it contains all the submissions required under the foregoing Article. Where any required particular or document has been omitted, the general congress(es) or traditional native authority (authorities), hereinafter referred to as “the representative,” of the indigenous people or peoples that have applied for registration shall be informed accordingly, in order that the filing may be completed within a period not exceeding six months following the filing of the application. Following that date they shall file a new application with the documentation in question. Where the submissions required have been made and verified by the authorized national agencies, registration of the collective right applied for shall proceed.

Article 9. The indigenous representative shall file with the Registries authorized by the Law the application for registration of the collective right in respect of each of the objects or all of the traditional knowledge eligible for registration.

Article 10. Appeals against such registration shall be notified in person to the representatives of the collective rights in the manner laid down in Article 7 of the Law, once publication has taken place in the Official Bulletin of Industrial Property (BOPI).

Article 11. Registration of the collective rights in an object or in traditional knowledge shall not affect the traditional exchange of the object or knowledge in question between indigenous peoples.

Article 12. Access to the register of collective rights shall be public, with the exception of the experiments and cognitive processes conducted by the indigenous peoples and the traditional production techniques or methods used.

Nevertheless, registries may publicize statistics and cultural data of interest to educational centers, culture researchers and communal custodians of culture, trade and industry.

Article 13. For the purposes of Article 7 of the Law, and in order to facilitate the registration of the collective rights of indigenous peoples, DIGERPI may send officials from the Department of Collective Rights and Expressions of Folklore to the indigenous communities with a view to gathering the information necessary for the prosecution of such applications for registration as they may wish to file.

Article 14. The Department of Collective Rights and Expressions of Folklore created by the Law shall have the following general objective: to coordinate, develop, guide and register, in a general manner, the work of protecting the collective rights of the holders of traditional knowledge and expressions of folklore.

To that end it shall perform the following functions among others:

- (a) examination of applications filed for the registration of collective indigenous rights and expressions of folklore;
- (b) creation of a manual and an automated archive of traditional knowledge and expressions of folklore, with preference being given to the country, which shall contain registrations (the information permitted by the rules), data, publications, oral transmissions, the practice of traditions and other elements;
- (c) creation of a standardized typology of collective rights and expressions of folklore;
- (d) monitoring of compliance with existing laws relating to the protection of collective intellectual property rights in traditional knowledge and expressions of folklore, and promotion of the enactment of new laws on the subject;
- (e) promotion of the program of intellectual property protection for collective rights and expressions of folklore;
- (f) technical support and training in the field of the intellectual property protection of traditional knowledge and expressions of folklore for the peoples in possession of such knowledge and expressions;
- (g) coordination with domestic and international organizations and agencies concerned with conducting programs for the intellectual property protection of traditional knowledge and expressions of folklore;

(h) close cooperation between our country and others with a view to ensuring, at the international level, the benefits of the pecuniary rights deriving from the registration of the collective rights in traditional knowledge and expressions of folklore of the peoples and the holders of such knowledge and expressions.

## CHAPTER IV

### PROMOTION OF INDIGENOUS ART AND EXPRESSION OF CULTURE

Article 15. For the purposes of Article 10 of the Law, which provides for the development and promotion of traditional indigenous art, handicraft and clothing, those concepts are provided for in Law 27 of July 30, 1997 “Establishing the Protection, Promotion and Development of Handicraft.” With regard to the other cultural expressions of indigenous peoples, and specifically the certification issued by the Directorate General of Handicraft or the Provincial Directorates of MICI, with the consent of the indigenous authorities, recourse shall be had to the advice and assistance of the National Directorate of Historical Heritage of the National Institute of Culture (INAC), authorized by Law No. 14 of May 5, 1982 Enacting Measures on the Custody, Conservation and Administration of the Historical Heritage of the Nation.

The certification of the artistic work, garment, craft work or other subject matter protected by industrial property shall be issued by the Directorate General of National Handicraft (DGAN) of the Ministry of Commerce and Industry (MICI) and shall attest that the subject matter is:

- (i) a work of indigenous traditional art or handicraft;
- (ii) handmade by natives.

## CHAPTER V

### RIGHTS OF USE AND MARKETING

Article 16. For the purposes of Article 15 of the Law, the rules of use of each indigenous people shall be submitted to the authorized Registries together with the filing of the application for registration of collective rights in respect of each of the objects and all of the traditional knowledge eligible for protection.

## CHAPTER VI

### PROHIBITIONS AND SANCTIONS

Article 17. For the purposes of Article 20 of the Law, the Ministry of Commerce and Industry, with the express prior consent of the general congresses, traditional authorities and councils, shall authorize industrial reproduction, either total or partial, under the registered collective rights. That authorization shall be issued by the Directorate General of National Handicraft of MICI, responsible for the promotion and development of handicraft, after the Registries authorized by law have studied and analyzed the submissions by the owners of the registration, which, in addition to the express consent and the application itself, the following documentation:

- (a) a record of the agreement or express authorization of the congress, indigenous authority or, failing that, the indigenous council that is holding the registered traditional indigenous



knowledge, which shall specify that the use of the collective rights shall be licensed to third parties by contract;

(b) a copy of the license contract for use of the registered collective rights;

(c) the identity of the representative(s) of the congress(es) or indigenous authority (authorities) of the indigenous community (communities) holding the registered traditional knowledge or expression of folklore, who have signed the contract;

(d) the identity of the other parties to the contract and of their representatives;

(e) the use that is to be made of the traditional knowledge or expression of folklore.

Article 18. A license contract for the use of collective rights shall be registered only where the following requirements have been met:

(a) identification of the parties;

(b) description of the registered collective rights to which the contract relates;

(c) specification of the royalties that the indigenous peoples will receive for the use of the collective rights; those royalties shall include an initial payment or some form of immediate, direct compensation to the indigenous peoples, and a percentage of the value of the sales resulting from the marketing of products developed on the basis of the said collective rights;

(d) provision of sufficient information on the purposes, risks and implications of the activity concerned, the periods of use, including possible uses of the collective rights, and the value thereof where applicable;

(e) the obligation on the licensee to give a periodical account to the licensor, in general terms, on the progress made in research and industrialization and the marketing of the goods developed on the basis of the licensed collective rights; where the contract contains a reserved rights obligation, that fact shall be expressly stated.

Article 19. License contracts for use shall be entered in a register kept for the purpose by DIGERPI.

Article 20. The Registry shall satisfy itself, within a period of 30 days from the filing of the application, that the said application embodies all the data and documents specified in Article 17 of the relevant legislation. Where an omission has occurred, the person applying for the registration shall be informed so that the application may be completed within a period of six months, subject to a warning that otherwise it shall be considered abandoned.

Article 21. The license for the use of the collective rights of an indigenous people shall not prevent that people from continuing to use it in the indigenous communities that possess the traditional knowledge, neither shall it affect the right of present and future generations to continue to use it and develop it on the basis of the collective knowledge. The license likewise shall not prevent other peoples that hold the same registered collective rights, but have not signed the contract, from licensing them.

Article 22. Sublicensing may only take place with the authorization of MICI and the express prior consent of the owner or owners of the registered collective rights who meet the requirements prescribed in Article 1 of the Regulations.

Article 23. The Registries shall, ex officio at the request of one of the parties to the contract, cancel the license for the use of collective rights, after the parties concerned have been heard, where:

- (a) it has been granted in violation of any of the provisions of this enactment;
- (b) it has been granted on the basis of false or inaccurate data contained in the application which are essential.

Article 24. The request for cancellation of a registration shall specify or submit, as the case may be, the following:

- (a) identity of the party requesting cancellation;
- (b) identity of the representative;
- (c) registration of the collective rights of which the cancellation is requested;
- (d) a statement of the grounds for the action;
- (e) evidence proving the reasons submitted for the cancellation;
- (f) domicile of the representatives;
- (g) copy of the instrument or agreement by which the congress or indigenous authority or Council of Elders has revoked the license contract for use.

Article 25. The file shall be submitted for settlement within a period of 30 days.

Article 26. For the purposes of Article 23 of the Law, artisans who are not natives of Tolé, Remedios, San Félix and San Lorenzo in the province of Chiriquí who devote themselves to the production of replicas of traditional indigenous handicraft shall carry an artisan's identity card issued by the Directorate General of Handicraft of MICI, and shall in addition print, write, fix or otherwise identify on every work or product, clearly and in a visible place, the place of origin, as provided in Articles 18, 19 and 20 of Law No. 27 of July 30, 1997.

## CHAPTER VII

### FINAL PROVISIONS

Article 27. MICI, acting through the Directorate General of Handicraft, shall issue permits and authorizations to non-indigenous artisans who are registered and hold the artisan's identity card and devote themselves to the development and production of replicas of traditional indigenous handicraft at the time of the entry into force of the Law. To that end the Directorate General of National Handicraft shall send the list of authorized artisans to the congresses, Councils of Elders or traditional indigenous authorities.

Article 28. This Decree shall enter into force on its promulgation.

The foregoing shall be published and implemented.

JOAQUIN E. JACOME DIEZ MIREYA MOSCOSO  
Minister of Commerce and Industry President of the Republic