

## **Committee on Development and Intellectual Property (CDIP)**

### **Twentieth Session**

**Geneva, November 27 to December 1, 2017**

### **SUMMARY OF THE STUDY ON THE USE OF INTELLECTUAL PROPERTY IN COLOMBIA**

*prepared by the Secretariat*

1. The Annex to this document contains a summary of a study on the use of intellectual property in Colombia. The study ([http://www.wipo.int/econ\\_stat/en/economics/studies/](http://www.wipo.int/econ_stat/en/economics/studies/)), originally in Spanish, has been undertaken in the context of the Project on Intellectual Property and Socio Economic Development - Phase II (CDIP/14/7).
2. The study has been prepared by Mr. Juan Pablo Herrera-Saavedra, *Superintendencia de Industria y Comercio*, Colombia, Ms. Marcela Orjuela Ortiz, Consultant, Colombia and Mr. Juan Camilo Villar Otálora, Consultant, Colombia, in collaboration of Mr. Edwin Cristancho Pinilla, Mr. Oscar Eduardo Salazar, and Ms. Maria Piedad Villaveces.
3. *The CDIP is invited to take note of the information contained in the Annex to the present document.*

[Annex follows]

## THE USE OF INTELLECTUAL PROPERTY IN COLOMBIA

In 2014, the Colombian government requested the World Intellectual Property Organization (WIPO) to be part of the Project Intellectual Property and Socioeconomic Development – Phase II (CDIP/14/7) implemented under the Committee on Development and Intellectual Property (CDIP).

Between 2004 and 2008, Colombia devised a National Strategy of Intellectual Property (*Plan Estratégico Nacional de Propiedad Intelectual*, PENPI). This strategy redesigned the country's IP policy framework. Amongst others, it created the *Comisión Intersectorial de Propiedad Intelectual* (CIPI) and implemented many new IP-related policies (CONPES, 2008). In this context, the Colombian government required a country study to assess the outcomes of these and future reforms on the use of the Intellectual Property (IP) system.

From July 2014 to September 2017, WIPO conducted a country study in collaboration with the Colombian government. This document summarizes the implementation and main outcomes of the study.

### OBJECTIVES

The main objective of the country study was to assess statistically the use of IP in Colombia and generate the technical capability to analyze the impact of IP policies.

The study responded also to the specific technical demand for the development of economic and statistical tools to continuously monitor and assess the impact of IP and innovation policies.

### COORDINATION AND EXECUTION

The study implementation required the coordination between several Colombian government agencies and WIPO. In WIPO, the Economics and Statistics Division (ESD) was the technical focal point and received coordination support from the Regional Bureau for Latin America and the Caribbean (LAC).

In Colombia, the *Ministerio de Relaciones Exteriores* (MRE) – represented by the Permanent Mission of Colombia to the United Nations and other international organizations in Geneva, was the direct project counterpart in Geneva and the *Departamento Nacional de Planeación* (DNP) was in charge of the coordination with all the national agencies in Colombia.

The *Superintendencia de Industria y Comercio* (SIC) and the *Dirección Nacional de Derechos de Autor* (DNDA) were the lead agencies for the technical execution of the project. Local consultants provided technical inputs under the supervision of WIPO-ESD, SIC and DNDA. The *Instituto Colombiano Agropecuario* (ICA) and the *Departamento Administrativo Nacional de Estadística* (DANE) also provided data and technical support.

In addition, the above and following government agencies provided comments during the execution of the study: *Comisión Intersectorial de Propiedad Intelectual* (CIPI), *Ministerio de Comercio, Industria y Turismo* (MinCIT), *COLCIENCIAS*, *Observatorio de Ciencia y Tecnología* (OCyT) and *Ministerio de Salud y Protección Social* (MSPS).

## METHODOLOGICAL DESIGN

The implementation of the study was divided into four components: (i) a review of the specific IP related policies put in place since the implementation of the PENPI in 2008; (ii) the creation of a comprehensive IP database for statistical use; (iii) the economic and statistical analysis of the use of IP; and (iv) the local mainstreaming of database maintenance and further analysis.

### Review of IP related policies

Under the supervision of DNP and WIPO-ESD, a local consultant conducted a review of the specific IP related policies put in place since the implementation of the PENPI. The review aimed at establishing in detail how the six main strategies in PENPI – containing 38 policy recommendations – were implemented as concrete actions and under which timeline. DNP coordinated with other government agencies to obtain updated information on the formulation and implementation of IP related law and policies. The final review was shared internally amongst the study partners and used as an input for the remaining of the study.

### Creation of IP database for statistical use

Under the supervision of DNP, SIC, DNDA and WIPO-ESD, a local technical team was constituted to develop the first IP database for statistical use in Colombia. The technical team constituted of SIC staff of the *Grupo de Estudios Económicos* (GEE) and two local consultants, working in the SIC and DNDA premises, respectively. SIC, DNDA, ICA and DANE provided access to and technical support about their specific data collections.

The technical team compiled a statistical database from IP unit-record bibliographical information for all IP filings available in the SIC, DNDA and ICA. This novel database enables multiple in-depth analyses of the use of IP in Colombia. The next component describes one such analysis. But the database can be used for future investigations and for continuously monitoring and assessing the impact of IP and innovation policies, beyond the study work performed in the current study.

The database includes unit-record information about patents, utility models, industrial designs, trademarks, geographical indications, copyrights registrations, and copyright related contracts. The IP filing records in the database were linked to an industry classification. It also contains unique identifiers for the entities applying for IP protection. This feature allows linking the IP data to other Colombian economic and statistical sources.

Currently, the SIC is the technical agency in charge of hosting and maintaining this database. Within the SIC, the GEE hosts the competences to perform the related technical activities of maintaining and analyzing the data.

## Economic and statistical analysis of the use of IP

Under the supervision of DNP, SIC, DNDA and WIPO-ESD, the local technical team and the economists from GEE elaborated the first report on the use of IP in Colombia. The main source for the analysis was the database specially created for the country study.

The report applies a descriptive statistics methodology for the analysis of the use of IP in Colombia. This approach is equivalent to the one used in similar publications such as the World Intellectual Property Indicators (WIPI) or the country studies Brazil and Chile from the first phase of the same CDIP project (CDIP/5/7).

The report was reviewed at several steps during the study implementation. First, DNP, SIC, DNDA and WIPO-ESD reviewed jointly the report along its preparation. Second, the report was shared with relevant stakeholders for comments and review, such as ICA, DANE, CIPI, MinCIT, *COLCIENCIAS*, OCyT and the MSPS. Last, a Colombian scholar from the University of Sussex performed an external review.

## Mainstreaming the project nationally

In order to respond to the demand for tools to continuously monitor and assess the impact of IP and innovation policies, DNP, SIC, DNDA and WIPO-ESD assessed the requirements for mainstreaming the project's activities into regular activities of the different Colombian stakeholders.

For the time being, the SIC will host and maintain the current database. The DNP will continue to take the lead in coordinating with other stakeholders to update and extend the data. The DNP, SIC, DNDA and any other concerned agency will analyze the needs and feasibility to promote the database and undertake new economic analysis. They will also formalize, as they deem necessary, the rule of use and access of the generated data.

## IMPLEMENTATION TIMELINE AND MAIN ACTIVITIES

The Colombian government requested the country study to WIPO in October, 2013. WIPO-ESD assessed the technical viability of the study and agreed in consultation with the Colombian government a country study project.

The study formally started in July, 2014, with a launch and fact finding mission to Bogota, Colombia. The mission included an information sharing workshop with the participation of all the government agencies involved in the project and several other stakeholders, such as academia and members of the private sector.

Following the launch of the study, the main activities were to coordinate data access with the agencies, constitute the technical team – including recruiting the local consultants – and produce the substantive work. The evolution of these activities was jointly assessed in a mission to Bogota, Colombia in February, 2016. The main purpose of the mission was the mid-study review gathering all involved agencies to comment on the study implementation and preliminary results.

Following the mid-study review, the main activities were to coordinate the remaining data access, finalize the substantive work – including the drafting of the report – and perform the external review. The study work was officially concluded with a mission to Bogota, Colombia in September, 2017. The main purpose of the mission was to jointly present the results to the local audience and to discuss with the local partners the mainstreaming and future study activities.

## LESSONS LEARNED

The country study was generally implemented according to the initial scope and timeline established during its design. However, there were challenges faced during its implementation from which lessons can be extracted for future studies. The challenges and takeaways are discussed along the study's four components.

During the review of the specific IP related policies, two main challenges were encountered. First, given the amount and broad reach of the 38 policy recommendations, the review required the interaction with many government agencies and several units within these. Second, most of the concrete policy implementation of these recommendations – either by nature or design – did not provide a quantitative indicator of its coverage – i.e. audience and span – or its assessed impact. These two challenges combined made it very difficult to establish a quantitative analysis of these and the use of IP. In the future policy design, it would be advisable to establish – whenever possible – some degree of quantitative monitoring of the policy implementation.

During the creation of a comprehensive IP database for statistical use, a main challenge faced concerned the typical mismatch between the IP data contained in the production databases of IP offices and the data needed for economic and statistical analysis. This is also apparent in the mismatch of technical competences between the IP and IT information specialists taking care of the production data and the economists and statisticians producing the analysis. Typically, the former seem not to understand the data needs for analysis, while the latter lack the in-depth understanding of the IP instruments and processes generating the data. Such mismatch can be mitigated by having the economists and statisticians working at the IP offices, which increases the interactions between these two groups of specialists. In this case, the SIC already had an economics unit, the GEE, which was instrumental for the implementation of the study.

During the preparation of the economic and statistical analysis of the use of IP, the main challenge related to the IP data coverage of the underlying economic activities. The limitation of patent data to capture innovative activities is well-known and documented in the economic literature. The coverage of design and branding activity by industrial designs and trademarks is less known. Regardless, this is less of a problem because patent, industrial design and trademark data do cover most of the activity relating to the use of these systems. This is less the case for copyrighted work, where a substantial amount of these it is not formally registered at DNDA. Each creative industry's preference to use formal registration of copyrights is less known and the study provided a first systematic approach to the topic. However, complementary study work is needed to provide a complete understanding of the use of the copyright system.

Finally, the assessment of the local mainstreaming of the study showed several potential challenges concerning the legacy and future of the study. A successful mainstreaming of the project will require that the competences generated during the study implementation are maintained. In this sense, it is crucial that current technical partners and new stakeholders –

e.g. from other agencies or academia – exploit the database produced during the study in subsequent analyses. It is equally important that the methodology developed during the study implementation and the technical competences acquired by the IP office staff and local consultants are maintained or extended.

## SUMMARY OF THE COUNTRY STUDY ECONOMIC AND STATISTICS RESULTS<sup>1</sup>

The country study analyses the use of IP in Colombia for the period from 2000 to 2016. It provides an in-depth description of the use of patents, utility models, industrial designs, trademarks, plant varieties, geographical indications and other IP instruments. The analysis is broken down by origin of applicant, industry and Colombian sub regions. The study also compares Colombia's national performance in the context of other Latin American countries.

The main trend is that the use of IP in Colombia has increased during the period 2000-2016. This is the case for applications for patents, utility models, industrial designs, trademarks, copyrights and plant varieties.

More than 90% of patent applications originate from non-residents, mostly from the United States, Germany, Switzerland, Sweden and France. 86% of these non-resident patent applications are filed through the PCT system. At the national level, 46% of the resident patent applications originate from Bogotá D.C., followed by Medellín (14%), Cali (7%), Bucaramanga (4%) and Barranquilla (3%).

Conversely, 92% of utility model applications originate from residents. Within Colombia, 54% originates from Bogotá D.C., 13% from Medellín, 8% from Cali, 2% from Manizales and 2% from Barranquilla.

Almost two thirds of industrial design applications originate from non-residents, mostly from the United States, Japan, France, Brazil and the Netherlands. More than half of resident applications concentrate in Bogotá D.C., followed by Medellín (16%), Yumbo (6%), Cali (4%), and Sabaneta (2%).

Almost 60% of filings for trademark and other distinctive sign protection originate domestically, where Bogotá D.C. concentrates more than half of these. The United States accounts for most of the trademark and other distinctive sign applications among non-residents, followed by Germany, Spain and France.

Bogotá DC also concentrates more than half of the domestic registrations for copyright protection. It is followed by the departments of Antioquia and Valle del Cauca. Most non-resident registrations come from Australia, Argentina, Chile, Ecuador, Spain, the United States, Mexico and Venezuela. In all cases, unpublished literary works were the most frequent type of work being registered.

Non-resident applicants originate 89% of the filings for plant variety protection. The Netherlands is the top origin, concentrating 49% of all plant variety applications. 82% of the filings relate to flowers species. Rose varieties are the most frequent species seeking protection in Colombia, totaling 645 applications. In contrast, only 19 coffee varieties were filed in the same period.

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<sup>1</sup> The full study can be found at: [http://www.wipo.int/econ\\_stat/en/economics/studies/](http://www.wipo.int/econ_stat/en/economics/studies/).

The report also estimates the use of IP by economic activity. According to this classification, the main sectors concentrating filings for new creations during the period were *machinery for mining and construction, pharmaceutical products, chemicals, synthetic rubber and agricultural support activities*. The main sectors making use of the trademark system were *rubber, commercialization of electric power, organization of events and pharmaceutical products*. Finally, the main sectors making use of the copyright registry were *literary creation, music creation, visual arts creation, sound recording and music publishing, computer systems, publishing and audiovisual creation*.

In the international comparison with other Latin American countries, the use of IP per 100 thousand inhabitants reveals that Colombia only leads in the use of copyright and utility models. In contrast, Colombia appears behind other countries in all the other IP indicators.

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