



## TRADITIONAL CULTURAL EXPRESSIONS AND IP



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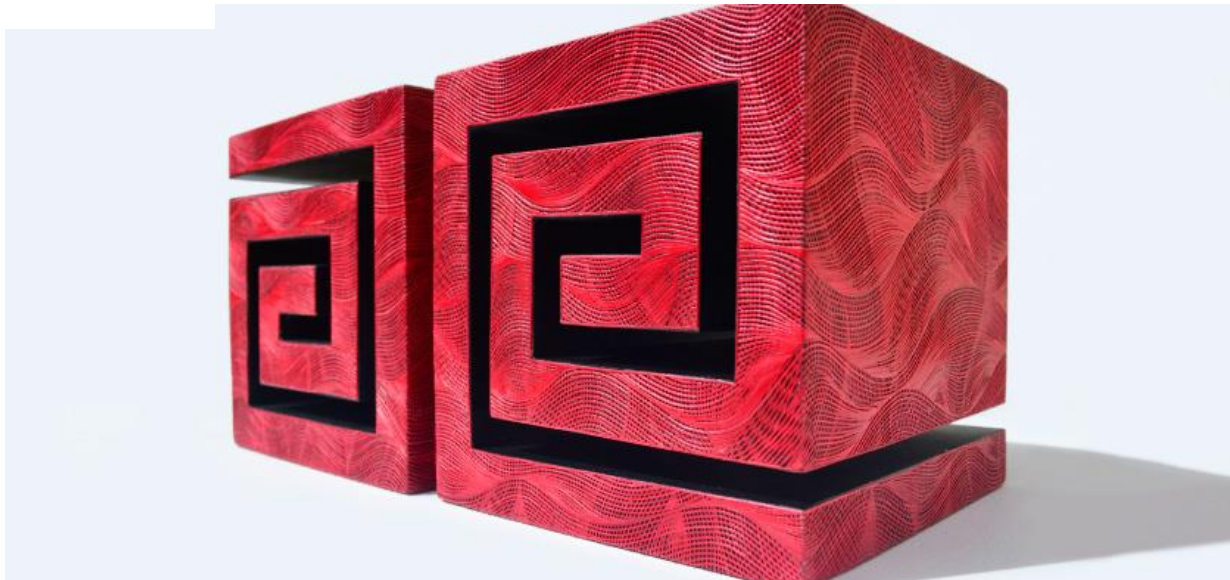
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# Colombian Experiencias



Transparencia y  
acceso a la información



# Colombian Experiencias



# Colombian Experiencies

Andean Community 486/00.  
“An appellation of origin shall be understood to be a geographical indication... refers to a particular geographical area... use to designate a product of originating therein the quality, reputation or other characteristics...”



# Colombian Experiencias



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- Challenges
  - ❖ Lack of economic resources
  - ❖ Compliance in a multilateral level
  - ❖ Not all TCE are subject to Appellation of Origin
  - ❖ Secret and sacred TCE





# Characteristics of Intangible Cultural Heritage relevant to IP

- Convention 2003 ICH
  - ❖ practices, representations, expressions, knowledge, skills
  - ❖ That communities, groups, and in some cases individuals
  - ❖ Recognize as part of their cultural heritage
  - ❖ Transmitted from generation to generation
  - ❖ Constantly recreated by communities and groups
  - ❖ Provides them with a sense of identity and continuity
  - ❖ Promoting respect



# Expressions

- ❖ Cultural Expressions that reaffirm identity
- ❖ Reflect essential elements from knowledge and traditions
- ❖ They are collective and dynamic
- ❖ Have protocols based on traditions



# Safeguarding

- ❖ Measures aimed at ensuring the viability of the intangible cultural heritage
- ❖ Including the identification, documentation, research, preservation, protection, promotion, enhancement, transmission



# Intellectual Property and y TCE

- ❖ Holders from TCE are collective: groups and communities
- ❖ On its creative process many generations are involved
- ❖ TCE are not subject to any formality
- ❖ They can be secret, sacred and publicly accessible
- ❖ key elements from TCE are not included in copyrights, trademarks, patents and in various forms of intellectual property



# Legal Framework in Colombia

❖ Art. 7 Political Constitution *“The state recognize and protects the ethnic and cultural diversity of the colombian nation.”*

❖ Convention UNESCO 2003 ICH

❖ Convention UNESCO 2005 CD

❖ Andean Decision 486/00 Art. 3

*“Member countries shall ensure that the protection conferred on the various forms of industrial property shall be granted in such a way as to safeguard and respect their biological and genetic heritage and also the traditional knowledge of their indigenous, Afro-American or local communities ”*

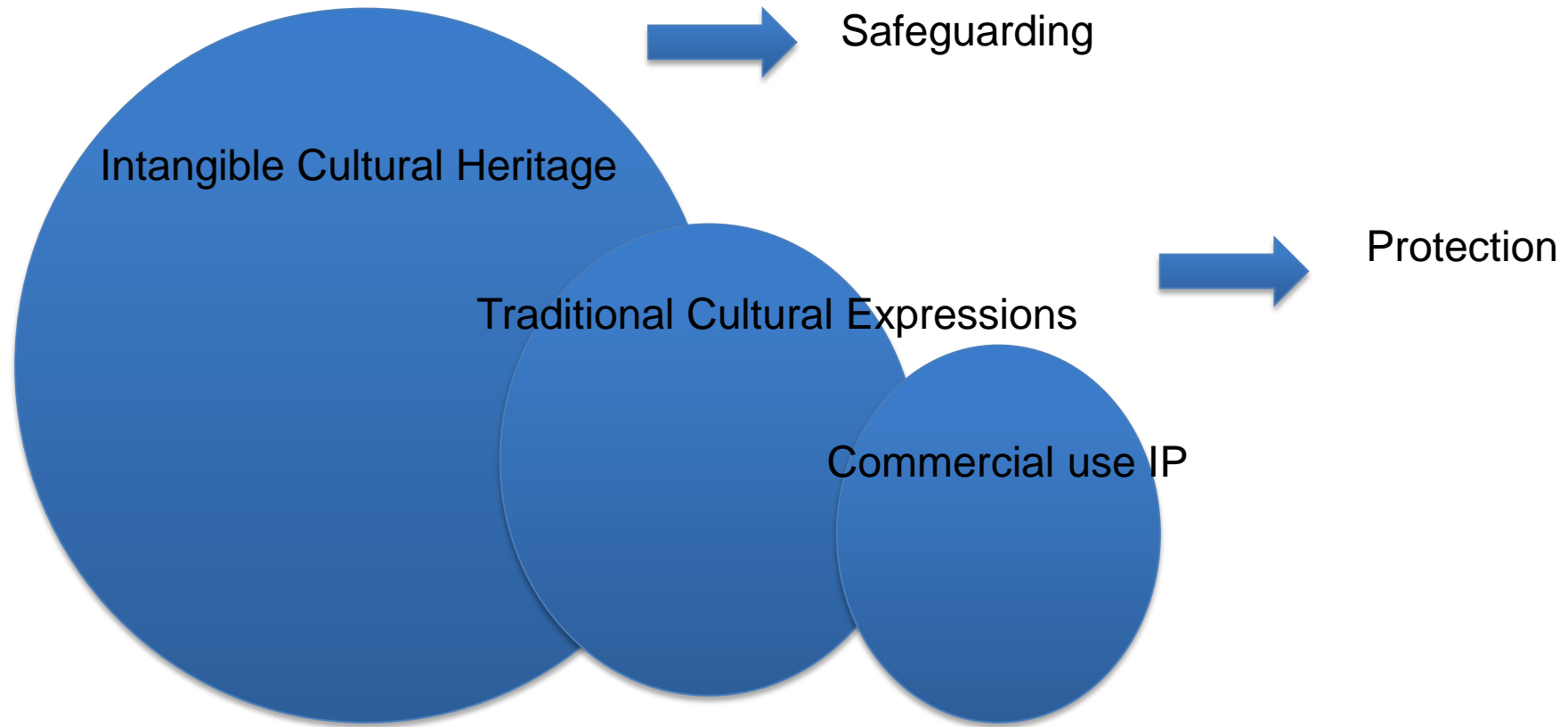


# Approach Traditional Cultural Expressions from IP view

- ❖ ¿What rights and interests do we want to protect?
- ❖ ¿Rights protected by intellectual property system, do they share the scope of protection with TCE?
- ❖ Need for a sui generis protection, multilateral agreement on TCE from IP view supportive with safeguarding instruments.
- ❖ In a globalized world where innovation and creativity framework is important, TCE would contribute to the commercial use, it is mandatory an instrument providing tools for local communities, indigenous people and other groups to protect their TCE .



# Approach Traditional Cultural Expressions from IP view



# Key Policy issues on IP and Traditional Cultural Expressions

## ❖ TCE protection from IP view:

- Recognition local Communities and indigenous people
- Participation
- Respect





# THANK YOU



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