

INTELLECTUAL PROPERTY AND CULINARY TRADITIONS IN PERU¹

*"The kitchen was where we were able to show the world what is possible when we
celebrate our differences without fear."*

Gastón Acurio

Contents

Introduction 4

I. General framework for the protection of intellectual property in Peru	10
1.1. Applicable standards	10
1.2. Institutional framework.....	24
1.3. Competitiveness and the tourism sector	25
1.4. Intellectual property in the food industry	30
II. Intellectual property tools for generating value for Peruvian traditional dishes.	32
2.1. Traditional dish from the Lambayeque region: “Cabrito”	33

¹ Document drafted by Luis Alonso García Muñoz Nájjar, with the support of Andrea Alexandra Jiménez Garay.

2.1.1.	Identification of products and ingredients and intellectual property tools	34
2.1.2.	Identification of supply and provision and intellectual property tools.....	50
2.1.3.	Identification of locations for placement and distribution of the traditional dish and intellectual property tools	54
2.2.	Traditional dish from the Arequipa region: “Ocopa”	57
2.2.1.	Identification of products and ingredients and intellectual property tools....	58
2.2.2.	Identification of supply and provision and intellectual property tools.....	61
2.2.3.	Identification of locations for placement and distribution of the traditional dish and intellectual property tools	62
2.3.	Traditional dish from the Lima region: “Ají de Gallina”	66
2.3.1.	Identification of products and ingredients and intellectual property tools....	67
2.3.2.	Identification of supply and provision and intellectual property tools.....	68
2.3.3.	Identification of locations for placement and distribution of the traditional dish and intellectual property tools	69
2.4.	Traditional dish from the Tacna region: “Picante a la Tacneña”	72
2.4.1.	Identification of products and ingredients and intellectual property tools....	73
2.4.2.	Identification of supply and provision and intellectual property tools.....	77
2.4.3.	Identification of locations for placement and distribution of the traditional dish and intellectual property tools	80
2.5.	Traditional dish from the Cusco region: “Cuy Asado”	83
2.5.1.	Identification of products and ingredients and intellectual property tools....	84
2.5.2.	Identification of supply and provision and intellectual property tools.....	86
2.5.3.	Identification of locations for placement and distribution of the traditional dish and intellectual property tools	86
2.6.	Traditional dish from the Loreto region: “Juane”	89
2.6.1.	Identification of products and ingredients and intellectual property tools....	89
2.6.2.	Identification of supply and provision and intellectual property tools.....	90
2.6.3.	Identification of locations for placement and distribution of the traditional dish and intellectual property tools	91
Final comments		96

Introduction

The present work is the result of an assignment made possible under the framework of a project administered jointly by the National Institute for the Defense of Competition and the Protection of Intellectual Property (INDECOPI) and the World Intellectual Property Organization (WIPO) and seeks to determine the points where Intellectual Property (IP) and traditional dishes in Peru can interact. Its goal is to identify those elements of the IP legal system that could be used as strategic tools for the promotion and strengthening of traditional Peruvian dishes and their value chains and, in so doing, succeed in having a positive effect on the culinary tourism sector in Peru.

The contributions afforded by the present study are founded on the results of the Exploratory Study entitled “Intellectual Property and Gastronomic Tourism in Peru and Other Developing Countries: Promoting the Development of Gastronomic Tourism through Intellectual Property”;² and also on the contributions received through communications with representatives of the Peruvian culinary ecosystem, of which six traditional dishes hailing from different parts of Peru were selected for comparison with the IP system.

The methodology used is centered on the common thread running through the three anchor points in the value chains of the traditional dishes selected. Those points are: (i) product or ingredient; (ii) supply or provision; and (iii) placement and distribution.

The first anchor point is the product or ingredient, which is the basis for the preparation of traditional dishes, and, depending on the nature of the constituent parts and how they are obtained, gathered, captured or processed, has certain associated activities. These can include artisan or traditional methods or, in certain cases, industrial processes that transform the

² Prepared by consultant Carmen Julia García Torres (Lima, 2020).

product or ingredient. This area also considers the tools and utensils used, as well as the role that they play, in connection with the various traditional dishes.

Further along the chain, there is supply or provision. This is understood to be the collection of activities or operations involved in providing the raw materials or main ingredients that will allow for the realization and execution of traditional dishes. These include the distribution process and its various connections in networks and chains, such as markets, warehouses, commercial premises, and traders.

The end point in the value chain involves activities that introduce the traditional dish to the diner, customer, or tourist by using various mechanisms to promote the culinary product and service offerings. This area is also where producers and sellers of traditional dishes can connect with consumers at the appropriate time and place and through the appropriate means. Importantly, it is also where thought can be dedicated to the possible forms in which a culinary good or service can reach the end consumer, whether that be in the form of a dish, a recipe, or a general culinary experience.

Each of the stages in the value chain for each traditional dish contain a good dose of creative content that is respectful and appreciative of ideas and know-how; after all, local cuisine is part of the culture of a people, a nation, and, ultimately, of the world.

We can see that culinary activities perform an important role, comprising an industry that boosts the visibility of national tourist destinations, strengthens the identity of areas connected to particular traditional dishes, and facilitates the distinction between different local cultures. This is all manifest in the various tourist experiences in a country, which can grow to the point of wielding significant economic influence. In addition, culinary activities can create opportunities for less developed sectors and realize the potential of areas far removed from cities and trade in a way that even their own local inhabitants had not considered possible.

Tourism in Peru is an important and valuable activity that has a competitive advantage over the tourism industries in other countries owing to factors including its biodiversity, ancient cultural heritage, phenomenal archeological sites, history, natural beauty, cultural diversity, and wealth of culinary variety.

However, at a time when business models are changing constantly, especially as a result of digitalization and the internet, the tourist as consumer is also changing constantly. These changes can be seen primarily in relation to the tastes, experiences and motivating factors that determine new consumption patterns, which, for the tourism sector and any related economic activities – including gastronomy – represent new opportunities to capture larger shares of the market, but also significant risks in the event that attempts to do so fail or are not quick enough.

Tourism and gastronomy are undeniably an important part of the national economy; it is therefore key to consider the importance of food and traditional dishes in Peruvian culture, both of which are valued highly by visitors.

The use of innovative tools is therefore crucial to build attractive offers for visitors and tourists who are looking to experience and come to know the various national, regional and local identities through their myriad manifestations and representations, one of which is cuisine.

In this context, the industry managing Peru's traditional dishes needs to reorient itself towards more competitive structures. Knowing how to communicate in order to successfully influence consumer preferences is essential.

If a country's cuisine is to be used to attract tourists, a competitive strategic vision is key, as competition between destinations and tourist products – including cuisine – is stiff. Other countries and cities in the world are competing, both domestically and internationally, to capture and attract the highest number of tourists.

Peru needs to strategically harness its tourism potential. Its imposing landscapes, ancient cultures and traditions, extraordinary archeological sites, vibrant cities and, most of all, its people and its food are among its many attractions for various forms of tourism.

Globalization and other features of the modern world offer great opportunities, but they also come with trends, such as the standardization of the production and consumption of food, that pose threats to traditional dishes. In the face of these trends, what is needed is an appropriate strategy that reaffirms the value of the essential components of traditional dishes and ensures that that value is seen and understood. By essential components, we mean ingredients, the history of those ingredients, the tradition behind a dish, ancestral knowledge and, most importantly of all, the people behind it all.

The present work puts forward a proposal for the strategic use of elements of IP, demonstrating how the IP system can support the successful offering of products and services with identity.

IP can be used within the value chain to help consumers to identify and recognize traditional Peruvian dishes. The added value of a traditional dish is only made manifest where it is visible and considered as such by the consumer or the tourist.

This differentiation can be achieved through using legal instruments aimed at encouraging business growth, and also communicating in an appealing way to the customer exactly what lies behind a product or service and why it is special.

Peruvian food is the product of five thousand years of history, which encompasses pre-Incan and Incan cultures, contributions from colonial and republican societies and also additions from modern-day trends in global cuisine. Improving conditions for culinary tourism will result in a greater pull for tourists and visitors; new investment in places experiencing development; an increase in jobs and tax revenue; increased awareness of local cultures; increased technical knowledge sharing; and the creation of a positive image for the area and

region in question; all while preserving or breathing new life into local culture through tourist activities.³

It is relevant to make note in this document of the fact that, as work was beginning on the present assignment, the COVID-19 pandemic hit, wreaking havoc in Peru and the rest of the world.

The health crisis was followed by the economic crisis. The latter was triggered by the various restrictions on movement and social isolation, which, in addition to strict health protocols, completely halted economic activities relating to the culinary and food production sectors. According to a publication by San Ignacio de Loyola University, in November 2020 the pandemic had caused “the closure of at least 100,000 restaurants in Peru”. The article added that “data gathered by the National Chamber of Tourism of Peru (Canatur) indicate that before the pandemic over 200,000 restaurants were in operation, providing work for over one million people nationally but, of those, 50% of small businesses have had to close”. Finally, citing the Peruvian Association of Hotels and Restaurants (Ahora Peru), it adds that “between March and May 2020, income worth over USD 700 million was lost by formal food establishments alone”.⁴

In February 2021, activities were beginning to start up again; Reuters reported that “renowned chefs are now serving their haute-cuisine dishes, garnished with exotic native herbs, through home delivery, a service that they say represents only 15% of their earnings”.⁵

The intention of the present work was to conduct field, the aim being to spend time with actors involved in the traditional dishes selected with a view to understanding, investigating, and identifying the elements that would make up the value chains structured according to the

³ Rúbia Mascarenhas, “Producción y transformación territorial: La Gastronomía como atractivo turístico”, in *Estudios y perspectivas en turismo*, Vol. 19, No. 5 (2010).

⁴ San Ignacio de Loyola University, “100 mil restaurantes cerraron en Perú por la pandemia”, November 2020, available at <https://www.usil.edu.pe/noticias/100-mil-restaurantes-cerraron-en-el-peru-la-pandemia>.

⁵ Maria Cervantes, “Afamada gastronomía peruana agoniza en deudas, chefs piden rescate por pandemia del COVID”, Reuters, February 2021, available at <https://www.reuters.com/article/salud-coronavirus-peru-gastronomia-idLTAKBN2AH1VB>.

three stages, with many of those chains based in different regions of Peru. The goal was then to successfully determine how IP tools could feature in bringing in business to traditional Peruvian cuisine.

COVID-19 prevented that field work from happening. However, an attempt is made in the lines below to offer a theoretical analysis of the spaces where IP could play a strategic role within the various activities relating to Peruvian cuisine.

Finally, tribute is paid through this document to all of the Peruvian entrepreneurs in the food and catering business for their constant endeavors in the face of adversity to survive and rejoin the path to success, now, in this so-called new normal.

I. General framework for the protection of intellectual property in Peru

1.1. Applicable standards

The Political Constitution of Peru of 1993 protects, under article 2.8, the right to freedom of intellectual, artistic, technical, and scientific creation, as well as property on such creations and to any benefit derived from it.⁶

IP protection is divided into two categories: (i) the protection of **Industrial Property**, which, in turn, is separated into new creations and distinctive signs; and (ii) the protection of **Copyright** and **neighboring rights**.

The protection of **Industrial Property** extends across all sectors of an economy, including scientific and industrial fields, and offers incentives for the production of creations of the mind. Any natural person or legal entity organized in line with any of the forms permitted by Peruvian legislation, whether resident in Peru or not, can access the protection afforded by those rights.

To date, the following elements⁷ constitute Industrial Property:

- (i) patents for inventions;
- (ii) protection certificates;
- (iii) utility models;
- (iv) industrial designs;

⁶ **Article 2 – Fundamental Rights of the Person:**

Every person has the right:

8. to freedom of intellectual, artistic, technical and scientific creation, as well as to property on such creations and to any benefit derived from it. The State promotes access to culture and encourages its development and dissemination.

⁷ Through **Legislative Decree No. 1397, Geographical Indications and Traditional Specialities Guaranteed** were included as elements of IP and considered as “tools capable of adding value to Peru’s traditional products and products of origin, thereby increasing their competitiveness on the national and international markets”.

- (v) trade secrets;
- (vi) layout-designs of integrated circuits;
- (vii) trade and service marks;
- (viii) collective marks;
- (ix) certification marks;
- (x) trade names;
- (xi) slogans;
- (xii) appellations of origin
- (xiii) geographical indications; and
- (xiv) traditional specialities guaranteed.

Regulations governing **Industrial Property** include the following **International Instruments**, which are recognized by the State of Peru:

- (i) Paris Convention for the Protection of Industrial Property;
- (ii) Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS);
- (iii) General Inter-American Convention for Trade Mark and Commercial Protection (Washington Convention);
- (iv) Lisbon Agreement for the Protection of Appellations of Origin and their International Registration, and its Regulations;
- (v) Trademark Law Treaty (TLT);
- (vi) Singapore Treaty on the Law of Trademarks (STLT);
- (vii) Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure;

- (vii) Patent Cooperation Treaty (PCT); and
- (viii) International Convention for the Protection of New Varieties of Plants, International Union for the Protection of New Varieties of Plants (UPOV Convention).

In addition, Peru is part of the Andean Community, a system for economic integration, the standards of which are supranational in nature and are shared by the Community's member countries (Bolivia, Colombia, Ecuador and Peru).

The Community's standards relating to Industrial Property are as follows:

- (i) **Decision No. 486** – Common Industrial Property Regime of the Andean Community, published December 1, 2000.
- (ii) **Decision No. 632** – clarification of article 266, paragraph 2, of Andean Community Decision No. 486, published April 6, 2006.
- (iii) **Decision No. 689** – amendment of certain articles of Decision No. 486 to allow member countries of the Andean Community to develop Industrial Property rights through domestic regulations, published August 13, 2008.
- (iv) **Decision No. 345** – Common Regime on the Protection of the Rights of Breeders of New Plant Varieties of the Andean Community, published October 29, 1993.

Finally, there are the following relevant national regulations that complement the regulatory framework of the Andean Community:

- (i) **Legislative Decree No. 1075** approving complementary provisions to Decision No. 486;
- (ii) **Supreme Decree No. 059-2017-PCM**, Regulations of Legislative Decree No. 1075 approving complementary provisions to Decision No. 486 of the Andean Community establishing the Common Regime on Industrial Property, and its amendments;
- (iii) **Legislative Decree Nos. 1309 and 1310** on the simplification of the administrative procedures concerning Intellectual Property before INDECOPI;
- (iv) **Legislative Decree No. 1397**, amending Legislative Decree No. 1075;
- (v) **Law No. 29316**, which amends, incorporates and implements miscellaneous provisions on the implementation of the Trade Promotion Agreement signed between Peru and the United States of America;
- (vi) **Supreme Decree No. 035-2011-PCM**, Regulations of the Protection of Plant Breeders' Rights;
- (vii) **Law No. 28126**, sanctioning infringements on the rights of breeders of protected plant varieties;
- (viii) **Law No. 27811**, establishing a system for protecting indigenous peoples' collective knowledge relating to biological resources;
- (ix) **Supreme Decree No. 004-2019-JUS**, Consolidated Amended Text of Law No. 27444, Law on General Administrative Procedure;

- (x) **Law No. 30018**, on promoting the use of patent information to foster innovation and technology transfer;
- (xi) **Supreme Decree No. 019-2016-PCM**, Regulations of Law No. 30018;
- (xii) **Legislative Decree No. 1092**, approving border measures to protect copyright or neighboring rights and trademark rights;
- (xiii) **Law No. 28331**, Framework Law for Regulatory Boards of Appellations of Origin;
- (xii) **Legislative Decree No. 1391**, simplifying procedures outlined in standards with the force of law dealt with by INDECOPI and specifying the powers, regulations and functions of INDECOPI;
- (xiii) **Supreme Decree No. 170-2021-PCM**, approving the regulations for the system for protecting Traditional Specialities Guaranteed and those for the system for Geographical Indications.

Patents are granted for inventions, whether of goods or processes, in all areas of technology, provided that they are new, involve an inventive step and are industrially applicable.⁸ Patents have a term of protection of 20 years from the filing date of the application.⁹

A **utility model** is considered as any new shape, configuration or arrangement of components of any device, tool, implement, mechanism or other object, or any part thereof, that makes for improved or different operation, use or manufacture of the

⁸ Article 14 of Decision No. 486.

⁹ Article 50 of Decision No. 486.

object incorporating it, or which endows it with any usefulness, advantage or technical effect that it did not have previously.¹⁰ A utility model has a protection term of 10 years following the filing date of the application.¹¹

Once the protection term of a patent or utility model has elapsed, the invention falls into the public domain.

An **industrial design** is understood as the particular appearance of an industrial product or handicraft resulting from any arrangement of lines or combination of colors or any two-dimensional or three-dimensional outward shape that does not alter the intended purpose or use of the said product¹² and that serves as a type or model for the manufacture of that product. An industrial design has a protection term of 10 years counted from the filing date of the application,¹³ after which it falls into the public domain.

The right to the exclusive use of a **mark** is acquired by registration of that mark with the competent national office concerned,¹⁴ which is the same as that done in accordance with the Nice Classification. The registration of a mark has a duration of 10 years,¹⁵ which may be renewed up to six months before and six months following the expiration date.

Any sign capable of distinguishing products and services on the market constitutes a mark, provided that that sign is susceptible of graphic representation.¹⁶ There are **traditional marks**, such as a word, phonetic, mixed or graphic mark; and **non-traditional marks**, such as three-dimensional marks, sounds or aromas.

¹⁰ Article 81 of Decision No. 486.

¹¹ Article 84 of Decision No. 486.

¹² Article 113 of Decision No. 486.

¹³ Article 128 of Decision No. 486. WIPO FOR OFFICIAL USE ONLY

¹⁴ Article 154 of Decision No. 486.

¹⁵ Article 152 of Decision No. 486.

¹⁶ Article 134 of Decision No. 486.

A registered mark can be cancelled upon request where that mark has not been used for three consecutive years prior to the filing of the cancelation. By the same token, at its own initiative or upon request, the competent authority can declare the registration of a mark null and void where that mark: (i) has been found to contravene the absolute and/or relative grounds for refusal; and/or (ii) the registration was awarded in bad faith.

Marks play an important role in promoting business activities as they allow products and services to be identifiable and distinguishable. In effect, **marks** identify a particular product or service, reducing the transaction costs for consumers; and distinguish it from other similar products and/or services on the market by associating it with a business origin, and this promotes competition.

In effect, “businesses concentrate, summarize and differentiate their products and/or services through marks, and marks are what consumers pay money for. A mark is the most visible element of a business and a product. However, of course, not all marks enjoy the same degree of visibility”.¹⁷

In addition, “marks lend a society value – they increase the usefulness of the goods that bear them – for all agents that are involved, directly or indirectly, in trade. The influence of marks is evident from the fact that some marks are more widely recognized than certain countries. Some marks are part of popular culture; others become symbols of a particular lifestyle”.¹⁸

Advertising slogans are protected under the **slogans** system.¹⁹ An advertising slogan is a word or phrase used as a complement to a mark. When registering a slogan, the

¹⁷ Francisco José Torres Ruiz, “Marcas y Marketing: El valor y la gestión de la marca” in *Marca y Publicidad Comercial: Un Enfoque Interdisciplinar*, Ángel Martínez Gutiérrez, (Spain, La Ley, 2009), p. 261.

¹⁸ *Ibid.*, p. 246. WIPO FOR OFFICIAL USE ONLY

¹⁹ Article 176 of Decision No. 486.

requested or registered mark that it will be used with must be specified. This is because a slogan is tied to the mark to which it is assigned.

A **trade name** is a distinctive sign that identifies an economic activity, an undertaking or a trading establishment.²⁰ A trade name does not need to be registered in order to be protected; however, an unregistered trade name will be protected only within the geographical area that it is used. As such, in such cases where protection of a trade name, whether used or registered, is sought, the owner of that trade name must recognize Peru as the place in which the trade name is used and known and in which its target consumer audience is located.²¹

An **appellation of origin** is a geographical indication consisting in the name of a particular country, region or place or a name which, without being that of a particular country, region or place, refers to a particular geographical area, and is used to designate a product originating therein and “the quality, reputation or other characteristics of which are exclusively or essentially due to the geographical environment in which it is produced, including both natural and human factors”.²²

Protected **appellations of origin** are valid provided that the conditions on which they were based continue to exist, as determined by the relevant national authority. The State of Peru is the owner of appellations of origin and is able to authorize use by third parties provided that those third parties meet the stipulated requirements.

For an appellation of origin to be recognized, an application must be filed in writing with the competent national office by an association or group of producers and/or interested parties, indicating the following:²³

- (i) name, domicile, residence and nationality of the applicant or applicants, and also proof of lawful interest;

²⁰ Article 190 of Decision No. 486.

²¹ Article 86 of Decision No. 486.

²² Article 201 of Decision No. 486.

²³ Article 91 of Legislative Decree No. 1073

- (ii) the appellation of origin in respect of which the declaration is applied for;
- (iii) the limited geographical area of production, extraction or processing of the product to be identified by the appellation of origin;
- (iv) the products designated by the appellation of origin; and
- (v) an account of the qualities, reputation or other essential characteristics of the products designated by the appellation of origin.

Before an appellation of origin may be recognized, a Regulatory Board must be created.²⁴ The State will delegate and assign to that Regulatory Board the task of managing and administering the appellation of origin to be recognized. The operation of the Regulatory Board must be authorized by the competent national authority.²⁵

Officially registered non-profit civil associations may be authorized as a Regulatory Board should they so request, provided that they comply with the requirements stipulated in the regulations on establishment. Regulatory Boards must be comprised of natural persons and/or legal entities that are directly engaged in the extraction, production and processing of the product or products protected by the appellation of origin and voluntarily wish to be part of the Regulatory Board, or of public entities that have a direct link with the products protected by the appellation of origin.

To be recognized and authorized as a Regulatory Board by the national competent authority, civil associations must meet the following requirements:

- (i) Hold as its stated goal the administration of a particular recognized appellation of origin;
- (ii) Provide information to the competent national authority affirming that the civil association complies with the conditions necessary to ensuring respect for legal provisions and the effective administration of the recognized appellation of origin; and

²⁴ Under Law No. 28331.

²⁵ In Peru, the competent national authority for authorizing the operation of a Regulatory Board is the INDECOPI Directorate of Distinctive Signs.

- (iii) Submit a proposal for the rules for use of the appellation of origin, to be approved by the INDECOPI Directorate of Distinctive Signs.

Regulatory Boards may not engage in any political, religious or any other activity not connected with the administration of the appellation of origin.

Authorizations to use an appellation of origin are granted by the Regulatory Board of that appellation of origin, in accordance with the powers delegated by the competent national authority. An authorization to use an appellation of origin has a term of 10 years and may be renewed for equal periods. To authorize a civil association as a Regulatory Board, the competent national entity must approve the submitted proposal for the rules for use of the appellation of origin. That entity may, prior to approval, propose and/or require any amendments to the submitted proposal.

Geographical indications, recently identified as a separate legal concept, have been legally defined as: "any indication that consists of the name of a geographical area or that contains that name, or any other indication that is known as a result of referring to that geographical area or that identifies a product as originating from that area, where a particular quality, reputation or other characteristic of that product is fundamentally attributable to its geographic origin".²⁶

Like appellations of origin, ownership of geographical indications rests with the State of Peru, which has the power to grant authorizations for their use.

A **collective mark** is any sign that serves to distinguish the origin or any other common characteristic of goods or services from different firms that use the sign under the owner's control.²⁷ Legally established associations of producers, manufacturers, service providers, organizations or groups of persons may apply for

²⁶ Article 2.7 of Supreme Decree No. 170-2021-PCM.

²⁷ Article 180 of Decision No. 486.

the registration of a collective mark.²⁸ The application for registration must specify that it is for a collective mark and must be accompanied by:²⁹

- (i) a copy of the statutes of the association, organization or group of persons applying for registration of the collective mark;
- (ii) a list of members; and
- (iii) a statement of the conditions under and form in which the collective mark is to be used in connection with the goods or services.

Once registration of the collective mark has been secured, the association, organization or group of persons must inform the competent national office of any changes that may occur in any of the documents referred to in this Article 182 of Decision No. 486.

A **certification mark** is a sign intended to be applied to goods or services the quality or other characteristics of which have been certified by the owner of the mark.³⁰ A business or institution under private or public law or a State, regional or international agency may be the owner of a certification mark.

The application for registration of a certification mark must be accompanied by the **rules for use** of the mark, which indicates the goods or services that may be covered by the owner's certification; defines the characteristics guaranteed by the presence of the mark; and describes the manner in which control over such characteristics will be exercised before and after use of the mark has been authorized.³¹

²⁸ Article 181 of Decision No. 486.

²⁹ Article 182 of Decision No. 486.

³⁰ Article 185 of Decision No. 486.

³¹ Article 187 of Decision No. 486. WIPO FOR OFFICIAL USE ONLY

The owner of an Industrial Property right may bring an infringement action, without prejudice to any civil and/or criminal actions that may have been taken, against anyone infringing on the rights of that owner.

Traditional specialities guaranteed identify food products intended for human consumption that have particular characteristics that clearly distinguish them from other food products in the same category owing to the fact that they have been prepared using traditional ingredients or traditional combination, preparation, processing or production processes.³²

This legal concept³³ can be used to protect traditional recipes as well as production and processing methods that are part of traditional practices associated with a product or foodstuff, thus adding value to traditional food products as they are commercialized, produced or processed; and informing consumers of the food products' attributes.

Copyright protection is intended to protect the authors of literary and artistic works and the owners of neighboring rights recognized in the relevant standards; and to safeguard cultural heritage.³⁴

The standards governing **Copyright** in Peru comprise, firstly, international **treaties** ratified by Peru, which include the Berne Convention for the Protection of Literary and Artistic Works, and the Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations.

Secondly, the **supranational standard**, as set out is Andean Community Decision No. 351 establishing the Common Regime on Copyright and Neighboring Rights.

³² Article 2.5 of Supreme Decree No. 170-2021-PCM.

³³ Article 3 of Legislative Decree No. 1397.

³⁴ Article 1 of Legislative Decree No. 822.

Thirdly and finally, national standards, the most salient of which are as follows:

- (i) **Legislative Decree No. 822** (Copyright Law) and subsequent amendments: Law Nos. 28571 and 30276, and Legislative Decree No. 1076;
- (ii) **Legislative Decree No. 1309** on the simplification of the administrative procedures concerning intellectual property before INDECOPI;
- (iii) **Law No. 27861**, on the exemption from payment of copyright fees for reproduction of works for the visually impaired;
- (iv) **Supreme Decree No. 053-2017-PCM**, approving the Regulations for the National Register of Copyright and Neighboring Rights provided for in Legislative Decree No. 822 (Copyright Law);
- (v) **Legislative Decree No. 1092**, approving border measures to protect copyright or neighboring rights and trademark rights;
- (vi) **Supreme Decree No. 003-2009-EF**, Regulations for Legislative Decree No. 1092 approving border measures to protect copyright or neighboring rights and trademark rights;
- (vii) **Resolution No. 584-2010/SUNAT/A**, modifying the resolution approving the specific procedure for “Expanding Border Measures” INTA-PE.00.12 (V1);
- (viii) **Law No. 29316**, which amends, incorporates and implements miscellaneous provisions on the implementation of the Trade

Promotion Agreement signed between Peru and the United States of America;

- (viii) **Law No. 29263**, modifying various articles of the Penal Code and the General Law on the Environment;
- (ix) **Law No. 28131** (Law on Performers); and,
- (x) **Law No. 28289** (Anti-Piracy Law).

The following is protected by law: (i) literary works expressed in written form, such as books, magazines, pamphlets and other writings; (ii) literary works expressed in oral form, such as lectures, addresses, sermons and teachings; (iii) musical compositions with or without words; (iv) dramatic, dramatico-musical, choreographic, pantomimic and general stage works; (v) applied or non-applied plastic arts, including sketches, drawings, paintings, sculptures and lithographs; (vi) works of architecture; (vii) photographic works and works expressed by a process analogous to photography; (ix) illustrations, maps, plans, sketches and three-dimensional works relating to geography, topography, architecture and science; (x) slogans and phrases in so far as they have a literary or artistic expression with elements of originality; (xi) computer programs; (xii) **anthologies or collections of various works or expressions of folklore**, and databases, provided that such collections are original in terms of the selection or arrangement of their contents; (xiii) current affairs or other press articles, reports, editorials and comments; and (xiv) **in general, any other intellectual creation in the literary or artistic domains that has elements of originality and could be distributed or reproduced by any medium or procedure, known or unknown.**³⁵

³⁵ Article 2.1 of the Berne Convention and Legislative Decree No. 822.

The registration of a work as **Copyright** is declarative, meaning that the enjoyment and exercise of the rights of the owner are not subject to registration or the completion of any other formality. Owners enjoy moral and economic rights.

Moral rights are perpetual, inalienable and imprescriptible and cannot be seized or waived.³⁶ They include rights of disclosure, paternity, integrity, modification and variation, the right to withdraw the work from the market and the right to access the work.³⁷

Economic rights include the right to exploit and derive benefits from a work in any form or by any means. The duration of validity of economic rights extends throughout the owner's life and up to 70 years following the owner's death, regardless of the country of origin of the work, and is transferred in the event of death in accordance with the provisions of the Peruvian Civil Code.

A copyright owner may bring an infringement action, without prejudice to the civil and/or criminal actions that may have been taken, against anyone infringing on the rights of that owner.

1.2. Institutional framework

The independent agency responsible for managing the system for granting and protecting Intellectual Property rights in all of their manifestations is the National Institute for the Defense of Competition and the Protection of Intellectual Property (INDECOPI).

INDECOPI is a specialized state body with legal personality under domestic public law and has functional, technical, economic, budgetary and administrative autonomy. It is assigned to the Presidency of the Council of Ministers and its functions are

³⁶ Article 21 of Legislative Decree No. 822.

³⁷ Article 22 of Legislative Decree No. 822.

governed in accordance with the provisions contained in Law No. 1033 and in complementary regulatory standards.

The standards regulating the functions of INDECOPI are as follows:

- (i) **Legislative Decree No. 1033**, Law on the Organization and Functions of INDECOPI;
- (ii) **Supreme Decree No. 09-2009-PCM**, Regulations on the Organization and Functions of INDECOPI;
- (iii) **Supreme Decree No. 107-2012-PCM**, Amendments to the Regulations on the Organization and Functions of INDECOPI;
- (iv) **Supreme Decree No. 099-2017-PCM**, modifying the Regulations on the Organization and Functions of INDECOPI; and
- (v) **Legislative Decree No. 807**, Law on the Powers, Rules, Organization and Functions of INDECOPI.

1.3. Competitiveness and the tourism sector

The boom in tourism experienced by Peru thanks to its national cuisine has traced a remarkable path, sparking energy and creativity that have manifested in myriad business initiatives and undertakings. Ten years ago, a report prepared by consultancy firm Arellano Marketing³⁸ confirmed that cuisine was a major factor in the decision of 42% of foreign tourists to choose Peru as a tourist destination, because of its variety and flavors.

³⁸ Fernando Lopez, “*El Turismo Gastronómico*” in *Revista Business*, (June 2011), pp. 28–30.

After all, Peruvian food incorporates and concentrates thousands of years of knowledge from different ancestral cultures that found themselves having to integrate into colonial and republican societies, resulting in a mix of ingredients, flavors, aromas and culinary experiences, all of which is recognized today by people at home and abroad.

The challenge has been to motivate tourists to visit Peru not only to see its archeological wonders like Machu Picchu, but also to embark on culinary tours and taste the food on offer in restaurants, at market stalls and during local festivals, food that they will then go on to talk about with enthusiasm in their own countries and, in so doing, encourage more people to visit Peru.

After significant time and effort, Peru is now enjoying the fruits of its labors. According to a study conducted by consultancy Arellano Marketing,³⁹ 93% of tourists said that Peruvian food “met their expectations”; that is to say, they were satisfied, while 92% of tourists would recommend Peru to friends and family so that they come to experience its traditional dishes.

In the light of the encouraging results and advances in the sector, the Peruvian Gastronomic Association (APEGA) and the Peruvian Institute of Gastronomy (IPG) suggested that the boom in Peruvian cuisine should be carefully observed and its opportunities maximized in a responsible manner so that, in time, it becomes sustainable. Or, in the words of former IPG director Andrés Ugaz, make cuisine and tourism an efficient and exploitable coupling.⁴⁰

This conscientious approach to the sector has revealed certain weak points in the path towards improving the culinary offering. As a potential solution, APEGA suggested improving the culinary road map with a view to making culinary offerings more

³⁹ Idem.

⁴⁰ Idem.

attractive to tourists. One strategic element in that approach was to raise the profile of regional dishes as a matter of priority.

As such, various programmes to promote Peruvian cuisine were launched. The largest such programme in terms of reach was the MISTURA food festival, which was launched at the initiative of internationally renowned Peruvian chef, Gastón Acurio, and APEGA. The first festival took place in 2009 and went on to become one of the biggest food festivals in Latin America, firmly establishing itself as a mark of prestige for Peruvian cuisine.

Many actors through various initiatives have contributed to the significant achievements in Peruvian cuisine and its so-called boom: in addition to the MISTURA festival, there is the inclusive gastronomic food supply chains project (with financing from the Inter-American Development Bank); the “*come rico, come sano, como peruano*” (“eat food from Peru; it’s healthy and delicious too”) campaign; the “Adopta un Anden” project; and the recognition of Lima as the culinary capital of America.

Peruvian cuisine still features as one of the primary motivators for tourists. It is almost on a par with the country’s natural features and landscapes, coming in just below Machu Picchu.⁴¹

According to a study prepared by Promperú, Peru’s official tourist board, Peruvian cuisine is increasingly competitive. Its development is allowing: (i) the preservation and communication of traditional preparation methods; (ii) innovation through fusion; (iii) international recognition; and (iv) opportunities to develop culinary tourism. This can be seen by the fact that, in 2016, 82% of vacationers (foreign vacationers over 18 years of age from the European Union, France, Colombia, Brazil,

⁴¹ Promperú, “*Evaluación del Turismo Gastronómico en el Perú*” (Lima, 2016).

Argentina and Spain) consider Peru to be a culinary destination and value Peru's cuisine and/or traditional food.⁴²

One year following that study, according to a market evaluation analysing culinary tourism in Peru was published in 2017 by Peruvian news agency *Agencia Peruana de Noticias Andina*, the situation had further improved: tourists' primary motivations for visiting Peru were the cuisine (59%); Machu Picchu (60%); and the country's various natural landscapes (61%). What particularly stood out among the results was that 82% of tourists identified Peru as a culinary destination.⁴³

Nevertheless, there is more work to be done towards raising the profile of regional foods, dishes, and their main ingredients, as well as their preparation methods and all of the history that lies behind them, in order to improve the culinary offering and increase awareness of the origin story, history and all of the cultural aspects of the cities and inhabitants that are producing and serving these traditional dishes.

All Peruvians are aware of the main ingredients of a good **Ceviche**; but the same is not true for "**Juane**" or "**Picante a la Tacneña**", and it is, of course, even harder to find Peruvians who know the origins and histories behind these typical dishes.

Tourism is an experience, and local food can be an advertisement for that experience. In experiencing the local cuisine, visitors encounter a manifestation of the local culture. The differences are perceived as original and charming, and they strengthen the image of the local identity held in the tourist's mind;⁴⁴ which is why, as a country, we should make the most of the significant opportunity before us and capitalize on

⁴² Idem.

⁴³ Oscar Farje, "Perú: 59% de turistas tiene en la gastronomía su principal motivación para visitar el país", *Andina*. Available at: <https://andina.pe/agencia/noticia-peru-59-turistas-tiene-la-gastronomia-su-principal-motivacion-para-visitar-el-pais>. WIPD FOR OFFICIAL USE ONLY
[677196.aspx#:~:text=Entre%20las%20principales%20motivaciones%20para,Per%C3%BA%E2%80%9D%2C%20elaborado%20por%20Promper%C3%BA.](https://andina.pe/agencia/noticia-peru-59-turistas-tiene-la-gastronomia-su-principal-motivacion-para-visitar-el-pais)

⁴⁴ C. R. A. dos Santos, "*História da alimentação no Paraná*" (Juruá, Curitiba, 2007), p. 239.

culinary tourism, retaining it as an important ally in our economic and social development and our path to prosperity.

Unfortunately, tourism was one of the industries most affected by the spread of COVID-19, the state of emergency declared in several countries around the world and the restrictions put in place in response to the health crisis.

The pandemic changed many aspects of life and economic activity, which, without a shadow of a doubt, will change the profile of visiting tourists once the so-called new normal has been ushered in in the wake of COVID-19.

In view of this, Promperú conducted a study to sketch the likeness of the new national vacationer,⁴⁵ which revealed that 8 out of 10 national vacationers would choose a destination within Peru, and that preference was more pronounced among younger generations (Centennials and Millennials). The study showed that, in the period 2020/2021, around 2,590,421 Peruvians would choose to travel to destinations within Peru in the ensuing six months.

Those results reveal that there is an opportunity to boost tourism in the regions of Peru. Vacationers' stated preferences to visit cities within Peru should be capitalized on, and that includes promoting local cuisines to ensure that they are seen as a key reason to visit.

Putting measures in place to take advantage of this potential opportunity is an excellent means of introducing new initiatives fostering diversification and promoting Peru's dishes and cuisine, as well as offering tourists a safe and complete experience, with clear protocols, caps on the number of tourists on any one tour, and other measures proposed by Promperú. As a final note, the fact that tourism activities relating to nature (49%), culture (45%), cities (45%) and cuisine (45%) will be most in demand for vacationers should be taken into consideration, and the ground should

45

<https://www.PROMPERÚ.gob.pe/TurismoIN>

be duly prepared, and visitors' trust secured, through digital media channels in order to mitigate any negative impacts and allow the tourism sector to recover gradually, as far as circumstances permit.

1.4. Intellectual property in the food industry

Cuisine is considered by UNESCO to be part of the intangible cultural heritage of a society, which “*consists in recognizing the uses, representations, expressions, knowledge and techniques passed on from generation to generation and that bestows communities and groups with a sense of identity and continuity [...]*”.⁴⁶

As for the IP system, it refers to “creations of the mind – everything from works of art to inventions, computer programs to trademarks and other commercial signs. IP covers a vast range of activities, and plays an important role in both cultural and economic life. This importance is recognized by various laws which protect intellectual property rights.”⁴⁷

Thus, IP is an important strategic ally for the protection of the creations of the mind and business innovations found in the food industry. Making best use of the IP system is key to increasing competitiveness across the value chain, in the “*uses, representations, expressions, knowledge and techniques*” among producers, restaurant owners and the different economic agents involved in making Peruvian cuisine an art and a source of national pride.

⁴⁶ Leive Coppin and Samuel Morales, “*¿La cocina como agente de cambio social? Perú y su Boom Gastronómico*”, p.5.

⁴⁷ World Intellectual Property Organization, “*What is Intellectual Property?*”, 2021, available at: <https://www.wipo.int/publications/en/objects/details.jsp?objid=4520>

Activity in the food industry generates a range of opportunities, contributing to the creation of jobs and driving economic growth. At the same time, it allows for the development of a knowledge-based economy.⁴⁸

In this context, IP can contribute to the promotion and strategic development of cuisine as intangible cultural heritage, including traditional foods. The use of this legal tool by the various actors contributing to Peru's national cuisine opens up the possibility of beginning to introduce a culture centered on quality through certification mechanisms, such as collective marks, certification marks, appellations of origin and geographical indications. Other key and increasingly strict requirements for consumers and markets should also be included, such as those relating to the origin of a foodstuff, like traceability, as well as environmental considerations in agriculture, supply chains, transport, and other areas.

Putting these ideas into practice will improve the offering of traditional regional dishes in various ways, encouraging local and international tourism. After all, food and cuisine have become essential elements of exploring the culture and way of life in an area.⁴⁹

As noted by experts in the industry, the main challenge lies in the limited awareness of the dishes, ingredients and regional varieties on offer. Thus, the culinary experience, understood as the entirety of an experience provided to a consumer when he or she enjoys a meal, encompasses different elements that can be leveraged by the IP system; in other words, they can be owned exclusively and therefore protected. It is owing to this protection that the owner of those elements will be entitled to their exclusive use and exploitation, thereby allowing the owner to transform those elements into valuable assets: intellectual capital for undertakings and an increase in the value of traditional dishes.

⁴⁸ <https://theculinarynation.com/creando-valor-compartido/>

⁴⁹ Ibid.

The various elements of the IP legal system, from Industrial Property to Copyright, can be used in any cultural or business context relating to national cuisine. IP can be used throughout the value chain, from field (or ocean) to table, to capitalize on, elevate or tell the story of business initiatives using traditional ingredients, names, forms and other elements serving to differentiate the business. These could be the establishment itself or even a particular menu or a distinctive name for a service plate, if it is part of a culinary tradition.

In this way, the names of ingredients can be protected using appellations of origin and geographical indications (Maíz Blanco Gigante Cusco, Loche de Lambayeque, Pallar de Ica); supply outlets and places where food is consumed (such as markets or restaurants) can be protected using marks and their accompanying slogans as well as trade names; the architectural and interior design of restaurants can be protected using copyright; recipes and specialist culinary knowledge can be protected using trade secrets and traditional specialities guaranteed; the visual design of a dish, recipes, compilations of recipes and the wording of recipes, photographs and marketing videos can all be protected using copyright. These are just some of the many strategic links between IP and cuisine.

If reference is made to "*turrón de Doña Pepa*" in the city of Lima in October, the thought that will immediately pop up in most Peruvian's minds is "*suaveciiiiito*" ("deliiiiiiicious"). Similarly, a mark bearing the image of yellow drink and the simple accompanying phrase of "*la bebida de sabor nacional*" ("the drink that tastes like home") were elements that set apart a generic product (a fizzy drink), allowing it to become the go-to accompaniment to traditional Peruvian dishes. These are distinctive signs (advertising slogans) that, with a good marketing strategy, enter the consciousness of the consumer and connect valuable items to the notion of national identity.

These same IP strategies can be applied to traditional dishes.

Peruvian cuisine is in line with current culinary trends in that it is healthy, high-quality, unique and flavorsome; but should stand out as a cut above the rest for its variety (in terms of its native ingredients, its regional offerings and its style) and its flavor. To achieve this, IP tools can be used to diversify the culinary offering, instead of concentrating on just a few typical dishes, and, in so doing, take into account global trends in the industry, such as the improved presentation and design of dishes and more involved, immersive experiences, including the “hands-on”⁵⁰ experience.

II. Intellectual property tools for generating value for Peruvian traditional dishes

Below, an analysis will be conducted of the six traditional dishes chosen during the roundtable meeting on March 11, 2020 under the framework of the project administered jointly by INDECOPI and WIPO on the relationship between IP and Peruvian traditional dishes.

The six traditional dishes that are the subject of the present paper were selected following the INDECOPI Exploratory Study entitled “Intellectual Property and Gastronomic Tourism in Peru and Other Developing Countries”, in which the value chain of each of the traditional dishes in question was analysed.

In gastronomy, every culinary system has its own structure, the elements of which (cooking methods, staple foods, and other ingredients) constitute the “cultural identity indicators”⁵¹ of a society.

Further, the “principles of traditional seasoning” characteristic of a society or region, defined as “a sensory experience produced by a mixture of certain ingredients with a

⁵⁰ Option where consumers are involved in the preparation of typical dishes under the supervision of a renowned chef.

⁵¹ D. Fournier, “La cocina de América y el intercambio colombino” (2004) in M. Montanari (comp.), “El mundo en la cocina: Historia, identidad y comercio” (Buenos Aires: Paidós) pp.118–131, cited by Sergio Zapata Acha and Joaquín Zapata Huamán in “Principios y redes del sabor en la cocina criolla peruana” in “Patrimonios Alimentarios” (El Colegio de San Luis, Mexico, 2019), p.77.

particular aroma that is regularly added to staple foods during their preparation process”, are what constitute the foundation of a traditional dish and, more generally, distinguishes one cuisine from another.⁵²

In view of the above, the methodology applied to the present work will follow the common thread running through the three anchor points in the value chains of the traditional dishes selected, which are: (i) product or ingredient; (ii) supply or provision; and (iii) placement or distribution. Particular focus will be placed on those elements that constitute the “principles of traditional seasoning” of the traditional dish under consideration.

The traditional dishes will be analysed using, as a source, the “*Nuevo manual de la cocina peruana*” recipe book, written in a dictionary format and published anonymously in 1985⁵³ by a man native to the city of Lima. It is Peru’s oldest recipe book; four editions have been published as well as various videos and publications posted or published through different national or social media (such as YouTube and official journals). The information provided in the above-mentioned Exploratory Study prepared at the initiative of INDECOPI and WIPO will also be used as a source.

2.1. Traditional dish from the Lambayeque Region: "Cabrito"

"**Cabrito**" is one of the traditional or typical dishes of the department of Lambayeque, formerly known as "Seco Tajime".

An interesting feature of this dish is that its territorial origins lie not only in Lambayeque but also in the departments of La Libertad and Piura, making this a typical territorial or regional dish for inhabitants of the north of Peru.

⁵² Idem.

⁵³ A reference book for Peruvian cuisine, containing over 300 recipes with creole origins.

Another important aspect relates to the way “**Cabrito**” is prepared and presented. It is a “*seco*”, a typical meat-based stew (goat, lamb, beef or poultry), and can be identified by its thick sauce and the use of cilantro, an aromatic herb, and chicha de jora, a fermented maize drink. The preparation method for “**Cabrito**” has seen multiple variations, but they have all retained the essence of the dish.

What will follow is an analysis of each of the elements of the “Cabrito” value chain with the overarching aim of identifying opportunities to use the IP tools in business strategies that will generate value and improve Peru’s culinary offering.

2.1.1. Identification of products and ingredients and intellectual property tools

The main ingredients in this traditional dish are:

- (i) suckling goat’s meat,
- (ii) culantro⁵⁴ (an aromatic herb),
- (iii) ají amarillo (Peruvian yellow chili),
- (iv) Loche de Lambayeque (loche squash), and
- (v) chicha de jora (a fermented maize drink).

Variations include using vinegar instead of chicha de jora and ají escabeche chili instead of ají amarillo.

Traditionally, the goat’s meat is seasoned and tenderized the day before it is cooked over a carob-wood fire; a tradition that is disappearing owing to environmental factors, attempts to preserve the plant species, and food safety issues.

The carob tree is a leguminous plant typically found in dry forests. Algarrobina, a carob syrup, can be extracted from the carob tree fruit (the carob pod) and, because

⁵⁴ In the Exploratory Study prepared by Carmen Julia García, "culantro" was not considered to be an ingredient in this traditional dish; however, it has been possible to establish that this ingredient is present in several variations of this typical dish.

of its natural sugars, is used as a source of energy. It also contains protein, vitamins, and higher concentrations of minerals than honey.⁵⁵

“**Cabrito**” is served with beans, rice and *salsa criolla* (a pickled relish) and, in some cities, it is traditional to serve a small fish dish beforehand (mackerel, pompano or tollo) as a kind of “*piqueo*”, which is a small starter served during a shared meal typically served in certain areas of Peru.

The fact that **onion** and **garlic** are both part of the preparation process for the stew and the side dishes alike is important as these ingredients are an inherent part of traditional Peruvian cuisine.

As for the main ingredients of “**Cabrito**”, it was confirmed that the only ones available in the main national supply outlets, such as markets and supermarkets, are culantro, ají amarillo and loche squash. The other main ingredients, goat’s meat and chicha de jora, are difficult to source.

The factors identified as central to the strategic development of this traditional dish relate to: i) improving the competitiveness of the ingredients (especially goat’s meat); and ii) promoting mechanisms to raise the profile of “**Cabrito**” as a traditional dish and, in so doing, increase its consumption and popularity nationally.

Although the regional element of “**Cabrito**” has facilitated its emergence as a more outward-looking and widespread culinary offering, the dish – especially its main ingredient, goat’s meat – is yet to reach certain markets and yet to appear on restaurant menus. The consumption of the dish could be expanded through the careful implementation of well-designed and meticulously planned strategies.

⁵⁵ Note 036, September 2020, National Institute for Agricultural Innovation (INIA), Ministry of Agriculture of Peru.

In the context of strategies for expansion and promotion, IP tools are interesting options. For example, **individual trademarks** can be used to facilitate improvements in the presentation of ingredients, which would allow them to be included in leading national supply centres.

The use of marks would also help consumers to remember the product, particularly its business origin. This is of key importance along the entire value chain, from ingredients suppliers to restaurants.

The **individual trademark** system can add a certain degree of value to a product as trademarks can be used to attribute certain desired characteristics to a product, with which that product is then associated. In certain cases, this allows for the use of labels and even packaging, which gives the product a new image that brings with it ideas and practices that improve its quality.

As the situation is complex, the above-mentioned strategies will be challenging to implement. Unlike chicken or beef, goat's meat production is primarily done using a "transhumant" grazing system, which means that herds are moved on for the purposes of finding pasture or food in certain areas or territories. As a result, the production process is onerous and production rates are very low. Goat's meat is primarily produced and consumed in rural communities in isolated areas of the country. There is no pre-existing industry that might be boosted by IP tools. According to the Ministry of Agricultural Development and Irrigation,⁵⁶ national annual goat's meat production stands at around 6,600 measurement tons of meat and 2,300 measurement tons of offal, while the highest producing department is Piura at 1,664 tonnes.

As for the consumption of goat's meat, the Ministry confirmed that it is not common at the national level. "Goat's meat is consumed in large part in connection with regional customs, primarily on Peru's north coast (where speciality goat's meat dishes exist) and the more populated departments along the Andes. Consumption is dropping

⁵⁶ <https://www.midagri.gob.pe/portal/40-sector-agrario/situacion-de-las-actividades-de-crianza-y-producci/299-caprinos>

as people are opting for beef and chicken over goat's meat. The estimated national annual per capita consumption of goat's meat is 0.25 kg.”

Despite the difficulties, there are opportunities to be found for this sector, particularly if a corporate culture change can be brought about in relation to the use of IP. If that is achieved, **individual trademarks** could be used to start to increase the value of the product (goat's meat). The trademark would add value to the product and thereby influence consumers' purchasing decisions.

Promoting the use of **individual trademarks** in this sector could create opportunities, stimuli and options for producers as they begin to consider widening their target market from regional to national. Once this happens, goat's meat production can begin to improve and increase, leaving behind the idea that it is “a rural food that does not exist in supermarkets and is eaten exclusively at village festivals”.⁵⁷

The use of marks, labels and packaging would be widely accepted and successful along the entire value chain as they can:

- (i) Increase awareness of the product in wider markets;
- (ii) Foster moves towards quality or distinguished quality products and the introduction of “premium” brands; and
- (iii) Promote the formalization of production activities with a commercial focus.

The use of the trademark system carries two objectives: first, reduce search costs for consumers, thereby promoting the consumption of the product; and second, provide large producers with incentives to establish and maintain a high level of quality for their products.⁵⁸

⁵⁷ <https://www.foodnewlatam.com/paises/85-mexico/10797-mercado-caprino,-con-grandes-opportunidades-de-crecimiento.html>

⁵⁸ William W. Fisher, “The limits of Intellectual Property: Considering an alternative to the traditional protection system (Advocatus 14 WILSON, 2006)”, IPAL USE ONLY

When considering the “**Cabrito**” value chain and the outline of a strategic plan in the context of the trademark system, one important reality to consider is the horizontal nature of informality across the entire commercial fabric of Peru. Informality in Peru is widespread and at alarmingly high levels, so much so that the country has one of the highest national rates of informality in the world.⁵⁹

"Informality in businesses seems to be a consequence of the informality of business owners at a personal level, whose behaviour reveals clearly defined patterns of informal management in commercial, production and distribution operations. This has an effect on the competitiveness of the business, as it manifests in the purchase of low-quality goods, transactions in markets of dubious reputation, and informal contracting and subcontracting. This leads to low-quality jobs and unfair pay, as well as unprotected warehouses, damage to property, contamination to the environment, wasted resources, inefficient transportation and high levels of insecurity in terms of human security and business assets. This results in a social cost that is unfairly passed on to the customer and is ultimately damaging to society as a whole."⁶⁰

In terms of the production and commercialization of ingredients for “Cabrito”, informality will be a relevant issue at all stages in the chain and, as a result, presents a significant obstacle to ultimate success.

The presence of informality in the production and commercialization of goat’s meat, like those of many other alternative meats in Peru (such as chicken or guinea pig), brings with it a number of elements that are important to highlight if the goal is to plot a different path for “Cabrito”. The main problem is product quality, which is the primary obstacle standing in the way of its business development and the boost

⁵⁹ Norman Loayza, “*Causas y consecuencias de la informalidad en el Perú*”, (Banco Central de Reserva del Perú) in *Revista Estudios Económicos* 15.

⁶⁰ Max Schwarz, “*Reflexiones sobre la naturaleza de informalidad empresarial peruana*” (University of Lima, Lima, June 2018).

needed to push up demand from the regional into the national level, and allowing it to become a culinary tourism attraction.

As is the case with the majority of regional traditional dishes, the producers of the primary ingredients are generally atomized in their production behaviour, unable to concentrate supply. As they are usually located in remote areas far from markets or traditional consumption centers, it is the intermediaries who will make the link between supply and demand (stock, financing and transport).

The Ministry of Agricultural Development and Irrigation has stated that traditional livestock raisers, given their informality and the low capitalization value of their resources, have very limited opportunities for accessing credit. The resulting lack of resources to improve livestock (breeders, food, infrastructure, cleanliness) means that production and processing technology is limited and lacking. This has an impact on the goods' image and, accordingly, on demand for those goods and the commercialization of those goods.

Another key point in the chain of live animals to be used as ingredients for traditional dishes, such as goats, are the slaughterhouses; owing to the informal nature of their operations, sanitary conditions are usually inadequate for ensuring that animals are slaughtered in line with food safety standards.

It is clear that raising the profile of the traditional dishes analysed in the present work, including “**Cabrito**”, will require efforts to improve their competitiveness across the value chain. **Collective marks** could be effective tools to this end by serving to bolster strategic initiatives, as outlined in the present work. This type of mark can reduce production costs, increase the competitive edge of regional ingredients on the national market, and ensure goods meet certain quality standards. If used in a context where producers and sellers within a single geographical area form an association, those actors can benefit from economies of scale, improve the quality of their goods and increase consumer trust and preference. The use of **collective marks** can bring about

efficient results along the value chain of the traditional dishes discussed, including “Cabrito”, in the following ways:

- (i) Members of an association that owns a **collective mark** can communicate to the consumer the shared characteristics of the goods that they produce (such as origin or quality), thereby adding value to the goods in the eyes of the consumer;
- (ii) Members of an association that owns a **collective mark** can combine efforts to promote the goods that they manufacture or produce;
- (iii) Association between producers/manufacturers of goods with similar characteristics and/or origin is encouraged;
- (iv) Market access costs (commercial and marketing campaigns) are reduced when shared between members of an association that owns a collective mark;
- (v) Goods become more distinct as economies of scale become possible and a shared image can be used to promote and distinguish those goods on the market;
- (vi) Unlike **appellations of origin** and **geographical indications**, **collective marks** are owned by an association or organization, which is then free to administer its own collective mark(s) as it sees fit;
- (vii) Standardization and homogenization of the product or service offering of a business collective become a focus;
- (viii) Collective marks can act as a powerful tool for advertising and promoting regions and areas (where local marks are developed);

(ix) The use of collective marks does not preclude the use of individual trademarks.

As the points above indicate, the advantages of **collective marks** lie in the success and preservation of an association, which is understood to be a “mechanism for cooperation between small and medium-sized enterprises, where each participating enterprise, while maintaining its legal independence and administrative autonomy, decides to participate in a joint effort with the other participants towards the achievement of a shared objective.”⁶¹

The use of collective marks in the traditional dishes’ value chains promotes economies of scale. However, this type of model does present difficulties where participants share not only costs, but also information and knowledge. “Trust is a key prerequisite to companies sharing their knowledge, but this is easier said than done; there are no guaranteed recipes for success when it comes to association”.⁶²

As noted above, the use of **collective marks** is a double-edged sword. Although it does open the door to a number of advantages, it can also demand significant effort of association participants or even spell weakness when it comes to implementing joint projects.

Therefore, to ensure success, suitable mechanisms must be established to effectively manage associations of producers and to monitor agreements on the characteristics that the commercial goods bearing the mark must have, as noted in the rules governing the use of the mark. This is particularly necessary when associations are looking to compete in demanding or competitive markets.

⁶¹ Félix David Lozano, “*La asociatividad como modelo de gestión para promover las exportaciones en las pequeñas y medianas empresas en Colombia*”, in *Revista de Relaciones Internacionales, Estrategia y Seguridad*, Vol. 5, No. 2 (Bogotá, July/Dec 2010)..

⁶² Ibid. WIPO FOR OFFICIAL USE ONLY

Choosing collective marks for “**Cabrito**” and its accompanying goat’s meat management model would constitute a step towards building a strategic development plan designed to transform goat’s meat into a high-quality product with added value, starting with the production phase. That is to say that, given the requirements of the market (from consumers, intermediaries and restaurants, for example), it is possible to make goat’s meat a reliable ingredient for this dish and others where a guarantee of food safety can be provided throughout the production process, from raising the animal through to delivering the final product, using certification of the product’s origin and quality.

Given the potential for collective marks to facilitate association between producers, which is currently proving elusive, this proposal could be viable for coordinating production management and good practices. This will ensure a high-quality and successful product.

This very association, potentially encouraged and institutionalized through collective marks, would foster mechanisms for formalizing producers; ensuring commitments to a certain quality production standard (primary production and processing); standardizing production, which would add value; and, finally, ensuring goat’s meat is in line with the attributes required by current market demands in the national and international food industries and, as a result, is a competitive product.⁶³

It is in this way, by using **collective marks**, that “**Cabrito**” can become a more competitive offering and have its profile as a traditional dish raised, resulting in increased renown and availability in local and regional culinary circles. Collective marks can support producers in organizing themselves, maintaining a clear vision, enjoying a sense of belonging, and identifying opportunities for collective work and localized management.

⁶³ Foundation for Agricultural Innovation, Ministry of Agriculture, “*Resultados y Lecciones en Producción de Carne Caprina de Alta Calidad: Proyecto de Innovación en las Regiones de Coquimbo y de La Araucanía*” in *Serie Experiencias de Innovación para el Emprendimiento Agrario* (Santiago de Chile, 2009).

The situation surrounding **chicha de jora**, another of the key ingredients of this traditional dish, is similar to that of goat's meat: it is not widely available and therefore difficult to access. This is because it is produced using traditional methods that do not adhere to commercial standards (e.g. reuse of containers, lack of cleanliness in preparation area, etc.).

Chicha de jora is technically an artisan maize beer, as its preparation process includes malting the grain before it is then fermented. Its alcohol content varies depending on the region and also on the individual “*chichero*” (a name for someone who makes chicha de jora). Chicha is consumed as a flavoursome, high-quality drink and also as a key ingredient in various regional dishes.⁶⁴

Collective marks can be used to incentivize the industrialization of chicha de jora production; which would make the drink more widely available and, as a result, encourage its consumption and use in the preparation of various dishes, including “**Cabrito**”, at the national level.

Another of the main ingredients in “**Cabrito**” is **loche** squash. Loche squash is valuable not only for its role as an ingredient for traditional Peruvian dishes, but also for the many myths and stories that lie behind it. It is cultivated in the north of Peru using ancestral methods passed down for generations and has become a staple of Peruvian cuisine.

⁶⁴ Peru Reil blog, “*Chicha de jora: La historia y la preparación de una emblemática bebida peruana*”, available at: <https://www.perurail.com/es/blog/chicha-de-jora-la-historia-y-la-preparacion-de-una-emblematica-bebida-peruana/#:~:text=La%20chicha%20de%20jora%20es,preparaci%C3%B3n%20artesanal%20desde%20tiempos%20milenarios.&text=La%20leyenda%20cuenta%20que%20un,consumi%C3%A9ndola%20completamente%20y%20quedando%20embriagado.>

The colors, textures and characteristic taste of the loche squash are due to the soil, water and climate in the area where it is grown and also the production techniques used by cultivators.

On this basis, on December 3, 2010, through Resolution No. 018799-2010/DSD-INDECOPI, the loche squash gained the protection of the State of Peru under the appellation of origin “**Loche de Lambayeque**”. This is an expression to designate the fruiting “loche” (*Curcubita moschata* (Duchesne)), a crop and a type of squash that has special characteristics due to the geographical environment in which it is produced (Chiclayo, Lambayeque and Ferreñafe), which includes both natural and human factors.⁶⁵

Currently, the aforementioned **appellation of origin** does not have a Regulatory Board and the relevant prerequisite legal mechanisms have not yet been implemented, as it has not yet been possible to overcome the challenge of association, which would mean, in effect, working under the appellation of origin and relying on shared business and shared business objectives. This state of affairs is currently preventing beneficiaries of the **appellation of origin** from using it as such. As a result, they are not able to use this important legal IP tool to improve the competitiveness of their product, which is already established and successful in regional and national cuisine.

⁶⁵ “‘The legend goes that the moon fell in love with Lambayeque, and, as it could not come to Lambayeque, it started to cry, and its tears became loche’”, recounts Juanita Zunini, a cook from Lambayeque. Its sweet flavors and aromas are unmistakable. Loche is a Peruvian variety of squash (*Curcubita moschata* (Duchesne)) with an Appellation of Origin (Lambayeque), a pre-Columbian species that Tom Dillehay, an archeologist from the United States, found evidence of in the Nancho area (the upper part of the Zaña valley) in the remains of starch found in the teeth of ancient inhabitants of the area (between 8,210 and 6,970 years old). The Cupisnique people (1500 – 200 BCE) were the first to portray the loche in ceramics. The Mochica, Sicán and Chimú cultures would then introduce it into their diets. Loche has special characteristics due to the geographical environment in which it is produced and the techniques used by cultivators (it is planted under a full moon, otherwise the cuttings rot). It is central to Lambayeque cuisine, almost as much as salt. Authentic loche squashes weigh less than a kilogramme and have no seeds, are an intense golden yellow, fleshy and, when cooked, have a smooth and pleasant texture.’ Text from: <https://blog.mesa247.pe/zapallo-loche-lagrima-de-oro/>.

For the producers and small enterprises operating in the agricultural sector and whose products are part of a wider value chain, the end point of which is either in a culinary offering (services) or processed goods, appellations of origin and geographical indications are of strategic importance because they allow the product's origin, its inextricable link to that origin, and the elements of tradition and history that come with that to be used as a means of differentiation.

The **appellations of origin** and **geographical indications** model brings with it the requirement to maintain or preserve the characteristics unique to a product originating in a particular geographical area, and that owes its characteristics or conditions to that origin, including natural factors (such as climate, soil and water) and human factors (such as the use of implements, tools and traditional production methods and mechanisms). As a result, this legal system requires certain standards, specifications and technical conditions to be set and adhered to in order to harmonize production among those who are authorized by the State of Peru to produce the product in question. To achieve this, the beneficiaries of the **appellations of origin** or **geographical indications** must be part of the Regulatory Boards,⁶⁶ which are the bodies responsible for managing **appellations of origin** and **geographical indications**.

The association brought about by these legal concepts applies to certain products (many of them crops) for which the competitive edge lies in their origin, and it allows producers of those products to combine their efforts and pool their resources; achieve productions levels that match demand on the market; and promote a unified image of the product that is linked to the territory and its defining characteristics, meaning agreed standards of quality have to be preserved.

⁶⁶ Law No. 28331 Framework Law for Regulatory Boards of Denominations of Origin and Supreme Decree No. 170-2021-PCM.

As a result, products with an **appellation of origin** or **geographical indication** may be valued differently compared to generic or “standard” products that may otherwise be similar; in effect, this means that the market may pay more for the differentiation.

“Thus, for example, through adopting a niche marketing strategy, a tasty traditional product, though apparently with no significant added value, ceases to be a mere foodstuff that is part of the popular culture of a specific region, and becomes a highly differentiated delicacy in the eyes of the end-consumer, who is willing to pay a higher price for it.”⁶⁷

Appellations of origin, in contrast to collective marks, can only be used by certain producers and require the products that they distinguish to come from a certain geographical area and to possess a certain quality, and are therefore subject to these requirements.

In this regard, it is important to note that full use of the Loche de Lambayeque appellation of origin will boost business development, or “clusters”, by allowing for strategies to be formulated that will improve production and commercialization, generating economic value for the producers of the product as well as value for typical dishes that contain the product as an ingredient.

Finally, it is crucial to highlight the significance that this appellation of origin could have in the promotion of culinary tourism in Peru (which includes the traditional dish under discussion) both nationally and internationally, considering that the food industry and its consumers value and recognize the use of these legal means of identification. It is a well-known fact that many products with an appellation of origin, such as “loche”, originate in socioeconomically disadvantaged rural areas.

⁶⁷ United Nations Industrial Development Organization, *Adding value to traditional products of regional origin: A guide to creating an origin consortium* (Austria, 2011).

The intelligent use, development and promotion of goods with the “Loche de Lambayeque” **appellation of origin** can have relevant impacts in several areas.

One element to highlight is the positive impact on the preservation of traditions surrounding the loche squash as traditional agricultural methods for producing the squash are maintained. Another relevant impact is that on rural development in terms of the number of jobs and the specialization of production work; an increase in the visibility of the area covered by the **appellation of origin**; a boost to rural tourism, including so-called culinary tours, to experience the product and its connection to the traditional dish “**Cabrigo**” as well as other ingredients and culinary knowledge particular to the area.

In that vein, consideration should be given to the other key ingredients always found in “**Cabrigo**”, as well as in other traditional dishes: **culantro** and **ají amarillo**.

Culantro is used as a seasoning and as a basic ingredient in Peruvian cuisine more widely, and it is primarily produced in the departments of Loreto and Ucayali.

As for ají amarillo, it is also a key ingredient for flavouring food, both in Peruvian households and across the national food industry. The presentation of both ingredients on the market has diversified; both are available in processed form as a paste or powder to be used as seasoning. Nonetheless, the ingredient could be even more commercially competitive if the use of **individual trademarks** was promoted in the context of the strategic framework outlined above.

Finally, there are certain traditional utensils used in the preparation of “**Cabrigo**” that are fashioned by individuals for their own personal use or for use by their family members. For this reason, the utensils are not commonly found in markets available for purchase by customers.

According to an article published in 2012,⁶⁸ awards were presented at the Mistura food festival to producers promoting and preserving the diversity, traditions and wealth of Peruvian cuisine in various parts of the country. One of those winning producers was a family from the Santo Domingo de Olmos farming collective, located two hours from Chiclayo. In addition to work raising crops and livestock, the family dedicates energy to activities linked to the regional tradition of producing traditional utensils.

The most famous of those utensils is an iron pan named “**Chiclayo**”, which is used in the north of Peru to prepare various regional dishes, including “**Cabrito**”.

In the course of the present analysis, no specific information was found on the above-mentioned iron pan or on any other traditional utensils. However, it was possible to identify some local businesses in the department of Lambayeque that sell the utensils commercially according to the same model. Photographs show that the pans are prominently engraved with the name of the northern city of Chiclayo, suggesting that food producers and the general population in the northern cities of Peru call these pans by that very name: “Chiclayo” pans.

This utensil plays an important role in the preparation of certain traditional dishes, including “**Cabrito**”, and yet it is not well known or widely available.

In this regard, we believe that the utensils and cooking implements used to prepare traditional dishes could play an interesting role in promoting and increasing awareness of those dishes.

In view of the above, we believe that **collective marks** would be a useful tool in the promotion and preservation of traditions (the production of pans and the preservation of the attributes they should have in connection with their origin being one way of achieving that). Such collective marks would fall under the ownerships of guilds or

⁶⁸ <https://andina.pe/agencia/noticia>

associations of “Chiclayo” pan producers, or associations of traditional restaurants serving dishes that are prepared using those pans.

As has been observed in the present work, **appellations of origin** and **geographical indications** are tools similar to **collective marks**. However, we do not believe that the former two tools would be of use in this particular case. This is because, during the research phase of the present work, the geographical and qualitative links necessary to allow for a business strategy based on an appellation of origin or geographical indication were not found for this type of utensil. However, it is interesting to note that, in neighboring Colombia, appellations of origin have been registered and are in use for pots and handicrafts such as Mopa Mopa Barniz de Pasto, Cerámica Artesanal de Ráquira, Cerámica del Carmen de Viboral and Chiva de Pitalito.

Another example of protecting culinary utensils hails from Mexico. The collective mark “*MCG Molcajetes de Comonfort, Guanajuato*”,⁶⁹ which was registered under the name of “*los Artesanos de Piedra Volcánica de Comonfort, Guanajuato; Tradición Mexicana Milenaria, A.C.*” This association is made up of 20 artisans in the town of Comonfort who make molcajetes using traditional methods that date back to pre-Hispanic times and that have a close link to the area of Comonfort.

A molcajete is a utensil that is similar to a mortar and is made of local volcanic rock. It is widely used to prepare various salsas in Mexican cuisine. By registering a collective mark, the artisans in Comonfort ensured that the molcajete was recognized as a product that was exclusive to their geographical area, thereby connecting its production and attributes to the work of the artisans in their association.

⁶⁹ Registration No. 2175539 (Record No. 2308137).

In Peru, despite the diversity of its national handicrafts, the only one that has been recognized as an appellation of origin is **Chulacanas**,⁷⁰ which distinguishes a type of pottery that is the result of a combination of natural factors (including clay and mango leaves) and human factors (ancestral techniques inherited from the ancient people of the area, the Vicús) in the department of Piura.

We believe that promoting the wider use of utensils connected to the traditional dish “Cabrito” and the way it is made (attributes) in the department of Lambayeque (origin), would allow for the strategic development of the traditional dish’s position on the market through the use of complementary elements to the dish (the utensils), which then themselves become an item of commercial, social and historical interest.

Collective marks should be used in the first instance and in close connection with the “Cabrito” dish to give a creative boost to regional handicraft trade to the benefit of the producers of these utensils.

2.1.2. Identification of supply and provision and intellectual property tools

The main ingredients for “**Cabrito**” can be found in almost all regional wholesale markets in the north. The main wholesale markets⁷¹ in the department of La Libertad are the *Mercado Zonal Palermo*, the *Mercado Central* and the *Mercado La Hermelinda*; the main ones in the department of Lambayeque are the *Mercado Moshoqueque*, the *Mercado Modelo de Chiclayo* and the *Mercado Central de Ferreñafe*; and, in the department of Piura, the *Mercado Central* and the *Mercado Las Capullanas*.

In other departments of Peru, most of the ingredients can be bought in supermarkets, convenience stores and wholesale markets. Chicha de jora and goat’s meat are the

⁷⁰ Through Resolution 011517-2006/OSD-INDECOPI, the protection of the CHULACANAS appellation of origin was declared. The appellation of origin defines the geographical area for the production of the product as the Chulacanas District, Morropón, Piura.

⁷¹ National Institute for Statistics (INEI), *Directorio Nacional de Mercados de Abastos: Censo Nacional de Mercados de Abastos*, (2016) available at: https://www.inei.gov.pe/media/MenuRecursivo/publicaciones_digitales/Est/Lib1447/libro.pdf

exception, which can usually only be bought during regional festivals (and in very specific places).

The following groups are some of the main providers of **goat's meat** in the above-mentioned marketplaces:

- (i) *Asociación de Productores Agropecuarios El Eucalipto* (The Eucalyptus Association of Agricultural Producers), owners of the collective mark “Granandina”;
- (ii) *Asociación Unidad Productiva Don Tomás* (Don Tomás Productive Unit Association), owners of the collective mark “Asprodont”;
- (iii) *Asociación de Productores Agropecuarios y Apicultores de Cruz de Pañalá – Morrope* (Cruz de Pañalá Association of Agricultural and Apicultural Producers), owners of two registrations of the trademark “Apayacp”;
- (iv) *Asociación de Productores Agropecuarios Olmos* (Olmos Association of Agricultural Producers);
- (v) *Asociación de Ganaderos de Leche* (Association of Dairy Livestock Farmers);
- (vi) *Cría Cruz de Chalpón de Motupe*;
- (vii) *Asociación Ganaderos de la ciudad de Lambayeque* (Association of Livestock Farmers of the City of Lambayeque);
- (viii) *Asociación de Productores caprinos de la Cuenca del río Chillón ASOGCARCH* (Association of Goat Producers of the Basin of the Chillón River ASOGCARCH); and
- (ix) *Asociación de Apoyo a la Producción Caprina – PROCABRA* (Association for Support for Goat Production – PROCABRA).

As for **ají amarillo**, it comes in two forms: fresh and processed (as a paste).⁷² The main companies that produce this ingredient are:

- (i) *Gandules Inc. S.A.C.* (exporters of ají amarillo);
- (ii) *Ecosac Agrícola S.A.C.* (exporter of ají amarillo);
- (iii) *Danper Trujillo S.A.C.*;
- (iv) *Productores Alimenticios Tresa*, owner of the trademark TRESA;
- (v) *Garden Center 4 Estaciones S.A.* (CUATRO ESTACIONES);
- (vi) *Productos Agroindustriales La Arequipeña*, owner of the trademark LA AREQUIPEÑITA;
- (vii) *Productores PIT SCRL*, owner of the trademark TOÑA;
- (viii) *Corporación Urbina SAC*, owner of the trademark VALLE DE CHIRA;
- (ix) *Corporación Urbina*, owner of the trademark KAORI;
- (x) *Alicorp S.A.A.*, owner of the trademark ALACENA; y,
- (xi) *Industrial Nacional de Conservas Ali*, owner of the trademark LATINAS.

As for **chicha de jora**, which is made using yellow maize, its production is traditionally primarily associated with Lambayeque and, specifically, the village of Mórrope. However, it has not been possible to source any main providers. Certain names, such as “*Cruceñita Linda*” and “*Dulce Morropania*”, have come up in connection with the traditional production of this ingredient.

Finally, although the loche squash has been recognized as an appellation of origin since 2010, its beneficiaries must yet endeavor to coordinate their work to be able to actually use this product under the **Loche de Lambayeque** appellation of origin.

⁷² Matthias Jäger, Alejandra Jiménez and Karen Amaya, “*Guía de oportunidades de mercados para los ajíes nativos de Perú*” (Bioversity International, 2013), available at: https://www.bioversityinternational.org/fileadmin/_migrated/uploads/tx_news/Guia_de_oportunidades_de_mercado_para_los_ajies_nativos_de_Peru_1729.pdf

One means of achieving this goal lies in the processing, packing and labelling of the squash so that it can be frozen or transformed into a paste, like the ají amarillo pepper. In this way, the squash would be further commercialized, diversified as a product offering and, most importantly, exploited to the full in terms of the benefits afforded by an **appellation of origin**.

One of the first strategic steps taken by actors in this value chain should be the establishment of a Regulatory Board in accordance with Law No. 28331, which defines the terms and conditions of the establishment of a Regulatory Board and its management of recognized appellations of origin.

A Regulatory Board is an entity that is comprised of the beneficiaries of an appellations of origin. They must take the form of a non-profit civil association and must meet the requirements established by law.⁷³

Specifically in relation to **goat's meat**, as previously mentioned, there is a prevailing need to promote the mechanization of the livestock raising process (intensive animal farming) and formalize traditional producers to improve the productivity of the main ingredient of "Cabrito". In other words, effect improvements in business management.

For example, the *Asociación de Productores caprinos de la Cuenca del río Chillón ASOGCARCH*, Carabaylo, Lima, brings together goat farmers in the local area that have been working with the support of non-governmental organization "Procabra",

⁷³ Article 5. Authorization requirements.

To be granted authorization to function as a Regulatory Board by the INDECOPI Directorate of Distinctive Signs, Civil Associations must meet the following requirements:

- a) the Civil Association must hold as its ~~purpose~~ ~~the~~ ~~administration~~ of a particular recognized appellation of origin.
- b) the data provided to and obtained by the INDECOPI Directorate of Distinctive Signs must clearly show that the civil association complies with the conditions necessary to ensuring respect for the legal provisions and the effective administration of the recognized appellation of origin.
- c) the Civil Association must submit a proposal for the Regulations of the appellation of origin, to be approved by the INDECOPI Directorate of Distinctive Signs.

which has been helping them to improve their production management through organizational support and technical assistance.⁷⁴

As such, it is recommended that the use of **collective marks** be promoted and incentivized in order to expand goat's meat production and, by extension, incentivize and promote the expansion of the “Cabrito” traditional dish.

2.1.3. Identification of locations for placement and distribution of the traditional dish and intellectual property tools

The “**Cabrito**” offering as a typical dish can be found in the majority of restaurants in the regions of Piura, Lambayeque and La Libertad.

It is possible to find this dish on offer in other cities in Peru, such as Lima, specifically in restaurants that serve dishes that are typical of the Lambayeque and Piura regions.

It is interesting to note that this traditional dish features on menus in leading high-end restaurants in the country's main culinary centers (Lima, Cusco and Arequipa).

The promotion of regional, tourist and high-end restaurants, as well as that of markets, can be achieved through the promotion of **individual trademarks**, which provide consumers with information on the business origin of a product and also the special elements inherent in the art of preparing a particular regional dish. Examples of trademarks include the following: *Restaurante Turístico Sabor Campestre* (Country Flavor Tourist Restaurant) in Puente Piedra, Lima; *Brasero Turístico de Mechita* (Mechita Tourist Grill), in Huachipa, Lima; *Restaurante Turística Gran Chimú* (Great Chimú Tourist Restaurant), in the Cercado de Lima; *Astrid y Gastón* (Astrid and Gaston), in San Isidro, Lima; *La Picantería*, in Surquillo, Lima; *Restaurant El Rinconcito Norteño* (“Little Place in the North” Restaurant), in San Miguel, Lima; *El*

⁷⁴

<http://minagri.gob.pe/portal/40-sector-agrario/situacion-de-las-actividades-de-crianza-y-produccion/299-caprinos?start=11>

Cántaro Restaurant Turístico (“The Pitcher” Tourist Restaurant), in Lambayeque; and *El Rincón del Pato* (The Duck Spot), in Lambayeque.

The third point in the value chain is the point at which a dish can be promoted and expanded. The task of making the dish more attractive therefore falls to the establishments that serve it. This can be done, for example, by improving the presentation of the dish or deploying marketing strategies.

Restaurants can therefore create **individual trademarks** or **slogans** for a traditional dish or any of its ingredients in order to set the dish apart. By the same token, the atmosphere of a restaurant, which could have particular characteristics, would allow for the option of protecting those characteristics using **individual trademarks**, **slogans** or even **copyright** if a work of art can be identified, which would include pictures, a mural, or the architectural features or interior design of a restaurant.

In addition, as part of efforts to make the offering more competitive on the market, photographs could be used on menus or in promotion and/or marketing materials, and those photographs can be protected by **copyright**.

As well as photographs of food, collections of recipes, the wording of recipes and marketing videos can all be protected by copyright, and can all be used to promote “Cabrito”.

At this juncture in the development of “Cabrito”, strategies based on **collective marks** could serve to streamline efforts along the entire “Cabrito” value chain.

The idea would be to connect, under a single **collective mark**, the three points of the value chain. This would communicate to the market and to consumers (tourists) that there is consistency in the reliability, quality, tradition and safety across all of the main ingredients, the distribution of those ingredients and the final dish served up in restaurants.

Another benefit of a **collective mark** in this context is the potential to generate information on – and thereby foster trust in – all of the processes and progressions along the supply chain. This would, in effect, allow for the ingredients to be traceable, revealing where they have come from and, more importantly, who is behind them.

Tracing this journey from field to table will require the a **collective mark**; it will communicate the values held throughout the chain, ensure uniform quality standards and, crucially, reduce costs. This will elevate the traditional dish and its ingredients to national and international levels.

Used in combination, these strategies could increase the value of culinary offerings in the eyes of the tourist, thereby benefiting and strengthening the food tourism industry.

TABLE 1: SUMMARY OF ELEMENTS OF THE VALUE CHAIN OF TRADITIONAL DISH “CABRITO” AND INTELLECTUAL PROPERTY TOOLS

Value chain anchor points	Elements of the traditional dish with potential links to IP	IP tools relevant and applicable to the value chain of the traditional dish
Product/Ingredient “Principles of basic seasoning”	Suckling goat’s meat Chicha de jora Aji amarillo Grated loche squash	Appellations of Origin Individual Trademarks Collective Marks
Supply/Provision	Markets Regional festivals Regional associations	Individual Trademarks Collective Marks
Placement/Distribution	Markets Restaurants Regional festivals	Individual Trademarks Collective Marks Slogans Copyright (e.g. photographs, recipes (provided the wording has not been changed))

2.2. Traditional dish from the Arequipa region: “Ocopa”

“**Ocopa**” is a classic dish in Peruvian cuisine and is said to originate in the city of Arequipa. It is a hot sauce, the main ingredients of which are huacatay (an aromatic herb), peanut and aji mirasol (a type of chili), that is served on boiled potatoes.

“**Ocopa**” forms part of the identity not only of those local to Arequipa, but of Peruvians across the country. Nevertheless, there is still work to be done on raising awareness about the history behind this traditional dish.

The recipe for “**Ocopa**” has changed gradually over time, during which its ingredients list has become shorter and shorter to become what it is today, which is a sauce served with boiled potatoes and usually accompanied by lettuce, olives and egg.

“**Ocopa**” is a traditional dish that represents a sense of the feeling that comes of being local to a region: pride and belonging.

It is known and recognized as a typical Arequipa dish.

2.2.1. Identification of products and ingredients and intellectual property tools

The **main ingredients** of “**Ocopa**” are:

- (i) ají mirasol, which provides flavor and aroma;
- (ii) ají amarillo;
- (iii) paria or serrano cheese, a fresh, semi-hard yellowish cheese from the Antiplano region and south of Peru; and
- (iv) huacatay.

Traditionally, a **batán** is used to grind the ají for the “**Ocopa**”, along with the other ingredients, which include **red onion, garlic, peanut**, and other secret traditional ingredients, but this method is becoming less and less common.

Potato is also a key ingredient. Although it is not listed with the main ingredients above, “**Ocopa**” is almost always served with potatoes. In Arequipa, the potato of choice is the *papa canchan* variety – also known as *papa rosada* (pink potato) for the color or its skin – because of its taste and texture.

In other parts of Peru, “**Ocopa**” is enjoyed with *papas blancas* (white potatoes) or *papas amarillas* (yellow potatoes).

Consumption of the ingredients of “Ocopa” has spread significantly across the country, primarily owing to the use of **individual trademarks** such as Doña Isabel, Provenzal and Bells.

Ají mirasol is a type of sun-dried Peruvian chili and is what gives the dish its flavor and unique intensity. Its flavor is much less floral and citric than that of fresh ají

chilies, but it is more rounded and concentrated.⁷⁵ The drying process makes it lighter and significantly extends its shelf life. **Ají amarillo**, as mentioned during the analysis of the previous traditional dish, is one of the main ingredients used for imparting flavor in Peruvian cuisine.

*"The Peruvian culinary boom would not be possible without ají, which is a key ingredient in Peruvian cuisine across the country: on the coast, in the mountains, in the rainforest; north, central, and south. Ají has survived for thousands of years thanks to regional merchants, who preserved and passed on from generation to generation the secrets of how to prepare ají, and also thanks to cultivators. It is the women and men of the land who, in fields and gardens, have preserved the pre-Hispanic varieties of ají, allowing the ingredient to be part of our national heritage and a source of national pride today, well into the twenty-first century."*⁷⁶

For **ají mirasol** and **ají amarillo**, and also for paria or serrano cheese, we would suggest using **collective marks** because the system, as explained above, allows for a reduction in production costs, which increases the competitiveness of the products on the national market. Production costs can be reduced if the producers of a particular ingredient within a particular geographical area can successfully work together.

As for **huacatay**, our suggestion is to industrialize its production, making it available frozen or in paste form, in order to further its commercialization. While there are some individual trademarks with specific offerings for this product, this sector of the market could be made more competitive through the use and promotion of **individual trademarks** and even **collective marks** to take advantage of the benefits outlined under the analysis of the previous traditional dish and to ensure that the ingredients

⁷⁵ <https://perudelicias.com/aji-mirasol-beso-de-sol/>

⁷⁶ "Ajíes peruanos: Sazón para el mundo", a collaborative work coordinated by the Peruvian Gastronomic Society, the Crops Programme at the Leon de Morúa National Agrarian University and the Hospitality and Tourism Research Institute of the University of San Martín de Porres, Lima.

are associated with their geographical origin, which will give the consumer some insight into the origins of the traditional dish as a whole.

The “batán” is central to the preparation of this traditional dish and, as mentioned above, is also used in the other traditional dishes discussed in the present work.

A **batán** is a traditional kitchen utensil used to grind foods and ingredients; it is comprised of two rounded stones that serve as a pestle and mortar. This tool has been used by different societies in Peru throughout its history to grind or “beat” kitchen ingredients.

In terms of promotion and image, this traditional Peruvian culinary utensil could be used as a glue that binds together many aspects of Peruvian cuisine, or could be a reference point for local culinary offerings (such as those in Arequipa) through which various initiatives could be launched in order to distinguish traditional dishes, as well as ingredients unique to the region or to Peru. It could also serve as a means of promoting Peruvian culture, cuisine, and food tourism. To achieve these goals, we would suggest using **certification marks** that use the image and meaning of the batán in their strategic plans and framework.

In the application of the proposed strategy, it must be borne in mind that the certification mark becomes an indication of the quality of the products in question. The responsibility for controlling the use of the mark, and imposing sanctions in cases where use of the mark does not comply with the regulations and terms and conditions of use, falls to the owner of the certification mark.

For this strategy to be feasible, an entity must be chosen to act as owner of the mark and, furthermore, to certify production and/or processing conditions. This is what generates consumer trust.

In effect, this strategic use of a **certification mark** is intended to generate trust on the market in relation to particular conditions of the product or service that carries the special sign “batán” by ensuring that behind that special sign lies a prestigious entity that can guarantee those conditions.

In view of the above, it is essential that the certification mark owner already has a certain reputation or presence on the market, one that enjoys a degree of prestige. Third parties will then use the mark through a user license and their products will be subject to strict checks.

This scheme will, over time, lay the groundwork for modernizing and also standardizing the products and services on offer, thereby making space for innovative and attractive offerings to consumers who will be willing to pay more in exchange for certain guarantees provided by a mark. The mark will be founded on regulations or terms that specify the conditions of use of that mark; the characteristics that certified products and services must have; the checks and monitoring that those products and services will be subject to; and the sanctions and liabilities for improper use.

2.2.2. Identification of supply and provision and intellectual property tools

The ingredients of “**Ocopa**” are widely available throughout Peru and in almost all outlets, including markets, supermarkets, regional festivals and convenience stores.

As for “**ají**”, we should recall that it has long been the seasoning *par excellence* throughout the Andean world to flavor soups and other dishes. Like the **batán**, Peruvian ají chilies represent the essence of traditional dishes that have existed for hundreds of years.

However, “we know very little about the diversity of our ají chilies. We need a map of the varieties that exist in each region of the country and we need to know if there

are any crossovers; if a single variety has different names, for example, or if the same name is used for varieties that are genetically distinct (...).⁷⁷

It would therefore be advisable to promote and incentivize the use of sustained business strategies based on **individual trademarks** and **collective marks** to make the *aji* market more competitive and, in the same way, incentivize and promote the spread of Peruvian traditional dishes.

This strategy can be adapted to meet the needs of businesses, particularly small enterprises, to include association or grouping together on product offerings so as to reduce costs. Participating businesses would benefit from the differentiation of their products, economies of scale and the increased trust of the consumer in their products.

In order to this, the mark must be adopted by a collective entity, an association of producers or manufacturers, or other form of organization of legal persons operating according to certain rules established by its members, the so-called “regulations of use”. These rules are intended to consolidate or standardize the use of the mark by the associates or guild members in relation to the products or services to which the mark applies. The standardized or shared characteristics can be quality, homogeneity, stability, or origin, or indeed any other characteristic that the mark covers and therefore promises to the consumer.⁷⁸

2.2.3. Identification of locations for placement and distribution of the traditional dish and intellectual property tools

“**Ocopa**” is on the menu of most regional, tourist and high-end restaurants in Peru; and is served as a starter or as a sauce to be eaten with a main dish or a *piqueo* (a form

⁷⁷ Ibid.

⁷⁸ Luis Alonso Garcia, Ibid.

of shared starter in Peru). In this context, **individual trademarks** are most appropriate.

However, it is important to recall that, traditionally, “**Ocopa**”, which comes from Arequipa, is the fare of regional *picanterías*.⁷⁹ It is through this value chain that collective strategies, as opposed to individual ones, can come into play in order to jointly promote “**Ocopa**” as a culinary offering, for which the key ingredients – aji chilies and Peruvian potatoes – are rooted in a single origin and unique traditions and values, which represent Peruvian cuisine as a whole.

To progress in the use of **collective marks**, an advisable first step would be to find a potential unifier for traditional dishes from Arequipa. One option is the *Sociedad Picantera de Arequipa* (Society of *Picantería* Owners of Arequipa), which is an entity founded on August 20, 2012 by a group of *picantería* owners, diners, friends, and scholars of the *picantería* tradition in Arequipa. The Society aspires to contribute to the protection, promotion and development of *picanterías* and to what it considers to be “the most meaningful expression of the traditional food practices that define the city of Arequipa and its surrounding countryside”.⁸⁰

The Society could serve not only as a unifier of interests in terms of a **collective mark** that distinguishes certain traditional products with a defined origin and quality; but also as the owner of a certification mark, thus assuming the responsibility of certifying or guaranteeing products and services relating to local Arequipa cuisine that are covered by the framework or standards established by the Society.

The business strategy associated with the use of this kind of mark lies in the opportunity for associations to release a product onto the market with the prestige

⁷⁹ *Picanterías* are traditional establishments that sell stews, *picantes* (stews spiced with aji), condiments and chicha de maíz (a fermented corn drink) in the city of Arequipa. They are eateries that preserve the flavor history and memory of the people of Arequipa, but also meeting places that bear witness to traditional customs, rites and formalities. Text from: https://sisbib.unmsm.edu.pe/bibvirtualdata/publicaciones/inv_sociales/n17_2006/a03n17.pdf

⁸⁰ www.sociedadpicanteradearequipa.pe

afforded by the owner of the certification mark. Business owners' individual trademarks also benefit from added value by virtue of being part of a system of guarantees.

Through this strategy, work can begin on modernizing production and manufacturing processes, standardizing certain products and, in the case of services such as restaurants (*picanterías*), sustaining a determined level of quality under the supervision of the owner, who will be motivated to ensure that the mark maintains its prestige.

As with the traditional dishes discussed above, it could be relevant at this stage to use promotional materials, such as photographs, which can be protected using Copyright (photographs that constitute original creations and are an expression of original work), and advertising phrases that can be protected as slogans.

Similarly, the atmosphere in restaurants could possess particular characteristics and therefore may be able to be protected by elements of IP.

TABLE 2: SUMMARY OF ELEMENTS OF THE VALUE CHAIN OF TRADITIONAL DISH “OCOPA” AND INTELLECTUAL PROPERTY TOOLS

Value chain anchor points	Elements of the traditional dish with potential links to IP	IP tools relevant and applicable to the value chain of the traditional dish
Product/Ingredient	Ají amarillo Ají mirasol Huacatay Serrano/paria cheese	Individual Trademarks Collective Marks Certification Marks
Supply/Provision	Convenience stores Supermarkets Regional festivals	Individual Trademarks Collective Marks
Placement/Distribution	Markets <i>Picanterías</i> Restaurants Regional festivals	Individual Trademarks Certification Marks Collective Marks Slogans Copyright (e.g. photographs, recipes (provided the wording has not been changed))

2.3. Traditional dish from the Lima region: “Ají de Gallina”

The traditional dish of “**Ají de Gallina**” cannot be ascribed to any region or area in particular; it is part of the diet and cuisine of Peruvians the length and breadth of the country. Interestingly, Garcilaso de la Vega in his *Comentarios Reales de los Incas* noted, in reference to “*Ají de Gallina*”, that “*the people of my land are such close companions of ají that they never eat without it*”.

The history behind “**Ají de Gallina**” is known by relatively few. Dating back to the sixteenth century, the dish is a result of the fusion between Quechua and Hispanic cuisines. It is an integral dish in Peru’s culinary ancestry.

Historians assert that the dish is considered to be the brother of “*manjar blanco*” as the dishes initially had very similar textures and tastes: “it appeared to be a thick cream, and was comprised of chicken breast, rice, almonds and sugar, to mention but a few of the ingredients of Arabic and Iberian origin.”⁸¹

Both iterations first arrived in Lima in the sixteenth century, but under the name of “*menjar blanc*”: “*manjar blanco* with chicken breast and sugar, thickened with rice flour; and *manjar blanco* without chicken breast, only sugar and flour. One wisely remained in the sphere of sweet treats, whereas the other *manjar*, monastic and sweet, fused perversely with our seductive ají” explains researcher Isabel Álvarez in her book *La Dulce Historia del Ají de Gallina*.⁸²

This popular dish saw many variations over the years, eventually leaving its sweet origins behind to become a savory, more inherently local dish with the introduction

⁸¹ Promperú, “*Conoce la historia del legendario Ají de gallina, plato Estrella de la gastronomía peruana*”, 2020. Text from: <https://peru.info/es-pe/gastronomia/noticias/2/13/conoce-la-historia-del-legendario-aji-de-gallina--plato-estrella-de-la-gastronomia-peruana>

⁸² Idem. WIPO FOR OFFICIAL USE ONLY

of Peruvian ingredients, such as ají amarillo. “In 1839, the dish came to have a lightly savory base, which is how it is still consumed today”.⁸³

The history of “**Ají de Gallina**” is something to be appreciated. The dish itself has been extensively studied and promoted as a traditional dish and, as a result, it is enjoyed in the Lima region and beyond, appearing in the kitchens of ordinary Peruvians across the whole of the country.

2.3.1. Identification of products and ingredients and intellectual property tools

The main ingredients of “**Ají de Gallina**” are:

- (i) chicken;
- (ii) ground ají mirasol;
- (iii) ground ají amarillo; and
- (iv) *papa amarilla* (yellow potato) or *papa blanca* (white potato).

Traditionally, a batán was used to grind the ají, while a clay pot was – and continues to be – used to cook the dish.

The main ingredients of “**Ají de Gallina**” are widely consumed in Peru.

As with the traditional dishes discussed above, the use of **individual trademarks** would provide more effective structures for formalizing the product offering through food establishments and restaurants; and would allow for the product to be sufficiently distinct on a highly competitive market. As the ingredients above are not naturally distinctive, an individual trademark or collective mark would add value to the product offering “**Ají de Gallina**”.

⁸³ Idem.

In the context of the distribution chain, as explained in reference to previous traditional dishes, **individual trademarks** would serve to combine efforts to bring to the market goods (the traditional dish) and services (in a restaurant) with added value by harnessing regional participation.

For the traditional dish under discussion, it is, once again, the central ingredients of **garlic** and **potato** that bring added value to the dish, as opposed to the recipe itself or the preparation method.

Given the banality of the constituent elements of this dish, it is not necessarily obvious that strategies based on elements of IP would be helpful. It should also be noted that “**Ají de Gallina**”, which is consumed in many areas of Peru, has no defined link to a particular region.

In the light of the above, an alternative strategy is needed to increase the dish’s visibility and differentiation on the market. As such, we would propose using **individual trademarks** to integrate existing value chains between producers and different restaurants.

2.3.2. Identification of supply and provision and intellectual property tools

The ingredients for this traditional dish can be easily acquired anywhere in Peru and are stocked in all sales outlets, which include markets, supermarkets, regional festivals and convenience stores.

Given the key elements in the value chain of this traditional dish, which are **ají** and **potato**, it will be important to assess the system for commercializing agricultural and livestock goods with a view to being able to use elements of IP. This system is part of a value chain comprising a series of sequential and interdependent activities that are aimed at satisfying the demands of a consumer and that are executed by a wide

range of different agents that operate in locations that may be geographically very far from one another.⁸⁴

On the basis of the conclusions of such an analysis, it could be determined whether an **individual trademark** or **collective mark** would be appropriate for this strategy.

In effect, given the nature of the ingredients described above, elements of IP could be used as tools in the communication of fragile aspects of the value chain that could mean that the product is making a contribution, and that contribution should be made visible; here, we are referring to sustainability, rural development and environmental sustainability, while also considering so-called social inclusion.

In any case, an association organized using a system of **collective marks** would allow for a greater understanding of consumer expectations. It would also allow for sustainability-centered improvements to be made to the production processes of existing goods and general improvements to be made to the production processes of new goods.

2.3.3. Identification of locations for placement and distribution of the traditional dish and intellectual property tools

“**Ají de Gallina**” is served in most regional, tourist and high-end restaurants in Peru.

The appeal of the dish lies in its simplicity, and is the draw for those diners yet to try the dish as well as locals who know it well.

However, the dish is also versatile. The opportunity for innovation in the way it is presented could be a recipe for success: introducing alternatives to the traditional version of the dish, such as empanadas, canapés, pizzas and other variations that could

⁸⁴ Center for Regional Coffee and Business Studies (CRECE), “*Propuesta para Desarrollar un Modelo eficiente de Comercialización y Distribución de Productos*” (Colombia, 2014).

give a lift to the traditional dish by presenting it in new iterations while ensuring it retains its essence.

For new forms such as these, **individual trademarks** could be effective tools. They would not only serve to differentiate such offerings on the market, but would also be useful for using and protecting any promotional phrases or advertising slogans used in relation to those offerings.

As discussed under the traditional dishes above, food photography is an important element in making a product appealing. Any photographs used in that process can be protected by **copyright** because they are original creations. In other words, they will have required a creative and intellectual process to create a photographic work.

Similarly, recipes for this traditional dish can also be protected by **copyright** provided that they are original and creative pieces of writing.

TABLE 3: SUMMARY OF ELEMENTS OF THE VALUE CHAIN OF TRADITIONAL DISH “AJI DE GALLINA” AND INTELLECTUAL PROPERTY TOOLS

Value chain anchor points	Elements of the traditional dish with potential links to IP	IP tools relevant and applicable to the value chain of the traditional dish
Product/Ingredient	Chicken breast Ground ají mirasol Ground ají amarillo <i>Papa amarilla</i> or <i>papa blanca</i>	Individual Trademark
Supply/Provision	Convenience Stores Supermarkets Regional Festivals	Individual Trademarks Collective Marks
Placement/Distribution	Markets <i>Picanterías</i> Restaurants Regional festivals	Individual Trademarks Slogans Copyright (e.g. photographs, recipes (provided that they are original and creative pieces of writing), and others)

2.4. Traditional dish from the Tacna region: “Picante a la Tacneña”

This traditional dish is the signature dish of the city of Tacna, located in the south of Peru in the department of Tacna, and the locals, the *tacneños*, regard the dish to be a part of their local identity. Categorized as a stew, “**Picante a la Tacneña**” is considered unique to the Tacna region.

Like some of the other traditional dishes discussed, “**Picante a la Tacneña**” is a typical dish that contains, as one of its main ingredients, local pride. It is a symbol of local identity, history, relationships, and cultural values.

Among its other (more physical) ingredients are various cuts of beef, including offal, cow foot and “*charqui*” (dry cured beef). The secret to the dish’s success is slow cooking the **meats** and **ají peppers** together.

In the minds of many, “**Picante a la Tacneña**” began as a fringe dish, largely owing to its humble origins evidenced in the connection to the countryside and the use of offal. The dish is closely linked to the production of ají, which is an inherently local ingredient. To eat ají is to suffer and to rejoice at the same time, to experience that sublime interplay between pleasure and pain.⁸⁵

Tacna lies on the border between Peru and Chile. In recent years, prior to the outbreak of the COVID-19 pandemic, the local cuisine has been a magnet for Chilean tourists. This allowed the local food industry to grow and to improve its culinary offering to foreigners leaving their country in search of a quality experience in Tacna. Chilean visitors tend to seek out particular services (including medical services, such as those of doctors and ophthalmologists), and among them is Peruvian cuisine, of which “**Picante a la Tacneña**” is an excellent example.

⁸⁵ Elard Chaiña, “*Picante a la Tacneña: La Vida y La Historia*” (2015).

2.4.1. Identification of products and ingredients and intellectual property tools

The main ingredients of “**Picante a la Tacneña**” are:

- (i) tripe,
- (ii) shredded *charqui* (dry cured beef),
- (iii) cow foot,
- (iv) ají panca chili pepper; and
- (v) ají amarillo.

It is important to note that this dish also requires **garlic** and dried **oregano**.

“**Picante a la Tacneña**” is served with a bread roll and mariva potatoes, also known as *papas negras* (black potatoes). This kind of potato is floury and slightly sweet.

One key point to be highlighted is that the defining characteristic of this traditional dish is the inclusion of **offal** and other **alternative cuts of beef**, including cow foot.

Offal and *charqui* are not especially common in certain strata of society. This is not for lack of availability or difficulties relating to access or cost, but rather a reflection of consumer preferences.

Dishes with offal as a primary ingredient therefore present an additional challenge in the tourism industry as many foreign visitors perceive the ingredient as “gross” according to a study conducted in 2016 by Promperú.

Given this context, presentation is an element of the dish that is fundamental to increasing its appeal. This can be influenced by variations in the use of serving dishes, decoration or accompaniments and is at the discretion of any establishment serving the dish.

Mariva potatoes, another of the dish's ingredients, can be cooked in many different ways: stewed, boiled, fried, or pureed. However, in “**Picante a la Tacneña**”, it is served boiled, which is the method that best showcases the ingredient's pleasant, slightly sweet taste.⁸⁶

Ají panca, like **ají amarillo**, is one of the main flavoring ingredients in Peruvian cuisine. For this product, strategies based on **collective marks** are recommended, as they can unite ají panca producers in a particular area through an association, thereby allowing them to reduce production costs and make their product more competitive on the national market.

It is advisable that such strategies consider the need for sustainable production systems that do not harm the environment or local biodiversity.

In that connection, it is important to note that, according to data released by the Ministry of Agricultural Development and Irrigation in 2019, Lima tops the leaderboard for ají production at 33%, followed by Tacna with 23%, specifically with ají amarillo.⁸⁷

In view of this information, any strategy to boost culinary tourism activities for this traditional dish should be focused on **ají chilies**.

An interesting study⁸⁸ on the history of ají cultivation in Peru reveals that Peru and Bolivia are the two countries with the highest level of genetic diversity of ají chilies. These chilies have featured in the lives of inhabitants of these areas for many years,

⁸⁶ <http://www.agronline.pe/noticias/agricultura/contando-la-historia-la-papa-peruana-y-su-origen/>
⁸⁷ <https://www.gob.pe/institucion/midagri/noticias/50645-en-el-dia-nacional-de-los-ajies-pequenos-productores-son-los-principales-exponentes>

⁸⁸ Las cadenas de valor de los ajíes nativos de Perú. Investigación de los estudios realizados dentro del marco del proyecto “Rescate y Promoción de Ajíes Nativos en su Centro de Origen” para Perú, (Bioversity International, Rome, 2013).

dating back to pre-Incan cultures, where the chilies were not only an important part of diets, but were also used in art and even religion.

‘During the Incan period, bundles made up of six dried ají peppers, known as “rantii”, were used as a unit of measurement and a form of currency. Like coca leaves, ají peppers were used in transactions as a form of money. They were highly valued and could even be exchanged for services performed by shamans or warriors.’⁸⁹

The aforementioned study shows that varieties of ají that are native to Peru are cultivated using traditional methods by small-scale farmers in poor and marginalized areas that suffer from a lack of modern agricultural mechanisms for crop management, as well as limitations in sales channels and mechanisms for trade.

These challenging factors are causing the ají pepper, an ingredient that is central to Peruvian cuisine, to lose its representation space. It therefore risks losing both its symbolic and its economic value. To prevent this from happening, collective marks (and later, once the strategy is established, appellations of origin and geographical indications) can be used to consolidate the ají chili value chain in the Tacna region in the context of promoting the traditional dish “**Picante a la Tacneña**”.

In the present context, it is important to seek out tools that will strengthen the link between ají producers and the restaurants serving up the traditional dish.

“**Collective marks**” will provide a means of visualizing the importance of ají to the region’s cuisine and will, at the same time, throw into sharp relief the significance of the territory’s contribution to Peruvian cuisine at the national level.

"The promotion of the value chain of ají peppers native to Peru should be aimed at creating trust and productive alliances between actors that can

⁸⁹ Ibid.

channel the flow of information along the length of the chain, develop joint solutions and optimize decision-making, thereby allowing value to be added to production at each link in the chain and rendering the sector more competitive at both the regional and national levels."⁹⁰

“**Collective marks**”, used in conjunction with Tacna’s regional culinary offering, will afford ají farmers more opportunities, should they decide to work collectively, to standardize their products. This will allow them to present unique offerings to the market, consolidate their agricultural activities, maximize their income and break with the cycle of poverty.

“**Picante a la Tacneña**”, in addition to its main ingredients, contains the aromatic herb **oregano**, which can be found in other typical Peruvian dishes.

Although no precise information is available on how **oregano** was introduced to Peru, it is known that the herb is native to Central and Southern Europe and Central Asia. Oregano is one of the Tacna region’s key agricultural products, second only to the olive. It is a primary source of income for farmers in the provinces of Tarata and Candarave. In fact, Tacna is Peru’s primary producer and exporter of oregano.⁹¹

According to the Regional Agriculture Directorate, around 2,200 hectares of oregano are planted in Tacna every year, resulting in an annual production rate of 40,000 tonnes, which represents approximately 65% of national production.⁹²

In 2014, INDECOPI announced the appellation of origin **Aceituna De Tacna**, which protects olives produced in Tacna. The people of Tacna are therefore aware that securing an appellation of origin for oregano could be extremely useful, not only for ensuring a consistent level of quality at all stages of production, but also for gaining

⁹⁰ Ibid.

⁹¹ P. Fabio Salas, “*Producción y Exportación de Orégano en la Región de Tacna*” under Budgetary Programme 0121: “*Mejora de la Articulación de pequeños agricultores al Mercado*”, Activity No. 5004496, “*Generación y Administración del Sistema de Información de Mercados*” (Tacna, 2016).

⁹² www.agritacna.gob.pe

recognition, protection and exclusivity in the use of the appellation of origin, which applies to any product that is linked to a geographical area and has unique characteristics as a result of that link, and is highly attractive to consumers.

However, given the current lack of associative capacity and the groundwork yet to be done on harmonizing regulations and setting product standards, it would be best to start with a **collective mark**, which will create the conditions that will later allow for the use of an appellation of origin for oregano, thereby protecting Tacna's second most important agricultural product.

2.4.2. Identification of supply and provision and intellectual property tools

Although the region of Tacna is where the traditional dish "**Picante a la Tacneña**" is primarily found, the same cannot be said for its ingredients.

As noted above, the main ingredients are **ají peppers** (ají panca and ají amarillo are those most often used in recipes generally), **potatoes**, and beef in its various forms, which is a universal ingredient. This means that all of the ingredients needed to prepare this typical dish can be found in any form of outlet across the country.

Without prejudice to the recommendations made for each individual traditional dish on the possible use of IP tools, we believe that it would be highly advisable to draft a truly national strategy for the management of the supply chain for **ají**. Given that Peru's various ají peppers can be identified by their unique and exclusive characteristics that are due to the natural and human factors of the specific geographical area where they are produced, they could be protected by an **appellation of origin**.

In the event that the above conditions cannot be met, these valuable ingredients could alternatively be identified using **collective marks**, which could potentially spark a reassessment of the contribution of ají peppers to Peruvian cuisine.

Table of Peruvian Ají Peppers⁹³

LO QUE AÚN NOS FALTA

Conocemos muy poco sobre la diversidad de nuestros ajíes. Necesitamos un mapa de las variedades que hay en cada región del país, y saber si existen duplicados: si una misma variedad recibe nombres diferentes, por ejemplo, o si el mismo nombre se aplica a variedades genéticamente distintas. Aunque la Universidad Nacional Agraria La Molina (UNALM), el Instituto Nacional de Innovación Agraria (INIA) e instituciones regionales han hecho avances, falta un trabajo sistemático y coordinado. Esta tabla, preparada por la UNALM, que menciona los principales ajíes cultivados en el Perú, es aún un bosquejo del gran mapa de los ajíes peruanos.

Especie ¹	Nombres comunes ²	Regiones
<i>Capsicum annuum</i>	Cerezo ³	Lambayeque
<i>C. baccatum</i> var. <i>pendulum</i>	Fresco: escabeche, amarillo	
	Seco: mirasol	Costa, de Lambayeque al sur
	Pacae	Arequipa, Moquegua, Tacna
	Cacho de cabra o de venado	Lambayeque
	Ayucllo ³	Selva central, San Martín
<i>C. chinense</i>	Panca, especial, colorado	Costa central y sur
	Limos (paringa, miscucho, etc.)	Costa, de Lambayeque al norte
	Mochero	La Libertad
	Ají dulce ³	Amazonia
<i>C. frutescens</i>	Pipi de mono ³	Cosmopolita, en costa y selva
	Charapita ³	Amazonia, San Martín
	Armaucho ³	Norte Chico
<i>C. pubescens</i>	Rocoto, locoto	Sierra, selva central

1. El género *Capsicum* tiene más de 25 especies (cinco cultivadas y las demás silvestres). El Perú es probablemente el único país del mundo donde estas cinco especies se encuentran con regularidad en los mercados, provenientes ya sea de campos de producción comercial o de huertos caseros. 2. Se mencionan solo los principales ajíes con presencia regular en los mercados de Lima o regionales de mayores dimensiones. Los nombres comunes varían mucho en las distintas regiones y pueden ir cambiando o perdiéndose. 3. La ubicación taxonómica (la especie a la que pertenece) no ha sido determinada con certeza, y se encuentra en estudio en la UNALM.

Translation of image:

Left-hand paragraph:

Gaps in our knowledge

We know very little about the diversity of our ají chilies. We need a map of the varieties that exist in each region of the country and we need to know if there are any crossovers; if a single variety has different names, for example, or if the same name is used for varieties that are genetically distinct. Although the La Molina National Agrarian University (UNALM), the National Institute for Agricultural Innovation (INIA) and various regional institutes have made some progress, what is really needed is a systematic and coordinated effort. This table, drafted by UNALM, outlines the main ají peppers cultivated in Peru. This is just a rough sketch of the comprehensive picture of ají peppers that we are yet to map out.

Table headings from left to right: Species; Common names; Regions.

Footnote: illegible

On **oregano**, although producers of this aromatic herb are pushing for recognition of their product under an **appellation of origin**, we would suggest that this strategy be reevaluated in favor of moving towards the use of **collective marks**.

Using these marks would enable producers to use the origin of their **oregano**, or indeed any other characteristic shared by their oregano products, as an element of differentiation.

The owner of a collective mark would have to be an association or guild of producers. Those producers could then make use of the **collective mark** on the basis of shared rules of use that would, of course, support the strategies that they wish to deploy in the management of their products on the market.

2.4.3. Identification of locations for placement and distribution of the traditional dish and intellectual property tools

As previously stated, “**Picante a la Tacneña**” is available in most regional restaurants in Tacna and some other cities in the south of Peru.

The majority of Peruvians are not familiar with this traditional dish, but it is very much a part of the cultural identity of the inhabitants of Tacna.

However, while the dish may not command a wide audience, two of its key ingredients, **ají** and **oregano**, are central elements of national Peruvian cuisine, and Tacna is the region that produces and provides the rest of the country with these two fundamental products.

In view of the above and of the characteristics of the dish as a whole, strategies to promote “**Picante a la Tacneña**” should be focused on tourism in the south of Peru and, more specifically, tourism originating from Chile.

As such, it would be strategically shrewd to get involved in the so-called “tourist and culinary tours” and food festivals, such as Peru Mucho Gusto, that Promperú has been promoting. Through these and similar initiatives, it will be possible to promote

regional tour guides inviting tourists to explore and discover their chosen destination through its flavors and culinary diversity.

Support from the State is an important factor in stimulating promotional activities to encourage food tourism in border towns and cities. However, it is the private sector that, by using **collective marks** or **certification marks**, can consolidate these state initiatives, allowing these activities to take on their own momentum and continue in a sustainable manner into the future.

Thus, guilds or associations of regional business owners could work under a **certification mark**, which is applied to products and services that have been certified by the owner of the mark as possessing a particular quality or characteristic.

The suggestion here is to encourage marks that convey the agreed attributes of the products or services provided in the Tacna region, which is replete with culinary activities, traditional dishes, and special ingredients.

These marks can be used by more than one actor under the supervision, and with the authorization, of the marks' owners. These owners will certify that the products or services covered by their mark meet certain shared criteria or standards based on elements such as quality, composition, geographical origin, technical characteristics, manufacturing and production methods, or service provision.

This IP tool could prove useful in that it will allow for lessons to be learned in how to work together collectively. It will also allow for improvements to be made to production processes, the supply chain, and service provision by encouraging standardization as well as a sense of quality, opportunity and client orientation towards tourists with high standards.

TABLE 4: SUMMARY OF ELEMENTS OF THE VALUE CHAIN OF TRADITIONAL DISH “PICANTE A LA TACNEÑA” AND INTELLECTUAL PROPERTY TOOLS

Value chain anchor points	Elements of the traditional dish with potential links to IP	IP tools relevant and applicable to the value chain of the traditional dish
Product/Ingredient “Principles of basic seasoning”	Tripe Shredded <i>charqui</i> Cow foot Ají panca Ají amarillo Oregano Mariva potatoes	Individual Trademarks Collective Marks
Supply/Provision	Convenience stores Supermarkets Regional festivals Regional associations	Individual Trademarks Collective Marks
Placement/Distribution	Markets Restaurants Regional festivals	Individual Trademarks Collective Marks Certification Marks Slogans Copyright (e.g. photographs, recipes)

2.5. Traditional dish from the Cusco region: “Cuy Asado”

Like the alpaca, the guinea pig is a species native to Peru that is commonly eaten as meat. Its inclusion in the Peruvian diet dates back to the Incan culture, where it featured as a part of certain celebrations, and it remains an important source of protein for inhabitants of the mountainous regions of Peru.⁹⁴

The origin of this traditional dish can be found in the guinea pig, which was raised as livestock in the Andean region of Huánuco around 4000 BCE. It was also a staple of the Incan diet and was used in offerings to the gods.⁹⁵

In Peru, the importance of raising guinea pigs for meat is recognized by the State.⁹⁶ As a foodstuff and an ingredient, it is a key contributor to the domestic economy, food security, and cultural diversity, which attracts ecotourism. It is therefore conceivably in the national interest to promote, expand and add value to the consumption of guinea pig meat, which would encourage the consumption of dishes with guinea pig meat as a main ingredient.

“Cuy Asado” is a simple dish, primarily comprised of marinated guinea pig meat. It originates in the Andean region, specifically Cusco.

Like “**Cabrito**”, “Cuy Asado” can be prepared according to a variety of different methods.

For the purposes of culinary tourism, it could be relevant to consider the fact that this traditional dish has links to religious celebrations, particularly that of Corpus Christi in the city of Cusco, where the crossover between Andean spirituality and

⁹⁴ <https://www.peru.travel/gastronomia/perumuchogusto/>

⁹⁵ [https://perusumaq.com/2018/11/02/la-historia-y-variedades-del-\"cuy\"/](https://perusumaq.com/2018/11/02/la-historia-y-variedades-del-\)

⁹⁶ Ministerial Resolution No. 0338-2013-MINAGRI declaring the second Friday of the month of October of every year as National Guinea Pig Day

Catholicism can be seen in the local cuisine. In addition to guinea pig, ají peppers, potatoes, and maize feature as other key ingredients in the area.⁹⁷

2.5.1. Identification of products and ingredients and intellectual property tools

The **main ingredients** of this traditional dish are:

- (i) guinea pig meat,
- (ii) huacatay,
- (iii) huayro potatoes, and
- (iv) ají panca.

Traditionally, “**Cuy Asado**” is prepared using clay pots and firewood. Its ingredients can be obtained in various sales outlets locally and nationally.

As outlined above, the main ingredient is guinea pig meat. The supply of this ingredient is a crucial part of the value chain as it is often provided by small-scale artisan livestock farmers, who often operate informally and therefore cannot guarantee that the product will be supplied in a condition ideal for human consumption.

Today, there are two distinct production systems that can be used to raise guinea pigs for meat. The first is the “traditional” system employed by families in the Cusco region for the purpose of feeding themselves and selling the excess. This system is low-tech and the final product is of relatively low quality. The second “modernized” system, which has been introduced gradually over recent years, is designed to achieve high standards of quality and large-scale production with the sole purpose of selling the product.⁹⁸

⁹⁷ Promperú, “Perú Mucho Gusto” (First Edition, 2006).

⁹⁸ Ingmar Aparicio, Erick Bocangel and Helmut Escobar, “*Plan de negocios para crianza, industrialización y comercialización de carne de cuy ecológico en la Región del Cusco*” (San Ignacio de Loyola University, Lima, 2011) WIPO FOR OFFICIAL USE ONLY

It is clear that, to promote a traditional dish such as this one, a modernized system with modern infrastructure is required to commercialize the production of guinea pig meat.

According to the Ministry of Agricultural Development and Irrigation,⁹⁹ guinea pig meat production has gone from being a family-based endeavor to a commercial one. Guinea pig breeds are now being managed and expanded, which is generating increased revenue potential for producers working as part of small and medium-sized enterprises in the regions of Cajamarca, Lambayeque, La Libertad, Junín, Pasco, Huánuco, Lima, Arequipa, Apurímac, Cusco, Huancavelica, Ica, Moquegua, Tacna y Puno.

However, “the culture of raising guinea pigs for meat in Peru in an activity that exists as part of peasant farmer production systems; many farms dedicate efforts to raising and selling guinea pig for meat. The majority of these farms operate informally, which has a negative impact on productivity and results in the farms being uncompetitive. The high level of informality in guinea pig meat production is partly due to the high level of domestic activities that rural and marginalized families conduct alongside their businesses. As a result, their offerings offer little in terms of differentiation. Other challenges include underdeveloped channels for commercial distribution; the high barrier to modernized livestock farming methods; and the health risk posed by a lack of resources preventing livestock from being treated quickly in the event of disease.”¹⁰⁰

Like “Cabrito”, “Cuy Asado” would benefit from strategies based on collective marks.

⁹⁹ <https://www.inia.gob.pe/2020-nota-105/>

¹⁰⁰ Sayda Pfoccori, “*Relación entre articulación comercial y la competitividad de la cadena productiva del cuy en la provincia de Tacna: Tesis para optar el título profesional*” (Universidad Nacional Federico Basadre Grohmann, Tacna, 2017) USE ONLY

This legal tool will allow various elements in the production chain to become more competitive, provided that the following conditions are met:

- i. Effective and equitable relationships are built between actors along the guinea pig meat value chain, allowing them to organize, coordinate and share information;
- ii. A single vision for the development of the value chain is shared, despite variation in individual goals and interests;
- iii. Production meets market requirements; and
- iv. The products stand out as high-quality and innovative.

2.5.2. Identification of supply and provision and intellectual property tools

The ingredients of this traditional dish, including guinea pig meat, are available in any kind of supply outlet, including markets, supermarkets and regional festivals. However, as explained under the previous section, **collective marks** and **certification marks** are IP tools that could help to address an issue experienced in Cusco and across Peru, which is the low availability of quality animals in conditions that meet food safety standards.

This challenge can be tackled using **collective marks** to raise food safety and quality standards.

As for **certification marks**, technical institutions, such as universities, could be used to certify and grant licenses to use marks in line with a stringent process for auditing and monitoring the conditions in which the animal product is provided.

2.5.3. Identification of locations for placement and distribution of the traditional dish and intellectual property tools

“Cuy Asado” is available in most regional and tourist restaurants in Peru, and some gourmet versions can be found in certain high-end restaurants.

As such, given the nature of the traditional dish and what it represents, regional, tourist and high-end restaurants, as well as markets, could each present their offering of the dish under an **individual trademark**. Existing examples include *Tradiciones De Mi Tierra* (Hometown Traditions); *El Tarwi*; *Panchita*; *Huaracina y sus Sabores*; *Mesón de Don Tomas*; and *Pachapapa*.

If the strategies outlined in the supply link of the “Cuy Asado” value chain are adopted, care should be taken to ensure that those strategies include restaurants and eateries that target tourists, as opposed to local diners.

TABLE 5: SUMMARY OF ELEMENTS OF THE VALUE CHAIN OF TRADITIONAL DISH “CUY ASADO” AND INTELLECTUAL PROPERTY TOOLS

Value chain anchor points	Elements of the traditional dish with potential links to IP	IP tools relevant and applicable to the value chain of the traditional dish
Product/Ingredient “Principles of basic seasoning”	Guinea pig Huacatay Huayro potatoes Ají panca	Individual Trademarks Collective Marks
Supply/Provision	Convenience stores Supermarkets Regional festivals Regional associations	Individual Trademarks Collective Marks Certification Marks
Placement/Distribution	Markets Restaurants Regional festivals Funerals	Individual Trademarks Collective Marks Slogans Copyright (e.g. photographs)

2.6. Traditional dish from the Loreto region: “Juane”

It is said that “Juane” is a dish that was born in the province of Moyobamba, and it was there that the dish went on to evolve and take shape into the form in which it is known and eaten today in the majority of cities in the rainforest area of Peru.

Amazonian cuisine – of which “Juane” is a classic example – is linked to the region’s religious festivals, one of the biggest of which is the San Juan festival. Each town and village has its own particular way of celebrating but every single one, without exception, will serve the famed “**Juanes**” dish and chicha de maíz drink. The secret of the creation of the “**Juane**” dish is revealed during the reenactment of the death of John the Baptist and the presentation of his head on a platter to Salome.¹⁰¹

The dish is eaten cold and a bijao leaf (the leaf of the *Calathea lutea* plant) or banana leaf seals in the dish’s aromas and flavors.

2.6.1. Identification of products and ingredients and intellectual property tools

The main ingredients of “**Juane**” are:

- (i) chicken;
- (ii) capirona rice;
- (iii) bijao leaves;
- (iv) dried oregano;
- (v) turmeric;
- (vi) sachaculantro; and
- (vii) ají peppers.

¹⁰¹ <https://www.peru.travel/gastronomia/perumuchogusto/>

In addition to the above, “**Juane**” is usually prepared using the following supplementary ingredients: eggs, olive, onion, pepper, cumin, salt, bay, lard and garlic.

2.6.2. Identification of supply and provision and intellectual property tools

The ingredients that are most difficult to find outside of the rainforest region are the bijao leaves and sachaculantro. The latter is similar to culantro and cilantro, but differs in the shape of its leaves. It is one of the most fragrant plants in the world and has not yet been cultivated on an industrial scale.

The situation surrounding the ingredients of this traditional dish is therefore similar to that of some of the ingredients of the dishes analysed above in that the primary task ahead is to introduce the ingredients into more and new markets, allowing for “**Juane**”, like other traditional dishes, to become more widely known and enjoyed.

To achieve this, freezing and processing (into a paste, for example) is an option for certain ingredients, including **sachaculantro**. This herb could be produced by several producers under a sole “**collective mark**”, which would facilitate progressive improvements to product presentation leading, ultimately, to their sale in national outlets.

Almost all outlets, be they markets, supermarkets, regional festivals or convenience stores, will stock all of the ingredients needed to make “**Juane**” with the exception of bijao leaves and **sachaculantro**, which are the only two elements that pose accessibility issues.

Various academic studies have sought to commercialize **sachaculantro**. One such study even gained recognition at the Latin American Science, Technology and

Business Exhibition fair in 2012. However, the product is still yet to be produced on a large scale.¹⁰²

The same challenge exists for bijao leaves. The bijao plant grows in tropical climates in the Americas and its leaves are used in some countries' cuisines as a wrap around certain foods and fillings. There are currently no recommendations for using IP tools to promote this ingredient.

2.6.3. Identification of locations for placement and distribution of the traditional dish and intellectual property tools

“**Juane**” is a traditional dish that is available across the Peruvian rainforest region, in markets, festivals, and, of course, regional and tourist restaurants.

It is not quite so widely available beyond the region and, as a result, is little known and little appreciated. However, it can be found, albeit in precious few places, in certain spots in the city of Lima.

As can be assumed, very few high-end restaurants have incorporated “**Juane**” into their menus.

We believe that strategies to expand the availability of “**Juane**” and its ingredients using elements of IP should primarily focus on the distribution of ingredients and should make use of **individual trademarks**. These trademarks can include the characteristic elements of “**Juane**” in their brand and, in so doing, raise the profile of the traditional dish.

¹⁰² <https://andina.pe/agencia/noticia-peru-obtiene-segundo-puesto-feria-latinoamericana-ciencia-y-tecnologia-411319.aspx>

Individual trademarks should seek to convey a culinary experience in the Peruvian rainforest by using “**Juane**” as a defining and central feature.

TABLE 6: SUMMARY OF ELEMENTS OF THE VALUE CHAIN OF TRADITIONAL DISH “JUANE” AND INTELLECTUAL PROPERTY TOOLS

Value chain anchor points	Elements of the traditional dish with potential links to IP	IP tools relevant and applicable to the value chain of the traditional dish
Product/Ingredient “Principles of basic seasoning”	Chicken, Capirona rice Bijao leaves Dried oregano Turmeric Sachaculantro Ají peppers	Individual Trademarks Collective Marks
Supply/Provision	Convenience stores Supermarkets Regional festivals Regional associations	Individual Trademarks Collective Marks
Placement/Distribution	Markets Restaurants Regional festivals Funerals	Individual Trademarks Collective Marks Slogans Copyright (e.g. photographs)

Final comments

1. The culinary arts in Peru have flourished, making full and careful use of the bounty and diversity of the remarkable ingredients produced by the earth as well as the knowledge surrounding those ingredients. A mixture of colors, flavors, aromas and scents are captured in simple yet sophisticated dishes, representing Peru's rich cultural heritage from its long and varied history. These dishes are an enduring draw for visitors from around the world hoping to discover and experience Peru through its food.
2. For the purposes of the present work, only six of the many traditional dishes to be found in the various regions of Peru were selected in advance. The goal of the present work has been focused on exploring opportunities that could be made available to entrepreneurs in the Peruvian food industry that, through the use of elements of IP and strategies involving those elements, allow them to become more competitive or build more sustainable structures around the production and sale of these traditional dishes. This is particularly important given the rhythm of the global food tourism industry, with its intense and changing demands and preferences for goods and services.
3. Small and medium-sized businesses in Peru have generally shown limited inclination to tackle business challenges collectively. Although there are some large-scale initiatives and projects across the food and tourism industries, work still needs to be done to create mechanisms that allow businesses to associate with one another and work towards common goals. Collective marks, certification marks and appellations of origin – elements of IP – are important tools for creating platforms to facilitate meeting this need to work together as a team.
4. The evaluations of the six traditional dishes selected revealed that each dish, despite being inherently local or regional, has certain elements in common with the others. Where those elements in common are ingredients or accompaniments, an opportunity emerges to build shared food tourism promotion strategies using a variety of tools, including elements of IP.
5. Those opportunities, which extend across all culinary offerings in Peru, can be expressed as follows:
 - a. **Company:** potatoes
 - b. **Aroma:** huacatay and oregano
 - c. **Spirit:** ají chilies
 - d. **Taste:** garlic and onion

Particular note should be taken of the importance of garlic, onion and ají chilies, not only as elements that, through their ubiquity, serve as a unifier across all Peruvian traditional dishes, but also as elements that represent the importance of the local. There is therefore an opportunity here to elevate these magical ingredients, central to the ancestral cuisine of Peru, using their link to an origin, to local and regional cuisines.

This can be done using appellations of origin and collective marks, tools that allow entrepreneurs to develop business strategies based on an origin or a connection to the place that they come from.

6. On the basis of this foundation and working within the traditional dishes' value chains, collective marks and certification marks can play an important role in facilitating the use of collective strategies based on origin, quality, environmental sustainability and food safety. As previously stated, appellations of origin are a useful and unique means of promoting and increasing awareness of products that have more stories to tell and can be connected to a certain geographical area that will have lent the product unique and special attributes, be that as a result of a certain production method or natural factors. However, it is advisable to opt for appellations of origin only once it has been established that collectives of producers or other potential beneficiaries of an appellation of origin are willing to work in line with shared strategies, adhere to strict regulations and be overseen by Regulatory Boards or, in some cases, the State.
7. At the supply stage, collective marks and certification marks are once again tools that can be used to guarantee ingredients with certain qualities or characteristics that are worth highlighting in the value chains of traditional dishes.
8. For the final stage in the chain, which is in effect the face of the culinary offering and what is ultimately purchased and retained as a memory by tourists visiting Peru to discover its unique cuisine and, by extension, its culture, the following strategies could be deployed:
 - a. Use of collective marks and certification marks, which guarantee or represent the chain of the elements represented in a dish and served at diners' tables. The goal behind the use of these marks would be, at the point at which the culinary experience is encountered, to trace a line of value back to the origin of the dish, thereby creating a "from-field-to-table" moment where all of the elements of the dish – from the ingredients to the farmers who grew the produce and the chefs who prepared the meal – are showcased and made visible. It is in this way that these tools can incorporate into the supply chain the value of being able to trace the ingredients of these traditional dishes back to their source.
 - b. Use of collective marks and certification marks to boost culinary tours, where a chain leading from one destination to another within a particular territorial origin can be structured to include products and services that combine to make an attractive culinary offering.
 - c. Use of collective marks by associations of *picantería* owners, as is the case of the Society of *Picantería* Owners of Arequipa, where members of an association can combine and unite their efforts under a shared strategy to promote and improve their traditional dish offerings in response to growth and changes in the food tourism industry, to the benefit of the individual business owner, the guild, and the city as a whole.

9. Finally, it is possible to base business strategies on the use of original works protected by copyright that can occur anywhere along the value chain of a traditional dish. Examples include the presentation of a dish; the use of an original name for a dish; the atmosphere created in a restaurant or eatery; and the use of photographs of a traditional dish. The use of these elements adds value to traditional dishes, thereby increasing their appeal to national and international tourists alike.
-