

**MINISTRY OF TRADE AND INDUSTRIES**  
**EXECUTIVE DECREE NO. 12**  
**(of March 20, 2001)**

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

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

**CONSIDERING:**

*That* Law No. 20 of June 26, 2000, has as its purpose the protection of the collective intellectual property rights and the traditional knowledge of indigenous peoples embodied in their creations, such as inventions, models, designs and drawings, innovations contained in images, figures, graphic symbols, petroglyphs and other material, and also the cultural elements of their history, music, art and traditional artistic expressions susceptible of commercial use, which is to be done through a special system of registration, promotion and marketing of their rights in such a way as to give prominence to the indigenous socio-cultural values and do them social justice;

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

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

Decrees as follows:

**Chapter 1**

Purpose

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

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

- (i) “Law” means Law 20 of June 26, 2000.
- (ii) “Intellectual property” means the right that creators and owners have in the products of their intellect, which, on being recognized by the Law, prohibit third parties from availing themselves thereof without the owner’s consent.
- (iii) “Traditional knowledge” means the collective knowledge of an indigenous people based on the traditions of centuries, and indeed millennia, which are at once tangible and intangible expressions encompassing their science, technology and cultural manifestations, including their genetic resources, medicines and seeds, their knowledge of the properties of fauna and flora, oral traditions, designs and visual and representative arts.
- (iv) “Cosmovision” means the conception that indigenous peoples have, both collectively and individually, of the physical and spiritual world and the environment in which they conduct their lives.
- (v) “Collective indigenous rights” means the indigenous cultural and intellectual property rights relating to art, music, literature, biological, medical and ecological knowledge and other subject matter and manifestations that have no known author or owner and no date of origin and constitute the heritage of an entire indigenous people.
- (vi) “MICT” means the Ministry of Commerce and Industries.
- (vii) “DIGERPI” means the Directorate General of the Industrial Property Registry.
- (viii) “Copyright” means the intellectual protection of the rights of authors in their literary, educational, scientific or artistic works, regardless of type, medium of expression, merit or purpose thereof.
- (ix) “Collective intellectual property registration” means the exclusive right granted by the State, by virtue of an administrative instrument, to prohibit third parties from the exploitation of collective rights deriving from traditional knowledge or an expression of folklore, the effects and limitations of which shall be determined by the law and this Decree.
- (x) “General congresses or traditional authorities” constitutes State recognition of the existence of general congresses or traditional authorities as agencies of maximum expression, decision, consultation and administration adopted by indigenous peoples in accordance with their traditions and the Law Creating the Indigenous Districts and Their Organizational Charter, subject to the safeguards written into the Constitution and laws of the Republic.
- (xi) “Representative” means the person or persons designated by the general congress(es) or the traditional authority (authorities) for the management of the registration of collective rights.

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

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

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

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

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

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

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

## Chapter II

### Subject Matter Eligible for Protection

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

- (1) Paruma: wa (in the Emberá tongue) h apkajúa (in the Wounaan tongue): this is a clothing article worn round the hips by native Emberá and Wounaan women which consists of a measured amount of palm bark fabric (previously rubber-tree bark), soaked and crushed, or of the textile material currently used.
- (2) Olua’a: oval rings or hoops that Kuna women use as clothing accessories (earrings).
- (3) Orbirid: pectoral garments made of several sections joined by links to a size sufficient to cover the entire chest of the native Kuna woman. Chest protectors.

- (4) Nuchu: carving in balsa wood (*Ochroma limonensis*), used in religious and cultural ceremonies by Kuna natives. Anthropomorphic figure.
- (5) Chaquira: Muñon-Kus (in Ngöbe), Crade (in Buglé): necklace of two or more rows produced by threading small colored beads to produce abstract designs. Neckwear used by Ngöbe and Buglé natives.
- (6) Wigo: necklace made of small multicolored beads, used as an article of clothing by native Ngöbe and Buglé women.
- (7) Canoa/Cayuco/Piragua, Jap (in Wounaan), Jambá (in Emberá): small boat made of a single tree trunk and propelled by oars or sails; mode of transport used at sea or on rivers by Panamanian natives and rural communities.
- (8) Cra: purses or bags woven with threads made of various fibers, decorated with traditional designs and patterns and used in various ways by the Ngöbe and Bugle people.
- (9) Canalete or Remo, döi (in Wounaan), Dobi (in Emberá): a paddle made of wood and used by natives and rural people to propel a small boat.
- (10) Pikiu (in Wounaan), pikiw'a (in Emberá): basket made of reeds by Emberá and Wounaan natives).
- (11) Dicha ardi: hostelry, cabin or hut of the Wounaan native.
- (12) Medicine stick or baton of rank: Barra (in Emberá) Papörmie (in Wounaan): zoomorphic and anthropomorphic figures carved in wood, forming part of ritual accoutrement.
- (13) Hajua (in Wounaan), Antia (in Emberá) or Wuayuco: article of clothing used by natives of Emberá and Wounaan culture. Loincloth or cache-sexe consisting of a narrow strip of cloth secured by a cord (p'ösié) and worn round the hips. The raw material is derived from a palm called ferju by the natives.
- (14) Mola (Morra in Kuna); a women's blouse; application of a small decorative piece to a larger piece of fabric with working on the back. A combination of fabrics of many different, striking colors. The technique used is derived from the craft of embroidery (or appliqué). These are hand-made by native Kuna women, and they consist of one or more layers of fabric cut and sewn together in such a way that the color of each of the lower layers shows through. The designs on a Mola are based on cosmovision, while others merely use a geometric shape.
- (15) Jiw'a (in Emberá), Hosig di (in Wounaan); chungu basket: small basket made of the tender leaves of the *Astrocaryum standlerianum* palm (or chungu). The tresses are sown together; they may be white or colored, forming a design. The Emberá make masks from this fiber.
- (16) Jirak: basket woven from stems of the Jirak bush, made by Wounaan natives.

- (17) Kigá: thread or fiber from the *Acchmean mafdalenae* plant, extracted by means of a non-industrial process and used by the Ngöbe natives to make bags.
- (18) Kuas (in Wounaan), Jumpe (in Emberá), Pescao Uacuco: name of one of the many baskets made by Emberá and Wounaan natives.
- (19) Küchuur (in Wounaan), sweeping basket: funnel-shaped basket, closed at one end, made by Emberá and Wounaan natives.
- (20) Turpas: native Kuna name given to the hanging part of the breasts.
- (21) Wini: bead necklaces serving as bracelets and anklets, used by native Kuna women as clothing accessories.
- (22) Meudau ó Pat'eenb (in Wounaan), N'edau (in Emberá): pieces carved in the wood of the cocobolo (*Delbergia d. retusa*) by Emberá and Wounaan natives. The designs carved on the articles are based on flora and fauna and human manifestations.
- (23) H<sup>^</sup>rp: baskets manufactured by Wounaan natives, woven from the fibers of the reed of the same name.
- (24) Jagua: K'ipaar (in Wounaan), Kipar'a (in Emberá): after a handicraft process, the black dye obtained from the fruit of the *Genipa americana* tree is used as a body paint and to dye the fibers of baskets and the ivory nut articles of Panamanian natives.
- (25) Nimim (in Emberá), Titiimie (in Wounaan): black dye used by natives for basketwork and ivory nut objects. It is obtained from the *Arrabidea chica* reed by means of a craft process.
- (26) Nukuata: plant-based cloth manufactured by the Ngöbe natives for making clothes. It is obtained from the bark of the rubber tree (*Castilla elástica*).
- (27) Chir Chir (in Wounaan), Cha (in Emberá): earrings made of silver.
- (28) Choo K'ier (in Wounaan): arrows made by Emberá and Wounaan natives.
- (29) Choo p'o (in Wounaan), Enedrumba (in Emberá): bow (throwing weapon used by Emberá and Wounaan natives).
- (30) Hik'oo (in Wounaan), M'ania (in Emberá): bracelets of conical shape made of silver, worn on both hands by Emberá and Wounaan natives.
- (31) H<sup>^</sup>r rsir: flute: musical instrument used by Wounaan natives in their religious ceremonies.
- (32) Hesapdau: writing, Wounaan alphabet.
- (33) Jait: tool used by the Wounaan for making dugout canoes or pirogues.

- (34) Orejer (in Wounaan). Orej'era (in Emberá): oval-shaped silver earrings used by Emberá and Wounaan natives.
- (35) Sortik (in Wounaan). Sort'ia (in Emberá): ring made of silver, copper or ivory palm seeds.
- (36) Pör sir: type of crown made of gold or another precious metal by Wounaan natives. Used by men who exercise ancestral authority.
- (37) T'ur (in Wounaan), Zokó (in Emberá): large vessel of white clay in which Emberá and Wounaan natives keep their alcoholic and other beverages and water. Also used for cooking.
- (38) Teerjú: bed made of the bark of a palm. This raw material undergoes initial processing, and is used thereafter as a bed by the Wounaan native.
- (39) Taudau: figures carved in ivory palm seeds (*Phytelephas seemannii*), a craft that distinguishes the Wounaan carver.
- (40) Pazadö (in Wounaan), Miaz'u (in Emberá): type of spear used by Emberá and Wounaan natives for hunting.
- (41) P'en sir: toy for Wounaan boys. Type of rattle.
- (42) Pörk'au (in Wounaan), Antougué (in Emberá): Type of bench made of a single tree trunk. Used as a seat or headrest by natives.
- (43) Nangún: one-piece garment made of variously colored fabrics with traditional applications and designs, used by Ngöbe and Buglé women.
- (44) Drü: musical instrument used by the Ngöbe and Buglé people in their ritual activities and traditional entertainments. It is made of material extracted from the vegetation available locally.
- (45) Ka: traditional Ngöbe and Buglé songs used to enliven celebrations, rituals and other activities.
- (46) Picheer (in Wounaan): chest protecting garment, made by mixing glass beads with silver.
- (47) Tamburr (in Wounaan), T'ono'a (in Wounaan): drum.
- (48) P'ip'an (in Wounaan): three-holed flute.
- (49) T'okeemie (in Wounaan), Chir'u (in Emberá): set of minor flutes.
- (50) H^rrsir (in Wounaan). Pi'pano (in Emberá): major flute.
- (51) Haguaserit: music of the Wounaan natives.

- (52) K'ari chipar: Wounaan dances.
- (53) J<sup>^</sup>di (in Wounaan): sharpening stone.
- (54) U'gu (in Emberá), Patt'ër (in Wounaan): blowpipe: reed or tube for firing darts or arrows. Hunting implement whose manufacture involves the cutting of chungu leaves.
- (55) Döt'ur (in Wounaan): pitcher.
- (56) Dear a d'e (in Emberá): traditional Emberá house made of wood and local vegetation.
- (57) Jirab'a (in Emberá): Indian hammock made of lianas, known by the natives as a pinuguilla.
- (58) J'ue por'o (in Emberá), Terjú (in Wounaan): sleeping mat (Esterilla) made by Emberá and Wounaan natives from the bark of the rubber tree.
- (59) Ch'a: arrow made of white cane. Weapon for hunting, propelled with a bow by Emberá natives.
- (60) Jegui: dance of the Ngöbe and Buglé natives.
- (61) Ja Togo Ju Dogwobta: rhythm of a Ngöbe and Buglé song. Song of Mantarraya.
- (62) Noro Tregue (squeezing the flutes): opening song to initiate a dance of the Ngobé and Buglé native peoples.
- (63) Noro: flute: musical instrument used by the Ngobé and Buglé natives.
- (64) Balsería: a sport of the Ngobé and Buglé natives. Practiced on festive occasions.
- (65) Amb'ura (in Emberá). P'öcie Cam (in Wounaan): necklace-type ornament worn on the hips by men of the Emberá and Wounaan peoples. Made of beads.
- (66) Ne': drawing and artistic skills of the Emberá people.
- (67) K'arl: dance. Spiritual performance of the Emberá people.
- (68) K'achir'u: bamboo shell used by the medicine men of the Emberá people in their curing ritual.
- (69) Boro b'ari: crown made of gold and silver. Used by Emberá women.
- (70) K'ewasoso: a craft process that makes use of a local climbing plant and produces a blue dye, which the Emberá and Wounaan use for their baskets and ivory palm work.
- (71) J'orop'o: baskets whose manufacture involves the use of the bark and fruit of the "nawala." Indigenous craft of the Emberá and Wounaan peoples.

- (72) Nek'a (in Emberá): Basket made by the Emberá and Wounaan natives out of fibers of the chungá leaf (*Astrocaryum standlerianum*) and the “nawala.” Characterized by the variegated colors and designs used by the artisans in making them.
- (73) Jebdop (in Wounaan): Clay bowl made by Wounaan and Emberá natives.
- (74) Sip'inpa (in Wounaan): fishing rod of the Emberá and Wounaan natives.
- (75) Pir: works wrought in gold and silver by the Wounaan people. Rings.
- (76) Som Dau (in Wounaan): necklaces of beads worn by native Emberá and Wounaan women.
- (77) Pa j<sup>^</sup>g Dee (in Wounaan): perfume extracted from plants.

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

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

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

### **Chapter III** Registration of Collective Rights

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

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

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

- (i) the indigenous people or peoples applying for registration of their traditional knowledge or of an object eligible for registration;



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

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

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

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

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

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

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

**Article 13.** For the purposes of Article 7 of the Law, and in order to facilitate the registration of the collective rights of indigenous peoples, DIGERPI may send officials from the Department of Collective Rights and Expressions of Folklore to the indigenous

communities with a view to gathering the information necessary for the prosecution of such applications for registration as they may wish to file.

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

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

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

## **Chapter IV**

### **Promotion of Indigenous Art and Expression of Culture**

**Article 15.** For the purposes of Article 10 of the Law, which provides for the development and promotion of traditional indigenous art, handicraft and clothing, those concepts are provided for in Law 27 of July 30, 1997 “Establishing the Protection, Promotion and Development of Handicraft.” With regard to the other cultural expressions of indigenous peoples, and specifically the certification issued by the Directorate General of Handicraft or the Provincial Directorates of MICI, with the consent of the indigenous authorities, recourse shall be had to the advice and assistance of the National Directorate of Historical Heritage of

the National Institute of Culture (INAC), authorized by Law No. 14 of May 5, 1982 Enacting Measures on the Custody, Conservation and Administration of the Historical Heritage of the Nation.

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

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

## **Chapter V**

### **Rights of Use and Marketing**

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

## **Chapter VI**

### **Prohibitions and Sanctions**

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

- (a) a record of the agreement or express authorization of the congress, indigenous authority or, failing that, the indigenous council that is holding the registered traditional indigenous knowledge, which shall specify that the use of the collective rights shall be licensed to third parties by contract;
- (b) a copy of the license contract for use of the registered collective rights;
- (c) the identity of the representative(s) of the congress(es) or indigenous authority (authorities) of the indigenous community (communities) holding the registered traditional knowledge or expression of folklore, who have signed the contract;
- (d) the identity of the other parties to the contract and of their representatives;
- (e) the use that is to be made of the traditional knowledge or expression of folklore.

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

- (a) identification of the parties;
- (b) description of the registered collective rights to which the contract relates;
- (c) specification of the royalties that the indigenous peoples will receive for the use of the collective rights; those royalties shall include an initial payment or some form of immediate, direct compensation to the indigenous peoples, and a percentage of the value of the sales resulting from the marketing of products developed on the basis of the said collective rights;
- (d) provision of sufficient information on the purposes, risks and implications of the activity concerned, the periods of use, including possible uses of the collective rights, and the value thereof where applicable;
- (e) the obligation on the licensee to give a periodical account to the licensor, in general terms, on the progress made in research and industrialization and the marketing of the goods developed on the basis of the licensed collective rights; where the contract contains a reserved rights obligation, that fact shall be expressly stated.

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

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

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

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

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

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

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

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

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

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

## **Chapter VII**

### **Final Provisions**

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

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

**The foregoing shall be published and implemented.**

**JOAQUIN E. JACOME DIEZ**  
**Minister of Commerce and Industries**

**MIREYA MOSCOSO**  
**President of the Republic**

## **RULES FOR THE USE OF COLLECTIVE RIGHTS (D.C.)**

### **“MOLA KUNA PANAMA” MORRA (in the native Kuna language)**

#### **Title 1. General Provisions**

##### **Article 1. Object**

1. The object of these Rules is to lay down the conditions for the use of the collective rights in “Mola Kuna Panama” (hereinafter referred to as “the collective rights”), a craft that constitutes traditional knowledge (CT) of the native Kuna people. The handicraft belongs to the community as a whole, and not to specific individuals forming part of the Kuna people. The traditional knowledge has been handed down from generation to generation, the Kuna people are therefore its “holders,” and the rights in it shall not lapse.

2. “Mola Kuna Panama” or “Morra Kuna Panama” means the application of a small ornamental piece to a larger piece of fabric with working on the reverse. It is a combination of fabrics of varied and striking colors. The technique used is based on the craft of embroidery (or appliqué). The articles are made by hand, and contain two or more layers of fabric cut and sewn together in such a way that the colors of the layers beneath show through. The designs on the Mola are based on the cosmovision of the Kuna people, or alternatively make use of a geographical design.

3. The innovations that have been made with the Mola afford evidence that the knowledge of the indigenous peoples is not static but constantly evolving; for instance, apart from being used to fill the wardrobe of the native Kuna people (“Morsan”), the Mola is used for spectacle cases; for cushion and kitchen accessory covers; for coats, baby clothing, masks, belts, headbands, Christmas decorations, waistcoats, protective holders, hats, collars for clothing, handbags and other articles.

##### **Article 2. Scope of application**

1. The persons authorized to use the collective rights are the members of the community of Kuna people, and especially organized groups of Kuna women who produce Mola in the Republic of Panama.

##### **Article 3. Ownership of the collective rights**

1. The collective rights in “Mola Kuna Panama” are the property of the Kuna General congresses:

- Kuna Yala
- Madungandí
- Wargandí

and also of the Takarkun-Yal Traditional Authority.

They are registered with the Directorate General of the Industrial Property Registry (DIGERPI) of the Ministry of Commerce and Industries (MICI) (Law No. 20 of June 26, 2000).

2. The administration of the collective rights shall be the responsibility of the Kuna General congresses and Traditional Authorities, which shall be substituted for the owners of the collective rights in all rights and action accruing to them.

#### **Article 4. Legal coverage**

The collective rights shall be governed by the provisions of these Rules, those of Law No. 20 of June 26, 2000, “Special intellectual property regime of the collective rights of indigenous peoples,” and those of Executive Decree No. 12 of March 20, 2001, enacting Regulations for the implementation of Law No. 20.

#### **Article 5. Use of the collective rights**

1. The authorities described in Article 3 paragraph 2 of these Rules shall be the managers of the collective rights in “Mola Kuna Panama,” the collective rights (D.C.) may only be used by those natural persons or legal entities, private or public, that the Kuna General congresses and the Traditional Authorities have duly authorized by an instrument, agreement or express authorization in which it is specified that the collective rights are granted under a license contract for use.

2. Use of collective rights by persons authorized by the Congresses or Traditional Authorities under a “license for use” shall be considered use made by the owner.

3. The periods for the use of collective rights by authorized persons shall be specified by the holders of the traditional knowledge themselves.

#### **Article 6. Connection to users**

These Rules of use form an integral part of the application for collective rights and the authorization by the holders of the traditional knowledge to grant the collective rights to third parties. That implies full acceptance of the contents thereof on the part of the owners and users.

### **Title II: Procedures, Exceptions and Prohibitions**

#### **Article 7: Grant of the authorization of collective rights**

1. The Rules for the Use of the Collective Rights of the Kuna people in “Mola Kuna Panama” shall be approved and registered by the Directorate General of the Industrial Property Registry (DIGERPI) of the Ministry of Commerce and Industries (MICI).

2. The collective rights may not be transferred to third parties, nor may their use be licensed to persons who are not officially recognized by the holders of the traditional knowledge registered with DIGERPI.

#### **Article 8. Grounds for prohibiting use of the collective rights**

The owners of the collective rights may refuse to license th use to third parties where such use would run counter to the spirituality and cultural identity of the Kuna people.

## **Article 9. Exceptions**

1. Licensing of the use of the collective rights shall not prevent their use by the members of the Kuna people from continuing.

2. Those non-indigenous Panamanian artisans shall be exempted from authorization by license for use who, on the date of the entry into force of Law No. 20 of June 26, 2000, were engaged in the reproduction and sale of products incorporating the “Mola Kuna Panama” and who were registered with the Directorate General of Handicraft of MICI (Article 24 of Law No. 20).

3. Non-indigenous Panamanian artisans shall affix, print, write or otherwise show in a readily visible manner the identity of the work and its place of origin (Law No. 27 of July 24, 1997).