

UNCTAD Expert Meeting on Systems and National Experiences for  
Protecting Traditional Knowledge, Innovations and Practices

Geneva

30 October – 1 November 2000

**Strengthening Public Policy ("Agendas") as a Sustainable  
Exchange of Knowledge between National and  
International Interests and Latest Legislative  
Developments on TK in Venezuela**

Prepared by

**Rafael Fuentes Niño, Luisa E. Bernal  
and José Joaquín Contreras**

**Venezuela**

Disclaimer: This document is being distributed in the form in which it was received.

The views are solely those of the author.

**STRENGTHENING PUBLIC POLICY (“AGENDAS”), AS A SUSTAINABLE  
EXCHANGE OF KNOWLEDGE BETWEEN NATIONAL AND INTERNATIONAL  
INTERESTS AND LATEST LEGISLATIVE DEVELOPMENTS ON TK IN  
VENEZUELA**

**Rafael Fuentes Niño<sup>1</sup>**

**Luisa E. Bernal<sup>2</sup>**

**J.J. Contreras<sup>3</sup>**

**A. Introduction**

As long as the global issues become local problems, developing countries will keep going to a new "race" of issues, to which always, we arrive late, if not the last. Traditional Knowledge (TK), is one of many international problems, which, when those are disclosed by an accident or a media scandal, they capture the attention of the international community, and become the focus of attention in our own countries.

The transboundary problem of toxic wastes, the technology dependency on big projects, or illegal drugs trafficking are pending issues, between transnational interests and developing countries, because those problems are not addressed from its roots.

A more realistic approach has to be considered by means of establishing an enabling environment for negotiating within clear objectives. When a negotiated agreement is not achieved, not only between countries, but among governments, communities and international enterprises' problems will continuously keep showing up, from time to time, creating undercover businesses that developing countries cannot avoid with such weak institutions, lack of enforcement and incomprehensive public policy.

In order to contribute to the analysis, besides the legislative developments, made by our countries and other processes aimed to the protection of TK, the creation of public awareness, the commercialisation of TK within a framework of equitable benefit sharing, the process of establishing a balance between the traditional and modern medicine, and many other interesting cases; we are convinced that, the strengthening of public policy making, through negotiation and participation in a process that we in Venezuela have called the “agendas”, may be a sustainable alternative to deal and negotiate with international interests in local communities. This process of public policy improves links among actors in our society, empowering the grassroots, city governments, small businesses, and the academic community.

---

<sup>1</sup> Rafael Fuentes Niño. Vice- Ministry of Research and Innovation. Ministry of Science and Technology of Venezuela

<sup>2</sup> Luisa E. Bernal. Permanent Mission of Venezuela in Geneva

<sup>3</sup> José Joaquin Contreras. Innovation advisor at the Ministry of Science and Technology of Venezuela.

In this paper I will briefly introduce the most recent developments in legislation adopted in Venezuela for the recognition and protection of traditional knowledge and then, I will focus on the proposal for strengthening public policy making.

## **B. Legislative Developments Made by Venezuela for the Protection of Traditional Knowledge of Indigenous and Local Communities**

In the recent past Venezuela has taken important legislative steps towards the recognition and protection of traditional knowledge of its indigenous and local communities.

The first element to note is the clear political mandate included in the Constitution of the Bolivarian Republic of Venezuela adopted in 1999 which calls for the “recognition and protection of the peoples and indigenous communities, their social, political and economic organization, their culture, practices and customs”. (Art. 119).

Moreover, Art. 124 of the Constitution guarantees and protects the **collective intellectual property** of knowledge, technologies and innovations of indigenous and local communities.

On May 24<sup>th</sup>, Venezuela adopted a Law on Biological Diversity which incorporates into national legislation the principles of the Convention on Biological Diversity. This Law calls for the conservation of cultural diversity through the recognition and protection of the traditional knowledge of local communities and the peoples and indigenous communities (Art. 39).

Furthermore, the State recognizes the right of local communities to oppose to the authorization for the recollection of genetic material, the access to traditional knowledge and the plans and projects on biotechnology to be developed in their territories, had they not been adequately informed of the use and benefits of such activities. They could equally ask for a halt to activities that may affect their cultural heritage and the biological diversity (Art. 44).

This law has established an important role for the State aimed at the promotion of the use of the traditional knowledge of the indigenous and local communities for the benefit of the whole society.

Finally, as a recent development, it is worth noting that the Andean Community (integrated by Bolivia, Colombia, Ecuador, Peru and Venezuela) adopted a new Decision on Industrial Property (Régimen Común sobre Propiedad Industrial- Decisión 486) in September this year which further elaborates on some aspects of the protection of traditional knowledge of indigenous, Afro-American or local communities and the conditions for the granting of patents based on elements of their heritage and knowledge. The regional framework is complemented by Decision 391 (1996) which establishes a common regime for the access to genetic resources within the Andean Countries. This regime mandates that the contracts granted take into account the rights and interests of the genetic resources providers, of their derivatives and their intangible components.

These developments as significant as they are, represent only initial steps towards an effective system for the protection of the traditional knowledge, innovations and practices of the indigenous and local communities.

### **C. The “Agendas”: A Process of Building a Sustainable Conversation Network**

The “Agendas” are a process of public policy by which the academic community, public officers, community leaders, and small businesses have been negotiating and participating in the process to understand and solve different problems, intensive in knowledge and technology, linking the macro, meso and micro levels in the decision making process.

During the last 5 years, we have built 22 agendas in different topics such as agriculture and environment in the Amazonas, Environment in Guayana, Oceanology, Biodiversity, House and Human ecology, poverty, oil and plastic, IT and Education, health in border States; etc. These processes have got a variety of results.

The Agenda focuses on the process of transfer of knowledge and culture. It tries to create an enabling environment for negotiation and confidence-building among the relevant actors. During this process, actors explain their interests and methods, through different sets of tools defined on an ad-hoc basis by the facilitators, according to the specificity of the topic. These tools are then analysed within each group of participants in an open workshop to achieve the following goals:

- Authentic competitiveness
- Sustainable development
- Empowerment of the grassroots, city governments, small enterprises, and NGO’s

Actors go through a process of intense interaction (“participation”) in which their problems and interests are made explicit. In a second phase, they plan together (“planning”) based on information and knowledge they share how to achieve the set goals. In the third phase (“appropriation”) actors make commitments to the project, which may lead to different levels of involvement with it and different time frames for their implementation. Finally, in the fourth phase, projects are developed and implemented.

### **D. Conclusion**

The development and implementation of the AGENDAS with a wide scope of participants, including Transnational Corporations is a risk, but it is also a constructive way to deal with different interests and different levels of knowledge and culture-transferring processes in place. It is a way to capture those interests and bring in investments by establishing transparent processes, rules and practices. This, in turn, contributes to improving the respect and recognition of values and practices of our communities, as well as interconnecting the macro, meso and micro level in the public policy domain.