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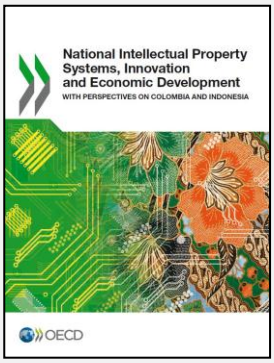
Intellectual property rights policy for innovation in Colombia

Since 2006, policy makers in Colombia have developed an intellectual property (IP) strategy oriented to supporting innovation and national competitiveness. This has resulted in various reforms that have created opportunities for the IP system to play a more prominent role in support of innovation. How can IP policy help support Colombia's innovation performance at this critical stage? The publication *National Intellectual Property Systems, Innovation and Economic Development* focuses on this question and identifies opportunities for Colombia's IP system to help **develop the innovation capabilities of previously unreached sectors of the economy**. It also offers insights on how **to maximise contributions from the country's pockets of excellence**. This country study is based on a general framework developed in the same publication, designed specifically to facilitate the analysis of national IP systems for countries at various stages of development. It draws on a country mission that gathered detailed information and feedback from public and private Colombian actors (research institutions, companies, representatives from IP offices and from governmental institutions in charge of IP and innovation policy). A country study of Indonesia's IP system based on the same framework can also be found in this publication.



Colombia's socio-economic and innovation context

The IP system can make significant contributions to innovation if it is tailored to the specific socio-economic and innovation context:

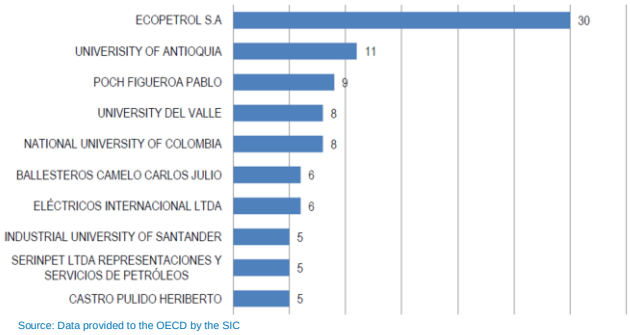
- ***Economic and innovation performance.*** Colombia is the fourth largest economy in Latin America. Over the last decade its economic performance was characterised by average GDP growth of 4.27%, strong macro-economic discipline, trade reforms and increased security. Its innovation performance remains, however, weak due to multiple factors (such as a low skills base) that need to be addressed, also to raise the potential contributions of the IP system.

- ***A small core of high-level universities and potential outside traditional manufacturing.*** The ranking of leading Colombian patent applicants reflects the concentration of research capacities in universities and in the oil extraction industry (fig.1). Colombia also has unexploited biodiversity resources. Therefore, a focus on IP in support of innovations in manufacturing alone might not be optimal.

- ***Inequality.*** Colombia is one of the most unequal countries in South America. While progress has been made, poverty remains a challenge which needs to be addressed. The size of the informal economy is also substantial. Exploring IP policy for catching-up firms and traditional sector innovation is, therefore, relevant. It can help support developing business opportunities by leveraging on currently underdeveloped but promising traditional knowledge and crafts.

- ***Business conditions for innovators.*** Several types of market failure constrain the performance of innovators in Colombia, particularly of smaller firms. These include limited access to capital for innovation. Since reaping returns from IP depends on the successful commercialisation of IP, IP will only be used by those who are least affected by market failure, unless complementary policies are adopted to support those innovators affected.

Figure 1. Number of patent applications for the top 10 Colombian entities for 2007-12



Source: Data provided to the OECD by the SIC

Organisation of the Colombian IP system

In 2010 Colombia created a coordinating body for IP, the CIPI (Intersectoral Commission for Intellectual property of Colombia). Various participants in CIPI have acknowledged its valuable contributions to improving co-ordination. However, to date the CIPI has not yet takEN on the role of pushing the "IP for innovation" agenda.

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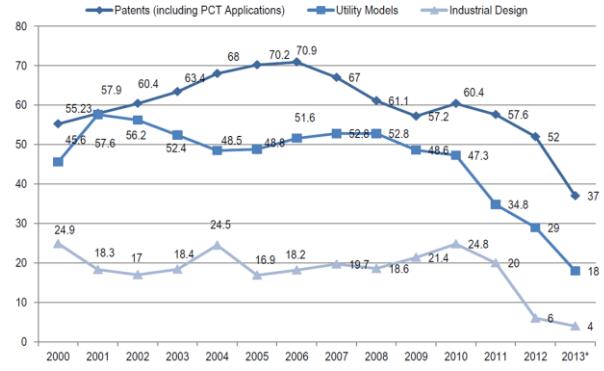
IP operations and procedures

The IP system can only support innovation if the legal and administrative conditions are such that inventors effectively receive ownership of their IP. Colombia's IP system provides adequate legal conditions. Recent reforms have considerably improved IP operations and procedures in Colombia:

The application process for obtaining IP has been substantially improved. Application processing time has decreased significantly in the last years (fig. 2) and standardisation efforts have been made to improve the quality of the examination process.

Figure 2. Time required for processing IP applications, averages in months for 2005-11



Source: Data provided to the OECD by the SIC

The application fee structure has been adapted. Substantial discounts for patents, trademarks and other types of IP are provided for small businesses and universities.

Colombia has also taken steps to improve enforcement. To tackle the lack of formation of judges regarding IP matters and reduce delays, IP offices were granted jurisdictional power to act as a court of first instance for IP matters.

Adapting to different IP users

Innovators in the traditional and informal sector. The globally competitive "Juan Valdez" brand is a good example of a successful IP strategy which has generated substantial social contributions. Replicating its example has proved challenging in spite of an increase in the number of Colombian geographic indications (GI). This is due to a lack of associations capable of ensuring product quality and of marketing to reap commercial benefits.

Catching-up firms benefit from application fee discounts and simplified application procedures. However, their use of IP including that of utility models remains low. Targeted services that provide firms with advice on the IP most useful to them as proposed by the project *Propiedad Intelectual Colombia* are particularly useful to raise awareness and incentivise the use of IP. Currently most IP services are concentrated in Bogotá and selected regions; this is not optimal for engaging a large group of firms.

Leading "frontier" firms are seeking IP protection abroad to gain larger payoffs for their inventions, exploiting bigger foreign markets. They are also increasingly seeking co-operation with national and international research centres and universities. Several leading and frequently large businesses in Colombia have started to engage in internal processes to incentivise employees' interests in obtaining IP.

Public and private universities hold valuable research capacities to support innovation. The current system provides limited incentives for researchers to seek IP titles and their commercialisation. Researchers in public universities cannot engage in spin-offs. The creation of IP services and eventually technology transfer offices is on the agenda of many of Colombia's leading research institutions. University bodies in charge of IP are still young and have limited resources. Reaching sufficient scale to reduce costs is difficult for individual institutions as IP activities are often still incipient.

How can Colombia's IP system contribute more to national innovation performance?

- Colombia's CIPI could play a significant role in pushing the "IP for innovation" agenda forward. Success will require an explicit focus on innovation, involvement of the private sector, high-level policy buy-in and effective implementation.
- The proposal of creating an autonomous industrial property institute to deal exclusive with industrial policy is worth pursuing.
- The IP offices will need adequate resources and staffing to carry out their new jurisdictional powers successfully and must seek efficiency improvements where possible.
- IP policy should **not only focus on patents, but also, depending on the business activity, on trademarks, geographic indications, design rights and utility models. This is critical for the IP system to support a more inclusive innovation system.**
- The regulatory constraints faced by researchers in public universities to operate spin-offs should be addressed as should career incentives for researchers to seek the commercialisation of inventions.
- Another valuable step consists in expanding the offer of support services provided by external institutions such as TECNNOVA to help universities reach out to the private sector and support the private sector's awareness and capacities for dealing with IP.
- Simplifying and shortening application procedures and accommodating concerns over sharing critical information about inventions could heighten the impact of public support schemes aimed at encouraging the use of IP.