

ProBenefit



Documentation of the Side-Event

at the

**6. Ad Hoc Open Ended Working Group on
Access and Benefit Sharing (ABS-WG6)**

21 January 2008

Geneva, Switzerland

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ProBenefit Lessons learned from an ABS research project in Ecuador


Many regulations and guidelines on ABS exist – but how can these ideas and principles be implemented in practice? Five years ago, the German-Ecuadorian research project ProBenefit started with the aim of developing procedures for a fair and transparent agreement on ABS in the Amazon lowlands of Ecuador. For this purpose, the project did cooperate closely with the national Ecuadorian authorities, indigenous organizations, local communities and a medium-sized pharmaceutical company from Germany. The project has now come to an end.


The side-event presented results and lessons learned of the project. Participants had the chance to discuss the experience with the following experts involved in the project:

- **Carsten Krück**, VDI Technology Center, Germany
- **Christiane Ploetz**, VDI Technology Center, Germany
- **Axel Paulsch**, Institute for Biodiversity, Germany
- **Antonio Matamoros**, Ministry of Environment Republic of Ecuador

The side-event was attended by more than 50 participants. Since many of them came from Spanish-speaking countries, a translation from English to Spanish was provided. Both members from delegations and representatives of NGOs, companies and indigenous organizations were present.



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Side-event:
Lessons learned from an ABS project in Ecuador


ABS WG 6
Geneva, 21st January 2008


C. Ploetz: Introduction and Project Overview

A. Paulsch: Participation and Stakeholder Consultation in the ProBenefit Project

C. Krück: Lessons learned from the Project

A. Matamoros: Position of the MAE, Ecuador

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ProBenefit

"PROcess-oriented development of a model for a fair BENEFIT-sharing for the use of biological resources in the Amazon lowland of Ecuador"

Introduction and Project Overview



ABS WG 6
Geneva, January 2008

Christiane Ploetz



Contents

- 1 Background and Aims of ProBenefit
- 2 Project partners and phases
- 3 Project region
- 4 Milestones and results



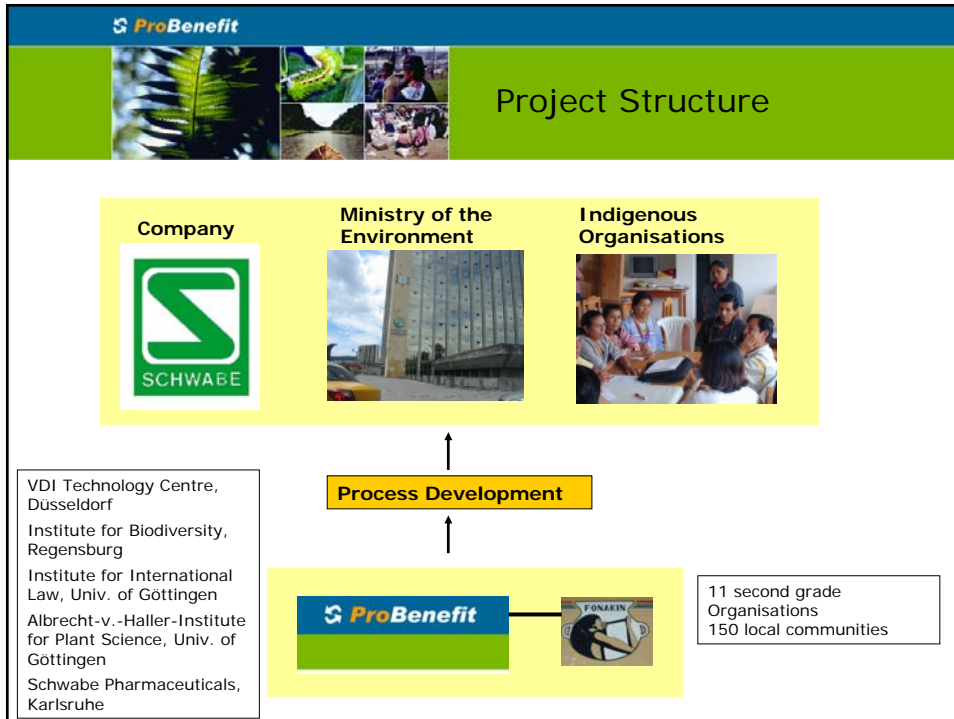
Project Aims of ProBenefit



- Implement the ABS principles stated in the CBD.
- Develop transparent negotiation procedures with all relevant stakeholders.
- Plant screening only after ABS agreement has been reached.

Duration: 2003 – 2008



Phases: Phase 1: reach an agreement on ABS
Phase 2: plant screening, extract testing






Funding: German Ministry for Education and Research (BMBF)



		
		
Activities and Results - Overview		
Year	Project Milestones	Results
2003	Kick-off, First contacts with Ecuador	Contact with Ministry of Ecuador and Indigenous Organizations
2004	Socio-political analysis, Legal analysis, Workshop in project region	
2005	Agreement ProBenefit - FONAKIN	
2006	Capacity building and training in project region	
2007	Proposal of Working Group Project closure	

		
		
Activities and Results - Overview		
Year	Project Milestones	Results
2003	Kick-off, First contacts with Ecuador	Contact with and information of >40 stakeholder organizations in Ecuador
2004	Socio-political analysis, Legal analysis, Workshop in project region	„Consulta previa“ as element of Ecuadorian draft proposal on ABS
2005	Agreement ProBenefit - FONAKIN	Strong indigenous criticism of current consulta practice
2006	Capacity building and training in project region	
2007	Proposal of Working Group Project closure	

  **Analysis of socio-political conditions and stakeholders**

State Ecuador	NGOs	Research	Indigenous Organisations	Local Communities
				


- over 40 organisations in Ecuador were contacted
- with a few exceptions, the open and transparent character of the project is welcomed
- the great challenge: how can indigenous representation in the process be adequately ensured?


  **Activities and Results - Overview**

Year	Project Milestones	Results
2003	Kick-off, First contacts with Ecuador	Aim: establish an indigenous group of experts who work out an ind. proposal for the consultation process Decision on training course
2004	Socio-political analysis, Legal analysis, Workshop in project region	
2005	Agreement ProBenefit - FONAKIN	
2006	Capacity building and training in project region	
2007	Proposal of Working Group Project closure	

		
		
Activities and Results - Overview		
Year	Project Milestones	Results
2003	Kick-off, First contacts with Ecuador	6-module course for indigenous representatives from the project region
2004	Socio-political analysis, Legal analysis, Workshop in project region	Formation of a working group
2005	Agreement ProBenefit - FONAKIN	Phase of communication standstill during 2nd half of 2006
2006	Capacity building and training in project region	
2007	Proposal of Working Group Project closure	

		
		
Activities and Results - Overview		
Year	Project Milestones	Results
2003	Kick-off, First contacts with Ecuador	No ABS contract to be reached within ProBenefit
2004	Socio-political analysis, Legal analysis, Workshop in project region	Start of evaluation and analysis
2005	Agreement ProBenefit - FONAKIN	
2006	Capacity building and training in project region	
2007	Proposal of Working Group Project closure	

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"Participation and Stakeholder Consultation in the ProBenefit Project"


ABS WG 6
Geneva, January 2008

Axel Paulsch
Institute for Biodiversity

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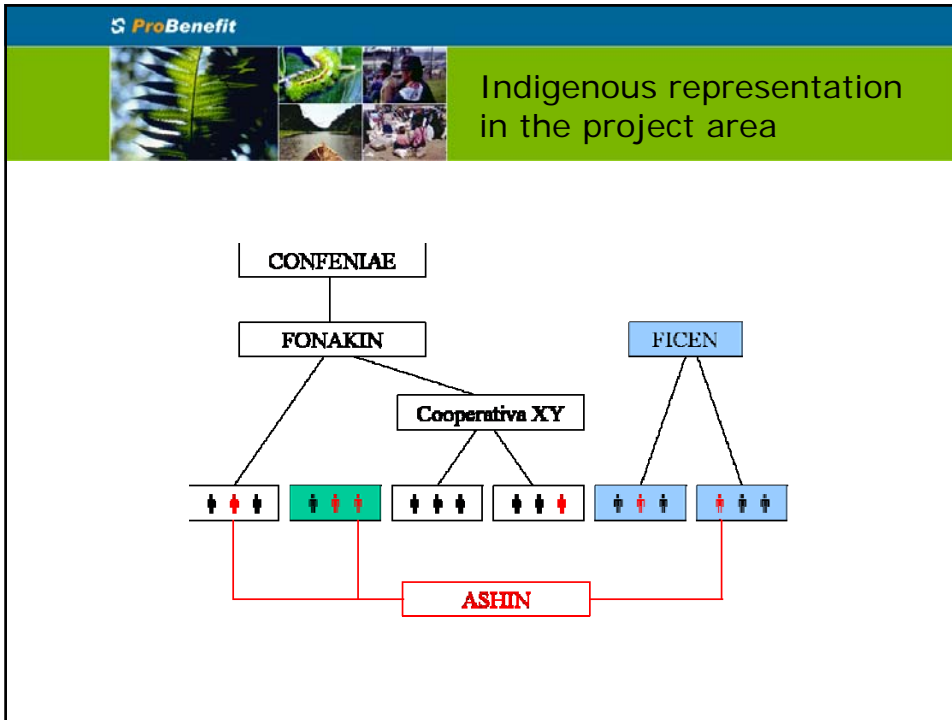


Organization of Indigenous Communities



The indigenous population is well organized

- at the supranational level (COICA)
- at the national level (CONAIE/CONFENAES)
- at the regional level (e.g. FONAKIN)
- at the local level (communities, agricultural cooperatives)




 Workshop in the project area


Subject: Consultation and indigenous participation



- More than 25 representatives of local communities, indigenous organisations and professional associations (e.g., midwives) expressed their view on requirements for participation.
- The need for more information on ABS was expressed throughout the workshop groups.



 

Training and Capacity-Building




Capacity-building and training in the project area

- 6 modules taught and designed by Ecuadorian experts.
- 25 course participants sent by their respective organizations.
- These experts should then inform and consult the local communities and organizations.



Training and Capacity-Building Modules 1-3




02/2006
Botany and industrial partner

03/2006
Phytomedicine: Production Process

03/2006
ABS/IPR: Legal Framework, Protection of traditional knowledge



Training and Capacity-Building Modules 4-6




03/2006
Phytomedicine: Markets and Commercialization
Benefit-sharing concepts

04/2006
Contracts, Negotiation and Conflict Management

04/2006
Moderation and Presentation Techniques



 

Results




Participants appreciated explicitly that:

- Development of programme and selection of contents done by indigenous and national experts.
- Presentations and moderation done by national experts.
- Industrial partner personally present at certain modules.
- Real-Life examples and role playings.
- First extensive capacity building on ABS in the region.


 

Results



Project appreciated that:

- Stable group of participants over all modules, gender-balanced.
- Expert group for the design of a consultation process could be formed.
- Documentation distributed to organizations, communities, government, experts and homepage.



 

Constraints




Expert group still not able to propose a design for the consultation process because:

- partly not interested
- not legitimated within FONAKIN as relevant body
- sidelined by FONAKIN leaders for political reasons (not allowed to gather or communicate with the project) during presidential elections.

Constraints




FONAKIN main assembly decided:



- not to allow consultation design unless a broad capacity building campaign to be financed by the project or the applicant (15 months, 130.000 dollars) for all communities in the area
- then to meet again and decide, if development of a consultation design should be allowed
- then the applicant has to finance the consultation campaign
- this was impossible due to financial and time constraints

Consequences



- No consultation process
- No agreement
- No second phase (screening)





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Some Conclusions and Lessons



ABS WG 6
Geneva, January 2008

Carsten Krück
VDI Technology Center





Challenges of the process

- *Consulta previa* requires the coordination and representation of numerous ethnic, community and organizational indigenous levels with overlapping authorities and competencies.
- Considerable time and resource constraints for identifying and gathering stakeholders and generating a dialogue.
- The national Ecuadorian and regional (CAN 391) legal framework provides minimum requirements but few rules for implementation.
- Design, negotiation and implementation of a PIC process and ABS agreement left to companies and indigenous organizations.
- High transaction costs in the face of high reputational risks and uncertain outcomes.




Challenges of the process


- For companies: Process unattractive - and hardly feasible for medium-sized enterprises:
 - A long, drawn-out process with shaky agreements and uncertain outcomes.
 - Reputational risks (e.g., "biopiracy" accusations).
- For *indigenas*: Process risky
 - Pervading distrust.
 - Suspicions of manipulation.
 - Fear of corrosive effect of ABS topic for the indigenous movement.



Challenges of the process


- Weak structure and know-how basis of indigenous organizations: Lack of stable staff basis, ABS expertise, management skills and strategy development.
 - *Indigenas* find it hard to even specify hopeful benefits of ABS and PIC requirements.
 - Decision-making slow, often intransparent, precarious.
 - Organization lacking the structure and stability to develop bargaining positions, pursue and keep up compromises and to promote long-term processes.


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 **Lessons from ProBenefit case**

- A transparent, bottom-up, participative approach remains the preferable approach to ABS.
- But: The transaction costs are prohibitive unless all interested parties invest substantially in their own institutional capacity.

- **Governments:**
 - Engage in trust-building exercises with indigenous communities.
 - Establish more precise guidelines for ABS and PIC procedures to lower entry barriers, allow for learning exercises and make the process more calculable for interested parties.

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 **Lessons from ProBenefit case**

- **Indigenous organizations**
 - Strengthen the stability, transparency and accountability of organization structures to become more reliable for conceivable ABS partners.
 - Build up a knowledge basis and train experts for ABS.
 - Envision and draft specific benefits and justifiable consultation schemes.



Lessons from ProBenefit case

- **Companies**

- Communicate profit interests and constraints (e.g., R&D costs, drug approval barriers, portfolio and pipeline problems, marketing costs) to qualify bioprospection myths (“oro verde” etc.) and convey the importance of IPR.
- Develop a clear framework for benefit options to encourage negotiation and decision-making.
- Display and communicate possible licensing and patenting options available to negotiating parties (e.g., patent granted to NGO, university, government, park; joint ownership of patent; licensing of patent to company).
- Look for strong counterparts which claim and enforce strong positions.



Lessons from ProBenefit case

- **Science**

- Invest even more in working out a stakeholder analysis before entering the field.
- Get to know more about interethnic knowledge.
- Explore in more depth the dynamics and resolution of nested, multi-level bargaining situations.
- Sharpen the concept of capacity-building.



Lessons from ProBenefit case

- **Development cooperation:**
 - Carry out information and training on ABS issues to contribute to a stable expertise basis.
 - Take seriously Rio principles such as: fostering a civil society, promoting capacity building, endorsing good governance.