



ProBenefit

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

A German-Ecuadorian research project

Presentation prepared for the
International Congress and
54th Annual Meeting of the Society
for Medicinal Plant Research
Gesellschaft für Arzneipflanzenforschung – GA
HELSINKI, FINLAND
29 August – 2 September 2006



Bundesministerium
für Bildung
und Forschung

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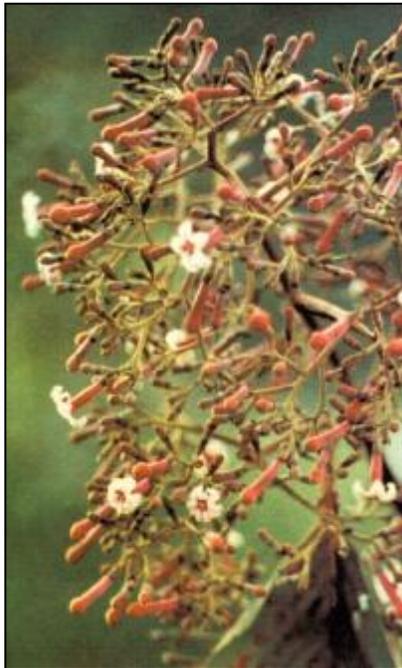
BioTeam

ProBenefit is funded by the German Ministry for Education and Research (BMBF) as part of the BioTeam Programme.



The Challenge

Who should benefit from utilising the biological diversity of Ecuador (e.g. medicinal plants)?



- The pharmaceutical company that carries out research to produce pharmacological products?
- The state of Ecuador that has the sovereign rights over its resources?
- The local indigenous communities that have known and applied the healing properties of these plants for generations?



Project Goals of ProBenefit

The Basis: The principles on Access and Benefit-Sharing stated in the Convention on Biological Diversity (CBD).

The Mission: Working out a model procedure and an agreement for a fair and transparent sharing of benefits from the sustainable use of biodiversity in the Amazon lowland of Ecuador.

The Approach: Developing the agreement in transparent negotiations with local communities in Ecuador, relevant NGOs, the Ecuadorian authorities and a medium-sized pharmaceutical company from Germany.

Duration: 2004 – 2008



Project Goals of ProBenefit

- A transparent process for reaching a fair agreement on benefit-sharing which is acceptable and sustainable for all rights-holders and interested actors (in accordance with CBD objectives).
- A transparent and satisfactory communication process and dialogue among all actors.
- Preservation of indigenous knowledge.
- Incentives for the conservation and sustainable use of biodiversity in the project area.
- Improvement of methods for locating plants with pharmacological uses.
- Eventual production of a plant extract with documented pharmacological properties.



Background: The Convention on Biological Diversity (CBD)

Convention on Biological Diversity (CBD)

Adopted in 1992 at the Rio Earth Summit. Signed by 188 countries.

The objectives:

- the conservation of biological diversity,
- the sustainable use of its components,
- the fair and equitable sharing of the benefits arising out of the utilization of genetic resources,
- appeal to develop agreements on access and benefit-sharing (ABS),
- appeal to encourage the equitable sharing of benefits arising from the use of indigenous and traditional knowledge relevant for the sustainable use of biological diversity.



CBD's Main Provisions on ABS

CBD - Article 15: Access and Benefit-Sharing

1. Recognizing the sovereign rights of States over their natural resources, the authority to determine access to genetic resources rests with the national governments and is subject to national legislation.
5. Access to genetic resources shall be subject to prior informed consent (PIC) of the Contracting Party providing such resources [...].
7. Each Contracting Party shall take legislative, administrative or policy measures [...] with the aim of sharing in a fair and equitable way the results of research and development and the benefits arising from the commercial and other utilisation of genetic resources with the Contracting Party providing such resources. Such sharing shall be upon mutually agreed terms.



Background: State of Implementation of the CBD

- International legal framework established but still quite vague and lacking implementation standards.
- Only 9 out of 67 developing/transition countries have national regulation in place. Others still idle or in the heat of drafting access rules.
- Massive information deficits among public administrations, companies, NGOs, indigenous communities.
- Few hands-on experiences with ABS projects and regulations.
- Catch 22 situation (“hen-and-egg problem”).
- ABS a bottleneck of CBD development and important challenge for COP9 in Germany 2008.



Challenges of ABS Projects (1)

- The myth of the “oro verde”.
- Very few benefit-sharing agreements have materialised. Of those that did, most were limited to one-off payments. Few (if any) of the agreements resulted in the development of commercially viable products.
- Plants and traditional knowledge on them not simply a commodity but imbued with cultural beliefs, values, religious meaning, social status and responsibilities.
- “Biopiracy” accusations abound.



„Biopiracy“ accusations

Strong resentment about patenting of Ayahuasca plant

- Ayahuasca (*Banisteropsis caapi*), a tropical liana with hallucinogenic properties widely used by shamans in the western Amazon basin for healing ceremonies.
- In 1986, a U.S. citizen obtained a US plant-patent for a variety of *B. caapi* he had collected in the domestic garden of a Secoya shaman in the Ecuadorian lowlands.
- Massive protests in the mid-nineties because the plant is sacred to many indigenous communities.
- The COICA (Coordinating Body of Indigenous Organizations of the Amazon Basin) had the patent annulled by the U.S. Patent Organization in 1999. In 2001, the decision was revised again.
- Implications not clearcut: Use of patent for drug development unclear; patent holder did not commercialize it.



The Challenge of an ABS Project (2)

- Most stakeholder groups wavering between fundamental opposition and pragmatic openness.
- Bioprospection easily becoming engulfed in colonialisation, globalisation and equity discourses (debt relief, free-trade areas etc.).
- Lack of practical and tested procedures for access and benefit-sharing that respect both the needs of local and indigenous rightholders and the needs of pharmaceutical companies.



Project Structure

Company



Ministry of the Environment



Indigenous Organisations



Process Development

VDI Technology Centre,
 Duesseldorf
 Institute for Biodiversity,
 Regensburg
 Institute for International
 Law, Univ. of Goettingen
 Albrecht-v.-Haller-Institute
 for Plant Science, Univ. of
 Goettingen
 Schwabe Pharmaceuticals,
 Karlsruhe

 ProBenefit



11 associated organisations
150 local communities



German Project Consortium



Dr. Willmar Schwabe
Pharmaceuticals

Negotiating party
Phytomedicine

VDI Technology Center



Overall (interdisciplinary)
coordination
Public relations



Institute for Biodiversity

Ethnological expertise
Process facilitation



University of Goettingen
(Albrecht-v.-Haller-Institute)

Botanics
Ecology



University of Goettingen
(Institute f. International Law)

Legal framework



Project Phases

Phase 1



Team Formation, Stakeholder Consultation & Process Development

ABS Agreement

Phase 2



Plant Screening



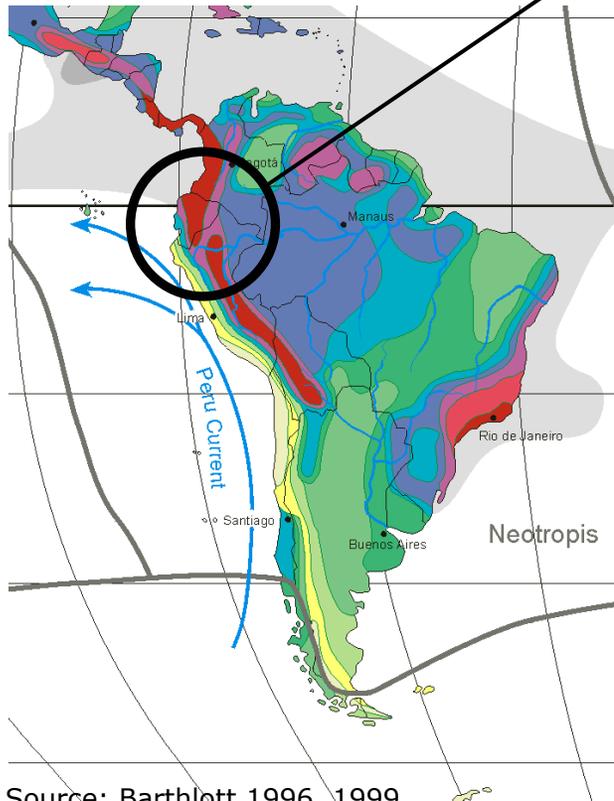
Extract Testing



Why Ecuador?

Ecuador is a megadiversity country

- More than 5.000 plant species per 10.000 square km.
- Experts expect around 5.000 more undescribed species to be discovered in the next decades.



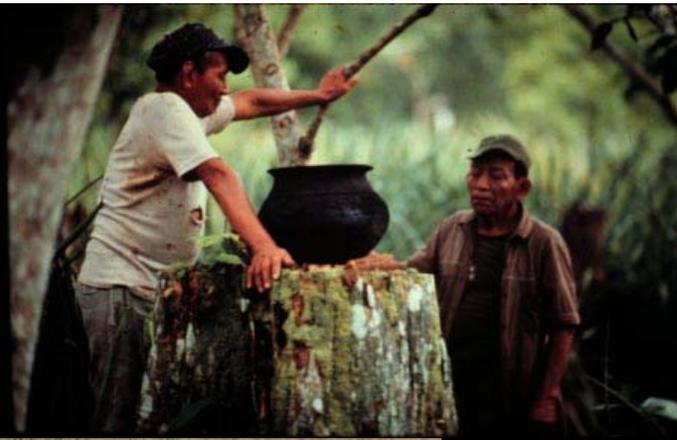
Source: Barthlott 1996, 1999



Why Ecuador?

Indigenous knowledge on traditional herbal medicines is alive

- In Amazonia alone, 5.000 plant species are used.
- 80% of the Ecuadorian population uses traditional herbal medicines.
- Traditional and western medicine coexist.



Banisteriopsis caapi





Why Ecuador?

The indigenous population is well organized

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





Why Ecuador?

A legal framework for ABS exists

- CAN 391 (Régimen Común sobre Acceso a los Recursos Genéticos de la Comunidad Andina).
- Ecuador is currently developing a draft proposal for national ABS regulations.
- Consultation of the indigenous population is necessary.





Project area of ProBenefit

Biosphere reserve „Gran Sumaco“

- 68% primary forest,
- 5 out of 7 Holdridge altitudinal zones,
- Highly organised civil society,
- Existence of a management plan and administrative council (CoRBS),
- Access and logistics comparatively straightforward.





Milestones and Achievements So Far

- Socio-political analysis of the stakeholder landscape.
- Extensive presentation campaign in Ecuador: By far the majority of stakeholders and interest groups welcome the project.
- Thorough consultation with Ministerio del Ambiente. ProBenefit appreciated as a „pilot project“.
- Two expertises on legal fundamentals: National regulation for ABS in the drafting phase; proof of adequate consultation of indigenous communities required but hardly specified.
- Visits to various possible project regions (approved by Ministerio and Indigenas); project region chosen.
- Research permit for botanical team.
- Advisory Board established and convened twice.
- Presentation of the project in CBD Side Events (Granada, Curitiba).
- Development of a framework for consultation of Indígenas.



Analysis of socio-political conditions and stakeholders

State Ecuador



Ministry of the Environment

NGOs



IUCN
TRAFFIC
Fundación Ambiente y Sociedad
EcoCiencia
Acción Ecológica
 ...

Research



Pontífica Universidad Católica
Museo Nacional de Medicina
PUSEIB-paz
PROFOLIA
 ...

Indigenous Organisations



International, regional, national and local
FONAKIN
CONAIE
CONFENAIE
COICA
 ...

Local Communities



Cooperatives and organisations in the project area



Analysis of socio-political conditions and stakeholders

State Ecuador



NGOs



Research



Indigenous Organisations



Local Communities

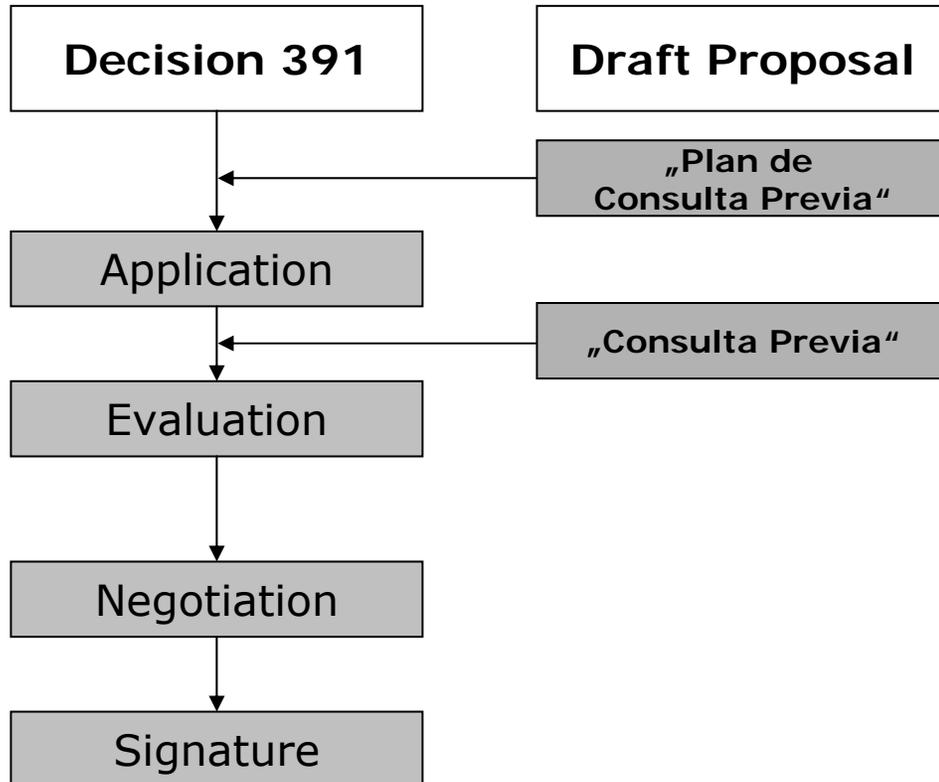


- More than 40 organisations in Ecuador were contacted.
- With few exceptions, the open and transparent character of the project is welcomed.
- The challenge: how can indigenous representation in the process be adequately ensured?



Analysis of the legal framework in Ecuador

Access to genetic resources in Ecuador according to Decision 391 and the Draft Proposal for its implementation

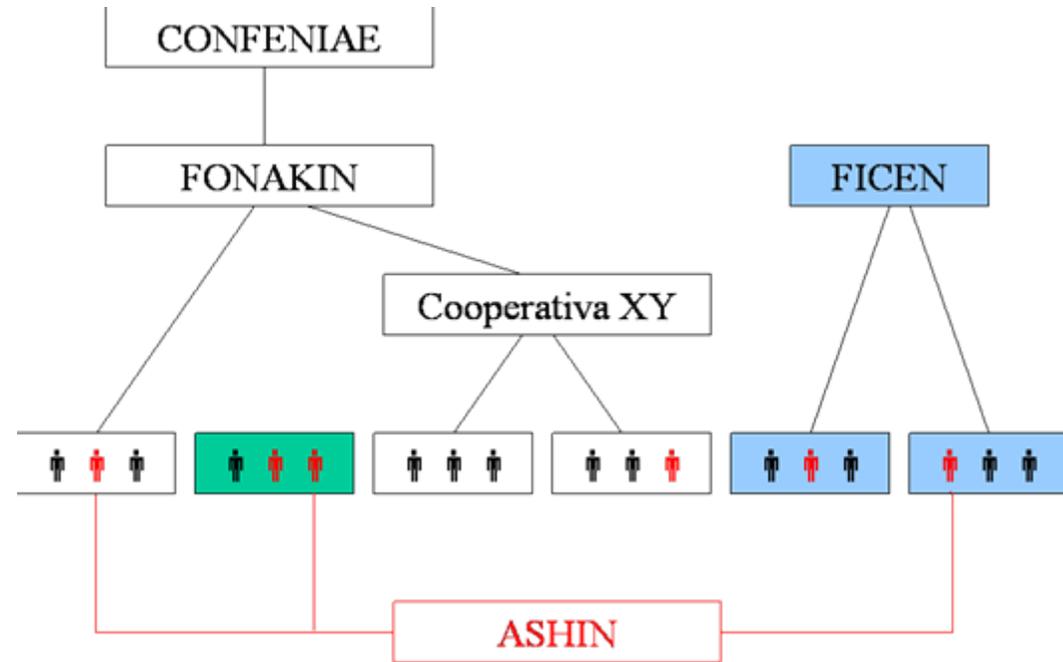
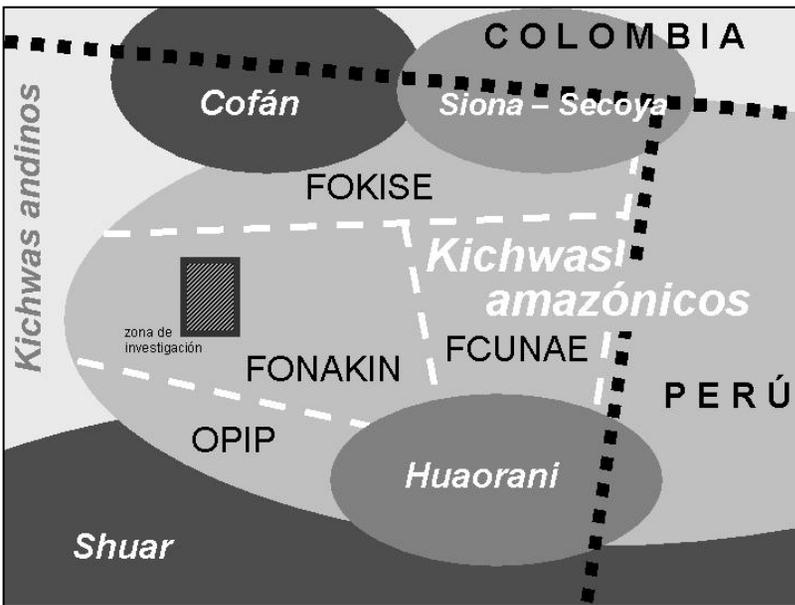


→ Both legal frameworks require consultation of the indigenous population.

→ Both leave the specific design of the consultation process to the applicant.



Indigenous representation in the project area



→ The Challenge: How can indigenous representation be organized in a way that reflects these structures?



Contract FONAKIN – ProBenefit

Acuerdo

FONAKIN - Proyecto ProBenefit

sobre la realización de la fase inicial del proyecto ProBenefit

1. Antecedentes

ProBenefit es un proyecto financiado por el Ministerio de Educación y Ciencia de la República Federal de Alemania con el motivo de promover la implementación del Convenio internacional sobre la Diversidad Biológica (CDB). El CDB fue aprobado en la Cumbre de la Tierra de las Naciones Unidas en Río de Janeiro en 1992 y ha sido ratificado hasta la fecha por más de 180 países, entre ellos Alemania y el Ecuador.

El CDB estableció, entre otros, un nuevo marco legal para el acceso a los recursos genéticos y los conocimientos tradicionales asociados. Según este convenio y otras reglamentaciones vigentes en el Ecuador (Convenio 169 de la OIT, CAN Decisión 391, Constitución de la República etc.), cualquier proyecto de investigación sobre plantas medicinales y conocimientos tradicionales con fines comerciales requiere no solo de un permiso estatal sino también de un acuerdo previo con los pueblos indígenas involucrados. En la práctica, sin embargo, todavía está poco claro mediante cuales procedimientos y bajo cuales condiciones fuese posible llegar a un acuerdo al respecto.

Objetivos del proyecto ProBenefit

El objetivo principal de ProBenefit es generar un proceso participativo - involucrando tanto a las organizaciones representativas de los pueblos indígenas como a las autoridades competentes del Estado - para examinar si es factible llegar a un acuerdo modelo sobre el uso de recursos biológicos y conocimientos tradicionales en la Amazonía ecuatoriana de conformidad con los principios fundamentales del CDB, los cuales prescriben, entre otros, una justa y equitativa distribución de los posibles beneficios.

Para enfrentar este complejo desafío, ProBenefit cuenta con un equipo interdisciplinario, integrado por una ONG sin fines de lucro (Instituto para la Biodiversidad), el Instituto de Derecho Internacional Público y el Departamento de Ecología de la Universidad de Göttingen y la Consultora de Tecnologías Futuras de la Asociación de Ingenieros Alemanes. Para concretar los planteamientos mencionados, el equipo incluye además a una mediana empresa farmacéutica (Dr. Wilmar Schwabe S. L.), la cual está interesada en realizar investigaciones en la Amazonía ecuatoriana con el fin de producir extractos de plantas.

Como zona de trabajo está previsto la Reserva de Biósfera Sumaco.



- Establish a group of indigenous experts
 - to develop a proposal for the design of the consultation process,
 - to develop a method for disseminating the contents of the proposal among the indigenous communities.
- Provide capacity-building and training for the group of experts.
- Select areas of investigation within the influence sphere of FONAKIN.



Contract FONAKIN - ProBenefit

FONAKIN (La Federación de Organizaciones de la Nacionalidad Kichwa de Napo)

A regional indigenous organization comprising

- 13 second-grade organizations
- 150 local communities

Goals

- Defending the territorial and cultural rights of the indigenous communities.
- Conserving knowledge about traditional healing and intercultural education.
- Biodiversity conservation in the protected areas of Antisana, Napo Galeras y Reserva de Biósfera Gran Sumaco.





Framework for Consultation

Development of a Framework for Consultation and Participation of Indigenous Stakeholders

- A working group of indigenous representatives of the second-grade organisations representing the project region is being informed and trained on ABS issues.
- The curriculum of the capacity building course was developed in cooperation with Fonakin.
- These representatives will communicate the training results and contents to the local communities and grassroots organisations in the project region.
- Consultation with the local communities and base organisations in a general assembly.
- The traditional indigenous structures are respected, e.g. involvement of women, midwives, healers etc.



Workshop in the project area

Subject: Consultation und Indigenous Participation



- More than 25 representatives of local communities, indigenous organisations and professional associations (midwives, healers etc.) expressed their views on requirements for participation and possible benefits.
- 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 by Ecuadorian experts
- 25 course participants sent by their respective organizations
- These experts will then inform and consult the local communities and organizations.

02/06	Botany
03/06	Phytomedicine: Production Process
03/06	ABS/IPR: Legal Framework, Protection of traditional knowledge
03/06	Phytomedicine: Markets and Commercialization Benefit-sharing concepts
04/06	Contracts, Negotiation and Conflict Management
04/06	Moderation and Presentation Techniques



Crucial Issues and Challenges for the Consultation Process

- A clear national legal framework is necessary
 - Competent national authority
 - Orientation and guidance for all actors and stakeholders
- Adequate representation of indigenous interests in the consultation process is complex and demanding.
 - It requires an intensive dialogue at various levels of organisation and representation.
 - Decision-making structures of indigenous organisations may not fit into the formally established access procedures.
- Adequate information on ABS is a crucial precondition for consultation.
 - Range, intensity, contents, methods...



Challenges

- *The Company*: Very, very time-consuming.
- *The Indigenous Organizations*
 - Risking their integrity and reputation.
 - Stability and effectiveness of civil society in developing nations limited. Unsteady commitment, delays.
- *The Working Group*:
 - Temporal, financial, organizational, intellectual constraints have to be managed permanently.
 - Limited capacity to develop negotiation preferences and proposals and has to be fostered.
- In General: Representation of interethnic knowledge and organizational diversity.



Some Lessons so far

- Fight the blockbuster myth.
- Make your counterparts understand the situation and needs of researchers and companies.
- Realize that you expect your partners to take a giant leap of faith.
- Be as transparent and accountable as possible in your dealings.
- Be patient ...!
- Engage in capacity-building to facilitate the articulation of local and indigenous interests. Well-informed and competent partners improve the prospects of ABS endeavours tremendously.



**Thank you for your
attention!**

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