



Darwin Initiative for the Survival of Species

Access to Genetic Resources, Benefit Sharing and
Traditional Knowledge in Chile

Ref. 162/11/011

Annual Report

Foundation for International Environmental Law and Development (FIELD)
52-53 Russell Square
London WC1B 4HP
United Kingdom
Tel: +44 (0)20 7637 7950
Fax: +44 (0)20 7637 7951
<http://www.field.org.uk>

1. Darwin Project Information

Project title	Access to genetic resources, benefit sharing and traditional knowledge in Chile
Country	Chile
Contractor	Foundation for International Environmental Law and Development (FIELD)
Project Reference No.	162/11/011
Grant Value	£86,533
Start/Finishing dates	1 May 2002 – 30 April 2004
Reporting period	1 May 2002 – 31 March 2003

2. Project Background

- 2.1 The need for this project was identified by the collaborating institution, Chile's *Fundación Sociedades Sustentables* ('Sustainable Societies Foundation' - FSS). The background of this project is related to the lack of relevant legislation and public awareness on access to genetic resources, benefit sharing, and the protection of traditional knowledge in Chile, together with the increasing number of bioprospecting and overseas patents based on Chilean genetic resources occurring outside the framework of the Convention on Biological Diversity (CBD).
- 2.2 Chile is a Party to the CBD and is bound by the provisions of Articles 15, 16 and 8(j) related to the need to take measures to regulate access to genetic resources, the fair and equitable sharing of the benefits derived from the utilisation of those resources, and the protection of the knowledge innovations and practices of local communities and indigenous peoples. This project will also strengthen FSS to make an ongoing contribution to the implementation of the CBD in Chile.

3. Project Objectives

- 3.1 The purpose of this project is two-fold:
- 3.1.1 to assist FSS in raising awareness and promoting a policy debate on a national framework on access to genetic resources, benefit-sharing and the protection of traditional knowledge in Chile;
 - 3.1.2 to address the lack of legislation on this issue at the national level by identifying and assessing the gaps and needs in the existing legislative, policy and institutional framework on biodiversity in Chile, leading to a set of

recommendations on the main elements of an appropriate legal framework on access to genetic resources in Chile.

3.2 The planned outputs of this project include:

- Two research papers providing a review and analysis of relevant national and international laws and policies on access to genetic resources and benefit sharing, the protection of traditional knowledge and the role of intellectual property rights, including experience on these issues in Chile;
- Preparation of a set of accessible information materials on these issues;
- A sub-national seminar, to raise awareness and discuss the research papers;
- A national seminar, to raise awareness, discuss the research papers and agree recommendations;
- A set of recommendations and proposed elements for an appropriate legal framework on access to genetic resources in Chile.

3.3 There has been no change in the project objectives. In terms of the operational plan, there has been changes to the project schedule due to delay in getting the contract finalised with DEFRA due to changes to the financial conditions of the Darwin Initiative, as reported in this project's six-month report. The late start of the project had knock-on effects on a number of project activities, including the completion of the draft research papers and the rescheduling of the sub-national workshop, which was moved from April to May 2003. These changes to project activities were communicated and agreed with the Darwin Secretariat and should not affect the timely completion of the project.

3.4 A copy of the logical framework of this project is included as Annex I.

4. Progress

4.1 This report covers the period from the beginning of the project (1 May 2002 – 31 March 2003) and therefore there is no history of the project prior to this reporting period.

4.2 The main milestones of the progress achieved over the last year are listed below:

- 4.2.1 The project co-ordinator from FSS conducted a field trip to the South of Chile to research on applications of traditional knowledge. This information and related experiences have been included in the country report assessing Chile's legal and institutional framework on the issues of access to genetic resources, benefit sharing and traditional knowledge.

- 4.2.2 FSS sub-contracted the services of a local legal consultant to carry out a review and analysis of the existing biodiversity legislation in Chile, identifying the gaps and needs in order to address the regulation of access to genetic resources and benefit sharing.
- 4.2.3 The project partners agreed on which countries would be used as case studies for their legal and policy regimes on access, traditional knowledge and IPRs. Peru, Costa Rica and the sub-regional access regime of the Andean Community were chosen as good examples of legislation and policy on access to genetic resources and benefit sharing of interest for Chile. FIELD has now completed a draft report with information on these case studies to be presented at the sub-national seminar in May 2003.
- 4.2.4 The project co-ordinator from FSS attended the CBD Open-Ended Inter-Sessional Meeting on The Multi-Year Programme of Work up to 2010 (MYPOW), held in Montreal, Canada, on 17-20 March 2003, where CBD Parties discussed the outcomes of the World Summit on Sustainable Development related to access to genetic resources and benefit sharing, including the negotiation of an international regime on these issues. The project co-ordinator from FSS attending the meeting took the opportunity to inform participants about this Darwin project and the fact that preliminary project results will be presented by the two partner organisations at the next meeting of the CBD Ad Hoc Open Ended Group on Access and Benefit Sharing in December 2003.
- 4.2.5 FSS has conducted extensive research and completed an analysis of national experiences related to access to genetic resources, the protection of traditional knowledge and related intellectual property rights (IPR) issues. In addition, FSS has subcontracted the services of a local legal consultant who has researched and reviewed relevant national legislation and policy on biodiversity, genetic resources and traditional knowledge in Chile. These issues were originally going to be covered in the same research paper but will be presented at the sub-national seminar as two separate papers, due to the length and amount of information they include, to make them more accessible.
- 4.2.6 FIELD has completed a draft report giving an overview of the relevant international legal and policy instruments related to access to genetic resources, benefit sharing, traditional knowledge and IPRs. This draft paper will be also discussed at the sub-national seminar. The comparative study that reviews the legislation and policy on access to genetic resources of Peru, Costa Rica and the Andean Community has been produced as a separate draft paper, again due to the length of these two draft papers and for ease of use.
- 4.2.7 Both partners are working to put together accessible information materials on access, benefit sharing, traditional knowledge and IPRs as awareness raising materials to be used at the local and national level in Chile. These materials were originally scheduled to be produced before

the sub-national seminar but the project partners have agreed the convenience of presenting a draft version at the sub-national seminar to have an opportunity to receive comments and feedback from participants before printing the final version.

4.2.8 The organisation of the sub-national seminar is fully underway. The dates of the workshop were moved from April to May 2003 due to the late start of the project, as explained in paragraph 3.3. The seminar will take place in Yumbel, region VIII, on 29-30 May 2003. FSS and FIELD are partnering with the Chilean *Centro de Educación y Tecnología* (CET) ('Education and Technology Centre') to host this seminar as the CET is a well-known and respected organisation engaged in biodiversity conservation work with rural communities in Chile, including work on the conservation of plant genetic resources for food and agriculture and the protection of traditional knowledge.

A range of stakeholders, including local communities, indigenous peoples, farmers, NGOs, academics, and government representatives have been invited to participate in the seminar, as well as the Environment Attaché of the British Embassy in Santiago.

4.3 There have been no significant difficulties encountered during the year, other than the late start of the project mentioned above.

4.4 The work plan for the next reporting period (April - October 2003) is as follows:

- *May 2003*: Sub-national seminar to raise awareness about access to genetic resources, benefit sharing, the protection of traditional knowledge and related IPRs; discuss the draft research papers; disseminate information materials; and consider possible elements of a national framework on access to genetic resources in Chile.
- *June-July 2003*: Review of the information materials used in the sub-national seminar in light of the feedback received, and publication of the final version.
- *August-September 2003*: Review and update of draft research papers and dissemination materials in light of the feedback received at the sub-national seminar in May and relevant international and national legal and policy developments, in preparation for the October national seminar in Santiago. Preparation of the national seminar.
- *October 2003*: National seminar in Santiago to discuss the reviewed and updated papers in light of results of previous regional seminar and recent developments.

5. Partnerships

5.1 The collaboration between FIELD and *Fundación Sociedades Sostenibles* (FSS) is working very well to date. Being able to communicate in Spanish has aided the

management and progress of the project, with both project partners having input and exchanging views on all research papers under this project.

5.2 Although not a formal partner in this project, collaboration between FSS and the CET has led to the involvement of CET in the sub-national seminar, bringing their experience of working on biodiversity conservation and sustainable use with rural communities and traditional farmers in Chile. In addition, the CET will provide a low cost venue and equipment for the seminar in Yumbel, as well as accommodation and meals for local communities and indigenous representatives.

6. Impact and Sustainability

6.1 The project has already had an impact as the host country project co-ordinator has been invited to participate in the work of the National Commission on Access to Genetic Resources set up by the Chilean government. In this context, the project has contributed to the elaboration of Chile's report to the CBD Secretariat on the country's situation regarding access to genetic resources and benefit sharing. In addition, the project is expected to contribute to the development of a regulation under an existing draft bill on access to genetic resources and benefit sharing which will be shortly discussed in Parliament. This project is very timely as the awareness raising and discussion that will take place at the two project seminars, together with the research reports and the information materials that will be distributed will inform the policy and legislative debates on access to genetic resources and benefit sharing in Chile. The Chilean authorities have already expressed a great interest in the outcomes of these research papers.

6.2 It is envisaged that the project will also have an impact in the current development of a National Biodiversity Strategy and Action Plan (NBSAP) in Chile, as the research findings and recommendations from this project will be submitted as an input into that process.

7. Outputs, Outcomes and Dissemination

Table 1: Project Outputs (According to Standard Output Measures)

Code No.	Quantity	Description
7	One	Draft accessible information materials on access, benefit sharing, traditional knowledge and IPRs for use at the local and national level in Chile.
	Four	Draft research paper reviewing experience on access to genetic resources and benefit sharing and protection of traditional knowledge in Chile. Draft research paper reviewing existing legislation in Chile and identifying gaps and opportunities for the regulation of access to genetic resources and benefit sharing

Draft research paper reviewing relevant international law and policies on access to genetic resources and benefit sharing, the protection of traditional knowledge and related IPRs.

Draft comparative study reviewing the legislation and policy on access to genetic resources and benefit sharing of Peru, Costa Rica and the Andean Community.

8. Project Expenditure

See Excel file attached.

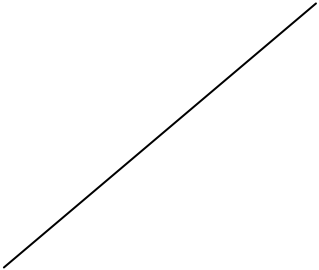
9. Monitoring, Evaluation and Lessons

The project is being monitored by senior staff at FIELD, as well as by the Director of FSS.

10. Author(s) / Date

This report has been compiled by Carolina Lasén Diaz and José Gama at FIELD, with input from Maria Isabel Manzur (FSS). London, May 2003.

Annex: Logical framework

Project summary	Measurable indicators	Means of verification	Important assumptions
<p>Goal</p> <p><i>To assist countries rich in biodiversity but poor in resources with the conservation of biological diversity and implementation of the Biodiversity Convention</i></p>		<ul style="list-style-type: none"> - Publication and dissemination of information materials on access to genetic resources, benefit sharing and traditional knowledge. - Organisation of seminars, with a broad representation of relevant stakeholders. - Publication of recommendations for an access regime. 	<ul style="list-style-type: none"> - Access to genetic resources, benefit sharing and the protection of traditional knowledge, innovations and practices associated to biodiversity remain a priority area of work for Chile, in the context of its NBSAP preparation.
<p>Purpose</p> <ul style="list-style-type: none"> - To assist a Chilean NGO in raising awareness and promoting the policy debate on a national framework on access to genetic resources, benefit sharing and traditional knowledge. - To address the lack of legislation on access to genetic resources at national level. 	<ul style="list-style-type: none"> - To raise awareness about the need to consider a legal and institutional framework on access to genetic resources. - To produce a set of accessible information materials on this issues. - To produce a set of proposals with the main elements of an appropriate legal framework on access. 	<ul style="list-style-type: none"> - Dissemination of project objectives and outputs through the two seminars and the publication of relevant research papers, information materials and set of recommendations. 	<ul style="list-style-type: none"> - Interest of stakeholders in participating in dialogue and developing recommendations on access and benefit-sharing. - Recommendations submitted to, and considered by relevant government departments.
<p>Outputs</p> <ul style="list-style-type: none"> - Two research papers. - A set of information materials. - Sub-national seminar. - National seminar. - Recommendations on appropriate elements for a legal framework on access to genetic resources, benefit sharing and traditional knowledge in Chile. 	<ul style="list-style-type: none"> - Papers produced. - Information materials produced. - Seminars held. - Recommendations drafted. 	<ul style="list-style-type: none"> - Papers published. - Information materials published and distributed. - Reports of the two seminars. - Recommendations published. 	<ul style="list-style-type: none"> - The issues addressed by these papers and seminar are considered of key importance in Chile in order to implement the Convention on Biological Diversity and its NBSAP.
<p>Activities</p> <ul style="list-style-type: none"> - Research and review of relevant national and international legislation and policy on this access and benefit sharing issue. Analysis of experiences on access and IPRs in Chile. - Preparation of accessible information materials. - Two seminars to discuss and review papers. - Draft recommendations. 	<ul style="list-style-type: none"> - Research, review and analysis activities undertaken. - Seminars held. - Recommendations on appropriate elements for a national access regime in Chile drafted. 	<ul style="list-style-type: none"> - Research papers and information materials produced/published. - Reports and outputs of the seminar produced. - Recommendations published. 	<ul style="list-style-type: none"> - Research, review and analysis activities highlight the need to address access to genetic resources in Chile. - Willingness and availability of key stakeholders to attend the seminars. - Opportunities to input the project outputs into Chile's policy debate on access.