

## FACTSHEET

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## 1. What is Technology Transfer (TT)?

In recent years, the Chilean government has made substantial efforts in maintaining and increasing economic development through knowledge and innovation. Expenditure in R&D has increased from ca. 429€ million in 2007 to 607€ million in 2015. European SMEs can benefit from a number of specific policies and incentives for R&D. SMEs interested in performing research in Chile are encouraged to visit the CORFO website regularly to stay up to date regarding funding opportunities.

The national programme 'Innovation for competitiveness' (Innovación para la competitividad) enhances R&D activities through public funds, incentives and results' protection.

### ! TIPS and WATCH OUTS

The Chilean Tax Incentive Act for R&D, implemented in September 2012, is a central pillar of the R&D system. The main characteristics of the said Act are:

- A decrease in R&D investment costs
- The enterprise directly and freely decides what R&D field to invest in, regardless of its own area of business.
- This benefit is consistent with and complementary to other public funds.
- Applications may be filed online throughout the year
- This benefit applies to operating costs and capital expenditure (infrastructure, equipment, etc.), which is related to the execution of R&D activities previously certified by CORFO, the Chilean executive body of State policies in the sphere of entrepreneurship and innovation.

Enterprises can reduce the resources they allocate for research and development activities by 35% through First Category Taxes. [Source](#)

Among the strategic actions regarding R&D protection contained in the above programme, one can highlight the following:

- Reinforce protection and use of Intellectual Property
- Move towards correct appropriation of the knowledge generated by the R&D agents.
- Facilitate technology transfer, dissemination and use of the generated knowledge.
- Providing public aids for R&D activities and their national and international protection.
- Establishing a tax incentive system for national and foreign companies on basic and applied research investment.

## 2. R&D collaboration activities' strategy

Designing a good strategy implies taking into account all the phases of the collaborative project, including the first steps, the planning stage, the implementation and the ulterior exploitation and disclosure of the results. Confidentiality is the most important requirement during preliminary contacts. Sign a non-disclosure (NDA) or confidentiality agreement (please, see our Factsheet on 'Preliminary Contracts') in order to avoid any leakage of valuable information. You can also find some templates at [INAPIPROYECTA](#) (in Spanish), INAPI's platform for the promotion of the diffusion of Industrial Property and knowledge transfer.

At the planning stage, the scope of the local partners' relationship should be considered as exhaustively as possible. All aspects that may be affected during the project's life should be included.

### ! TIPS and WATCH OUTS

Determine the importance of the Chilean market for the project and your business. This may allow you to:

- Design the best IPRs protection strategy
- Have a strong negotiating position with the local partners. Should investigation activities and exploitation of results be carried out on the Chilean Market, local partners would probably ask for more control (co-ownership of results and IPRs).
- Foresee what to do regarding the project and its related IPRs in the event of a bad relationship with one or many partners.



Under normal conditions, the parties of the R&D project would sign one or more agreements (e.g. Consortium Agreements in EU funded projects). They should mainly contain:

- IP background: the existing Intellectual Property (IP) assets to be shared and their current level of protection. This assessment comprises due diligence of the IP background information that each partner brings into the project.
- Confidential information and know-how involved in the activities and their treatment.
- Foreground IP: scope of expected results and rights on expected research results. This will condition the IPR protection strategy. Copyright, trade secrets and trademarks are also important and should be taken into account. If results are expected to be exploited both in Europe and Latin America, it is essential to indicate who will manage the related IPRs and how.
- Ownership rules for IP: who makes the decision regarding the generated IP the scope of potential licences, etc. EU SMEs should be aware of ownership rules and employees' rights in particular. The terms and conditions must be clearly stated in the employment contracts of each participating partner under the respective national law. In MERCOSUR and Chile, the employer usually owns the IP generated at work. When projects are partially funded by public funds, SMEs should also become familiar with the IP rules of the funding agency (such as ownership rules and compulsory licences).

- Licence clauses on foreground IP: must be written with sufficient flexibility to achieve a balance between the interests of both the SME and the rest of the partners. This will help prevent future disputes.

All the above should also cover the implementation and development stages.



#### TIPS and WATCH OUTS

Try to anticipate any possible alternative use for the technology. If the current status of the project does not allow for a precise analysis in this regard, include and implement regular review mechanisms.

Finally, do not forget to take into account specificities and potential benefits within local regulations. MERCOSUR countries, and especially Chile, have policies and programmes in support of R&D and enterprises. European SMEs should be aware of the country specific legislative framework and tax regime in this field. You should also pay attention to the specific requirements regarding the registration of these agreements (see next section).

EXAMPLE: One of the benefits from the Chilean Tax Incentive Act for R&D, companies can undertake R&D activities supported by the law by applying their own resources.

There are two types of categories:

- Project: The enterprises decides to seek the assistance of third parties
- Agreement: The enterprise decides NOT to seek the assistance of third parties and the activities are fully carried out by specialised R&D Centres that must be registered in the CORFO Register (The Chilean Economic Development Agency).

#### ! TIPS and WATCH OUTS

It is advisable to establish a cycle of monitoring and exploitation of the IPRs generated throughout the collaboration. Audits, conducted on a regular basis, must be undertaken at every level of the companies involved in the project in order to avoid theft and leakage of information. It is strongly recommended for the evaluation to be conducted by qualified staff, in IP and with knowledge about the local legislation.

The Latin America IPR SME Helpdesk has also published a Factsheet on [IP Due Diligence](#) that will be very useful if you want to perform your own IP Audit.

If you want to know more about Audits, contact our [Helpline](#). Our experts will provide an answer within 5-3 working days either in English, Spanish, German, French or Portuguese.

### 3. TT contracts in Chile

In Chile, technology transfer is made through so called 'Technology Transfer Agreements' (TTA).

There are two types of TTA:

- IPR assignment
- IPR licenses

#### A. Assignment of IPRs

Recommended for those who do not have an in-depth knowledge of the local market or cannot exploit them with their own resources. One or more IPRs could be assigned.

*For example:*

Your SME may have developed an innovation that does not belong to your business line of R&D activities. However, thanks to a good R&D and IP strategy design, you may opt to protect it (patent application), just in case.



Following an evaluation on the investment needed to exploit the patent, you decide to stick to your usual commercial activities. An assignment would allow you to recover the investment made.

You may either sell the IPR to another company, exchange it for shares or for another IPR of your interest.

## B. Licenses

Licensing is the best way to keep control over your IPRs and capitalize on them without direct management. In this regard, the following aspects should be taken into account and defined:

- Territory
- Term
- Exclusivity
- Products and services concerned
- IPRs involved
- Royalties
- Limitations
- Liability
- Dispute resolution mechanisms

For further information about Licensing in Latin America, you can consult our [Factsheet](#)

## C. TTA execution and registration

Registration of these agreements is not mandatory in Chile. However, we strongly recommend registering your contract before INAPI for evidence purposes.

In addition, the agreement will only be enforceable against third parties once registered. The same applies to the terms and conditions. If the transfer affects Trade secrets (know-how), it will remain confidential.

Registration fees amount to 55 € approximately. The following acts are subject to such payment:

- Domain transfer
- License (use)
- Warranties
- Name modifications
- Prohibition of performing acts and contracts
- Any other charges or encumbrances over the IP assets



#### 4. Tax incentives for R&D in Chile

The Chilean Government grants certain tax incentives, such as tax credits for amounts invested in R&D and Technology Transfer in cases where the R&D contracts are signed with duly registered Research and Development Centres.

**Expense deductions:** Chilean law allows companies to deduct the cost of R&D activities for corporate income tax purposes. They can be deducted in the year in which they were incurred or in later tax periods. Intellectual Property expenses are excluded from these deductions.

**Tax credits:** A tax credit of 35 percent is allowed for R&D expenses based on agreements signed with R&D Centres and registered with CORFO. The amount of such tax credit will not exceed 15.000 UTM (a monthly variable quantity that could be consulted at [www.valorutm.cl](http://www.valorutm.cl) and can be deducted in the period in which they are incurred or subsequent 10 tax years.)

This deduction is valid until 31st December 2025.

#### 5. Glossary

**Research:** planned investigation aimed at generating new knowledge and a greater understanding in the fields of science and technology, which can be basic or applied.

Source: CORFO

**Basic Research:** is the experimental or theoretical work that is primarily undertaken to acquire new knowledge about the basics of phenomena and observable facts, regardless of whether they have a specific application or use.

Source: CORFO

**Applied Research:** consists of original work undertaken to acquire new knowledge, characterized by being directed primarily towards a specific practical aim.

Source: CORFO

**Development:** is systematic work, focused on existing knowledge gained from research and / or experience, to lead to the production of new materials, products or devices; to the implementation of new processes, systems and services, or to substantially improve already existing ones.

Source: CORFO



## 6. Related links and additional information

WIPO's learning materials on IP Audit: [http://www.wipo.int/sme/en/documents/ip\\_audit\\_fulltext.html](http://www.wipo.int/sme/en/documents/ip_audit_fulltext.html).

National Agency for Industrial Property in Chile 'Instituto Nacional de Propiedad Industrial (INAPI)': [www.inapi.cl](http://www.inapi.cl)

Intellectual Property of Chile: [www.propiedadintelectual.cl](http://www.propiedadintelectual.cl)

Customs Authority: [www.aduanas.cl](http://www.aduanas.cl)

Plant Varieties Office: [www.sag.cl](http://www.sag.cl)

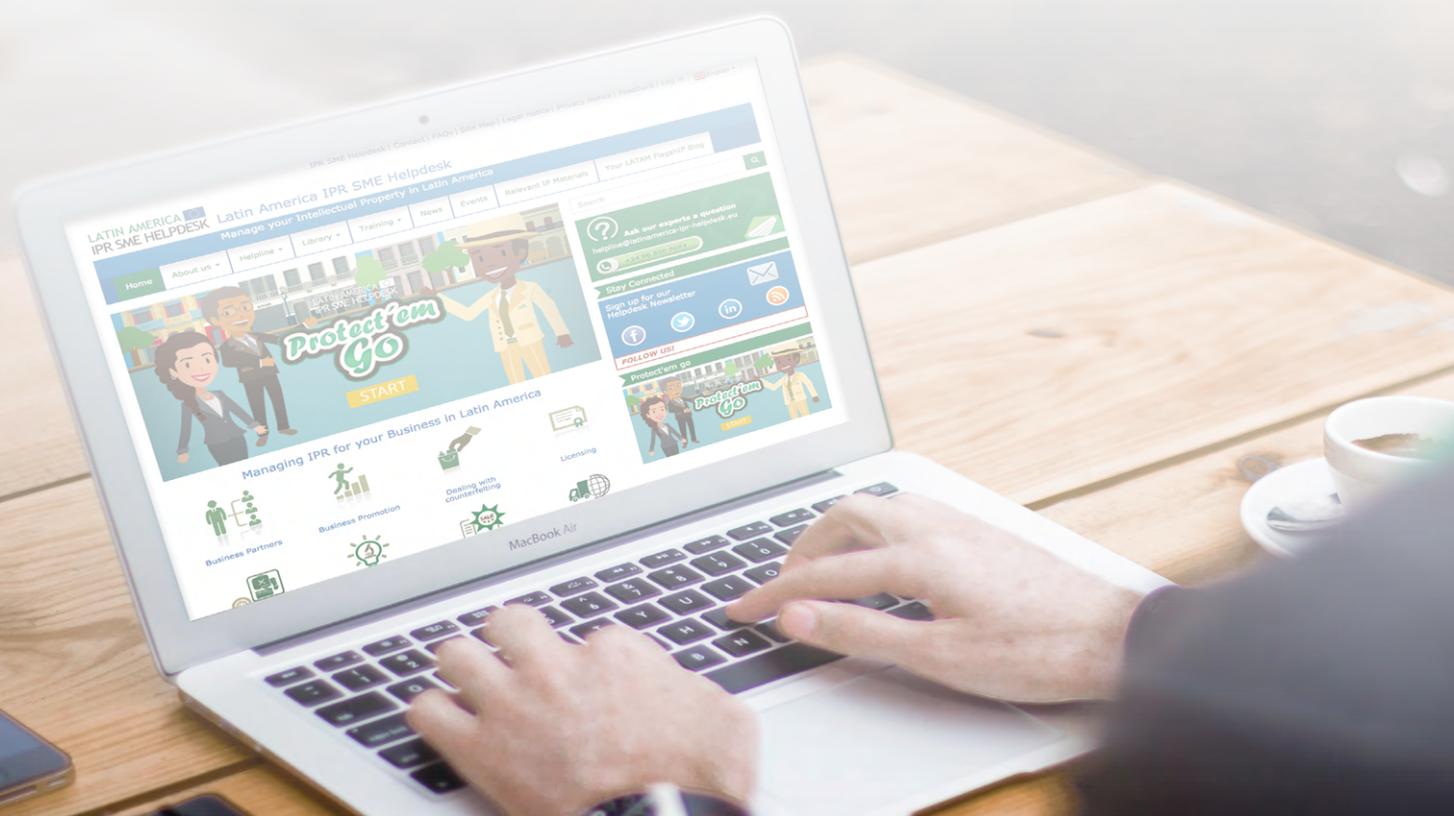
National authority for innovation and competitiveness: [www.cnrc.cl](http://www.cnrc.cl)

Research center on design, technology and IP: [www.dkchile.cl](http://www.dkchile.cl)

CONADI: [www.conadi.gob.cl](http://www.conadi.gob.cl)

EEAS: [www.eeas.europa.eu](http://www.eeas.europa.eu)

EUROCHILE: [www.eurochile.cl](http://www.eurochile.cl)



# LATIN AMERICA IPR SME HELPDESK

www.latinamerica-ipr-helpdesk.eu

## MANAGE YOUR INTELLECTUAL PROPERTY IN LATIN AMERICA

### ABOUT LATIN AMERICA IPR SME HELPDESK:

The Latin America IPR SME Helpdesk offers free of charge, first-line support on IP and IP rights matters to facilitate the expansion of European SMEs (EU SMEs and SMEs from the Associated countries) already established at, or working with entities in Latin America as well as those potentially interested in establishing commercial and R&D activities and ventures in these countries.

### SERVICES

**Helpline:** Ask our experts any IP related questions in Latin America! We provide professional IP advice – customized, straightforward, and free of charge. Our Experts will answer your question within three working days.

**Newsletter:** Keep track of the latest news on IP in Latin America relevant to your business.

**Multi-lingual Webportal:** Browse our multilingual web portal for a broad range of information and training materials on IPR in Latin America in English, Spanish, Portuguese, French and German.

**Training:** Attend our trainings (online and on-site) and learn more about the key aspects of IPR protection and enforcement issues for doing business in Latin America.

**For more information please contact the Helpdesk:**  
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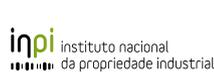
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### Project implemented by:



### Download guide:



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