Botanic Gardens Conservation International

The world's largest plant conservation network

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Module 4A: Practical Implementation for Botanic Gardens – Acquisition, Use and Transfer




Introduction to Module 4

In order to comply with national ABS measures, botanic gardens should look at all aspects of their work and ensure procedures are in place to ensure:

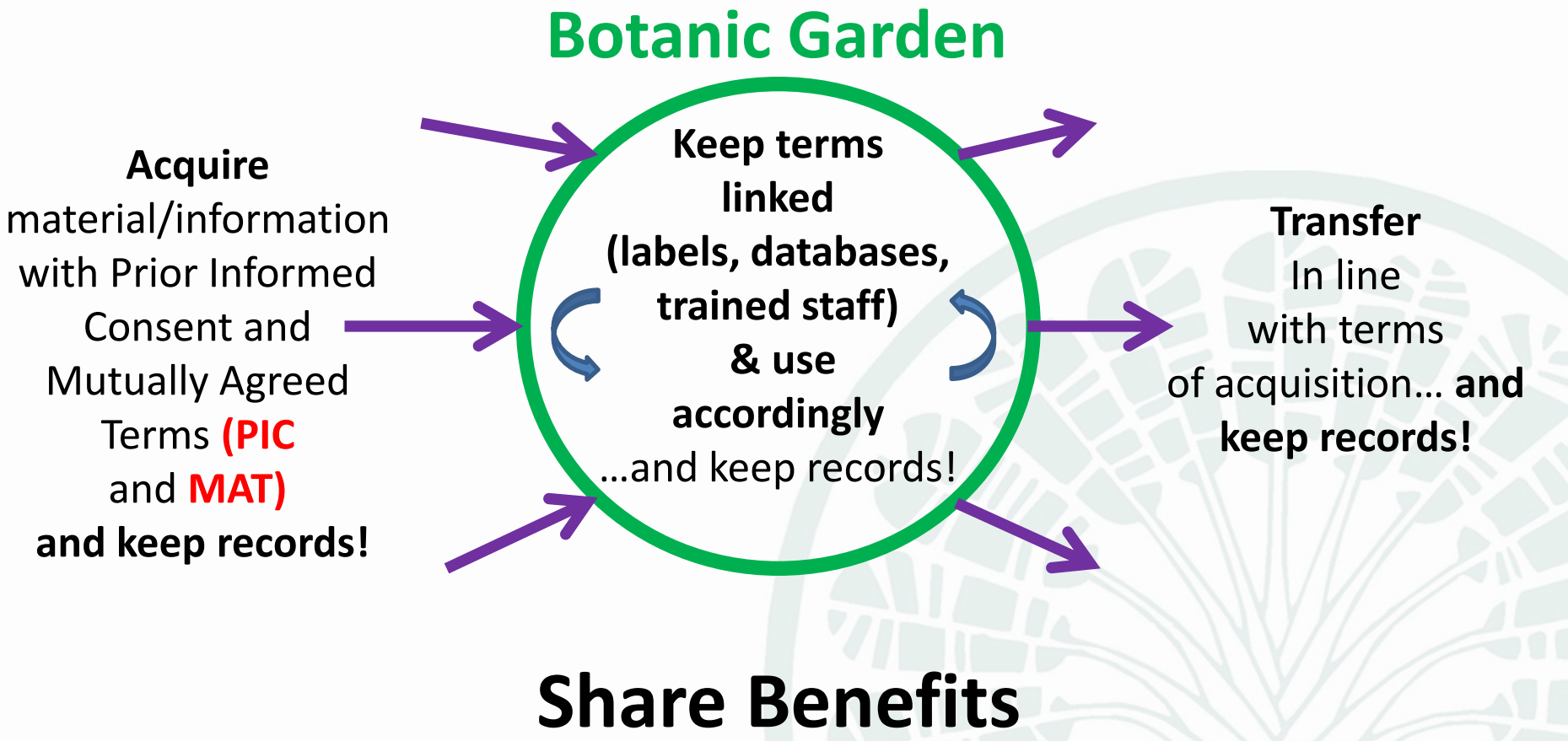
- Legal plant acquisition, with Prior Informed Consent (PIC) and Mutually Agreed Terms (MAT)
- Good practice in fieldwork
- Plant genetic resources are used and supplied according to terms of access
- Change of use is recognised - depending on the MAT agreed with the provider, new PIC/MAT may need to be negotiated
- Material can be tracked back to the original provider
- Benefits are shared appropriately as agreed in the MAT

Module topics

In this module we will cover:

- Basic principles of ABS for botanic gardens
- Different types of plant acquisition
- The legal aspects of fieldwork
- Handling donations of plant collections from others
- What to consider when buying plants for collections
- What to consider when using plants
- Data management for tracking
- Supplying plants to others
- Material Transfer Agreements (also see Module 6)
- Working with associated Traditional Knowledge

The basic principles



Plant acquisition

Every botanic garden needs new plants and plant material, in order to maintain active collections. There are various routes for plant material acquisition for gardens.

All material brought into the botanic garden (collected on fieldwork, or from other *ex situ* institutions, commercial sources or individuals) must be legally acquired according to the national law of the providing country.

In this module, we cover the basic access and benefit-sharing principles for:

- **Collecting plants from the wild** – and what gardens need to consider to ensure fieldwork is legal and compliant with the national ABS measures
- Plants **donated** from other gardens – solicited or unsolicited
- **Commercial sources**

Fieldwork

Fieldwork is a core activity for many botanic gardens, whether for the purpose of acquiring plants for their collections, or for research.

Fieldwork activities include: **all research and collecting activities requiring access to field conditions, including sampling, collecting and/or removing plant or fungal material, soil or any other material in association with plants, and/or systematically recording plant, fungal or ethnobotanical data/images for conservation or other research purposes.**

It is important to **plan ahead** for fieldwork! Compliance with national access and benefit-sharing legislation may take time.

Fieldwork planning

It is important to ensure national legislation on plant collection is followed – check with the national focal point, competent national authority about the procedures to follow.

You can find all contacts and information on national ABS measures in the Access and Benefit-Sharing Clearing House (ABS-CH) at https://absch.cbd.int/.

- Look out for distinctions between scientific and commercial research
- Find out from whom you should obtain Prior Informed Consent (PIC) for access - public authority, landowner, indigenous and local communities?
- Work with local partners (but do not assume that you or your institution can work under permits granted to local partners)
- Keep a record of your efforts to gain PIC, e.g. documents and correspondence
- It may be useful to consult with colleagues with experience of working in that country, but check that the information is accurate and up-to-date

A fieldwork policy

Consider introducing an institutional policy/procedure for monitoring fieldwork trips to ensure:

- National laws and legislation are followed
- Appropriate permissions for fieldwork and collecting are obtained and kept
- Benefits arising out of use are agreed and shared fairly
- Staff work according to sectoral/organisation best practice standards
- Staff are aware of legal issues, working safely and have adequate advice
- Specimens are curated appropriately afterwards, linked to permits and terms of use
- A record of the countries in which garden is working, and their requirements, is kept and updated

Donations from other *ex situ* collections

A number of collections are made from sharing materials between other gardens, or also from donations by individuals or organisations.

When considering whether to accept material from other sources, ensure that:

- it has been collected legally (ask for permits or other written confirmation)
- the potential donor is entitled to donate the material to you
- you know any terms and conditions on how the material can be used by you and your garden
- you keep written records of all relevant information which is linked with the material

Consider drafting a standard **donation letter** that you and your staff can use, if the potential donor does not provide a Material Transfer Agreement of their own. This letter may include:

- information on **what material** it covers (type of material and taxonomic identity);
- information on **where** the material is from and **when** it was acquired;
- attachment of any copies of **permits,** or reasons why permits are not available;
- agreed terms of use for the material

Commercial sources

Sometimes gardens buy materials to supplement collections or for the purposes of short term exhibitions.

When obtaining plants from commercial sources, it is important to look for/consider:

- any terms that relate to displaying plants
- any restrictions on transferring/distributing/loaning to other restrictions on sampling for DNA and/or chemicals
- if the plants were sourced sustainably.

If there is a possibility that the material could have been wild-collected, ask questions! There are a number of legal, phytosanitary and sustainability issues to consider for wild-collected material.

Use of plants in botanic gardens

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Gardens use plant and plant materials for all sorts of uses.

For example, they may be placed on public display; used for scientific study by staff and authorised visitors; sent on loan; sampled destructively; propagated and shared with other gardens; further distributed to other scientific institutions for scientific research; and/or digitally imaged and published in online botanical databases.

Donors must be informed about what happens to material at your botanic garden: how your garden will use it, who has access to it, on what terms it may be supplied to third parties.

Consider developing a **use of material document** that sets out your garden's standard practices, and which can be shared with potential providers when asking for prior informed consent.

Data management for tracking

Your botanic garden data management system is a vital tool to ensure compliance with ABS legislation.

Whether your garden uses one or more databases/logbooks to keep track of its collections, ensure that your system can **keep records of core access and benefit-sharing information**:

- Prior Informed Consent and Mutually Agreed Terms (PIC and MAT) documents. These include agreements, permits and internationally recognized certificates of compliance
- the country from which material was collected or sent and the provider of the material
- terms of use for plant material, including any restrictions and benefit-sharing
- any unique identifiers supplied with the material (e.g. certificate or IPEN numbers - see http://www.bgci.org/policy/ipen/ for more info on IPEN numbers)

As far as possible, this **information should be linked to the material it applies to,** including when it is sampled and/or supplied to others, using database fields and/or specimen labels.

Ensure staff know how to enter this information into the data management system, and contact your database developer if you are having problems with inputting this core ABS information.

Restrictions about use of plant materials need to be clear!

Ensure staff know how to check for restrictions before use.

Supplying to others

To ensure plant material is only supplied to others on the terms and conditions under which it was acquired, check the terms and conditions beforehand – either on databases on permits or agreements that apply to the plant material.

Check for any terms requiring the Prior Informed Consent (PIC) of the provider of the resources (the country, organisation or individual from which the material was collected or sent), or notification to the provider of transfer to third parties.

Transfer the terms and conditions, and any unique identifiers (including any from certificates of compliance), with the material.

Use plant exchange tools such as Material Transfer Agreements (MTAs) - even when there are no restrictions on material. An MTA helps to provide legal certainty for the next user!

Keep a record of the transaction.

Use common sense and caution!

Material Transfer Agreements

The detail of developing Material Transfer Agreements and model contracts is covered in Module 6.

Consider developing and using a Material Transfer Agreement that sets out:

- non-commercial use only, or with clear instructions for change of intent
- benefit-sharing
- standard terms for use by recipients, e.g. transfer to others, non-commercialisation, benefit-sharing
- and any stricter terms, as agreed with the original provider

Traditional knowledge

The Nagoya Protocol does not define traditional knowledge associated with genetic resources, but traditional knowledge could be understood as the knowledge, innovations and practices of indigenous and local communities around the world. Associated traditional knowledge refers to knowledge that is linked to a particular genetic resource.

In Module 3, we cover the key terms of the Nagoya Protocol on Access and Benefit-Sharing. Please see Module part 3.6 for background information on traditional knowledge associated with genetic resources.

Working with traditional knowledge

If you are working with traditional knowledge associated with genetic resources, remember to **obtain PIC and MAT from the indigenous and local communities** holding that knowledge. You will need to:

- find out about national and customary laws relating to collecting, storing and publishing traditional knowledge;
- make sure that you are talking to rightful holders of the knowledge when obtaining PIC
- comply with relevant codes of practice and community protocols;
- consider international codes and guidelines such as CBD Tkarihwaie:ri Code of Ethical Conduct, CBD Akwé: Kon guidelines and the International Society of Ethnobiology Code of Ethics;
- always conduct research and share information with the **approval and involvement of indigenous and local communities and knowledge holders**.

When working with traditional knowledge already in the public domain, consider how to acknowledge and share benefits with the original knowledge-holders.

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End of Module 4A (Practical Implementation – Acquisition, Use and Transfer)
Why not try the quick quiz?

Then, please go to Module 4B (Practical Implementation – Benefit-Sharing and Commercialisation)

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Connecting People • Sharing Knowledge • Saving Plants

Our Mission is to mobilise botanic gardens and engage partners in securing plant diversity for the well-being of people and the planet

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