

Botanic Gardens Conservation International
The world's largest plant conservation network



Module 4B: Practical Implementation for Botanic Gardens – Benefit-Sharing and Commercialisation



Introduction to Module 4B



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Module 4A covered the considerations and procedures needed to ensure that plant material is acquired, used and transferred according to Prior Informed Consent and Mutually Agreed Terms.

Those terms include how benefits should be shared, and whether or how commercialisation is allowed.

This module examines practical issues around benefit-sharing and commercialisation.



Module topics



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In this module we will cover:

- Benefit-sharing
- Commercialisation policy
- Commercial horticulture



Benefits arising out of use of plants

Benefits arising from the use of material need to be shared fairly with the Party (country) providing the resources, as set out in the national ABS legislation and Mutually Agreed Terms (MAT).

The provider Party might in practice be represented by partner institutions and/or particular communities in the country from which material was collected or sent.

Ensure you have procedures and systems in place to track material and its MAT around your institution and as it is sampled and/or supplied to third parties so that benefit-sharing obligations are honoured.

Benefit-sharing in practice

Fair and equitable benefit-sharing is central to CBD and ABS implementation, but what does that mean in practice?

- **What kinds of benefits?** What non-monetary and/or monetary benefits can be shared?
- **With whom should benefits be shared?** With the provider country government, with partner institutions and/or with indigenous and local communities or landowners? With the wider global scientific community?
- **What is fair and equitable?** What do providers expect/want/need and what benefits can your institution generate?

Benefit-sharing terms may depend in part on national laws and policies that set out expected benefits and recipients, but gardens should also consider what other benefits they can share.

Monetary and non-monetary benefit-sharing

The Protocol includes an Annex with a list of possible monetary and non-monetary benefits. In practice, the benefits that botanic gardens can share are usually non-monetary. Significant benefit-sharing may happen before actual utilisation of any genetic resources, for instance through collaborative fieldwork.

Common botanic garden benefits include:

- collaborative fieldwork and research
- access to results and information
- taxonomic/horticultural capacity building
- fees/royalties

Commercialisation policy



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A commercialisation policy can be used to set out:

- how your garden defines ‘commercialisation’
- whether your garden may commercialise material as part of its activities (e.g. if your garden sells plants from its collections)
- whether your garden may supply material to others for commercial use
- whether procedures will differ depending on when the material was acquired before/after the CBD came into force) – e.g. whether Prior Informed Consent (PIC) will be sought, and whether benefits will be shared

For consistency and to build trust, gardens might consider treating plant material collected or acquired before and after the Convention on Biological Diversity (CBD) entered into force the same way as far as possible, or at least to share benefits regardless of the date of acquisition.

Commercial horticulture



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One commonly-used definition of commercialisation is: *‘applying for, **obtaining or transferring intellectual property rights** or other tangible or intangible rights by sale or licence or in any other manner, **commencement of product development, conducting market research, and seeking pre-market approval** and/or the **sale** of any resulting product’*

Plant sales are included in this definition. Selling plants is often a good way to raise money for your garden and for conservation activities, but you will need to ensure that you have appropriate Prior Informed Consent and Mutually Agreed Terms that cover this use of the plants you wish to sell.

Commercial horticulture: ABS considerations

Before setting up a commercial enterprise you will need to decide:

- What plants will you sell?
 - e.g. commercially bought stock; garden-propagated material (of known provenance or cultivars); local or non-native plants?
- Who are you selling plants to?
 - e.g. members of garden; public; commercial companies?
- Are there any special terms? How can you make the buyer aware of terms and conditions of sale?
 - e.g. via labels; signage; agreements?

Commercial horticulture: ABS considerations (2)



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Are you selling native plants? If so, consider:

- any national guidelines/protected plant lists
- other stakeholders such as indigenous and local communities, farmers, landowners
- how you can prevent material being bought and later commercialised
- how to communicate any special terms to the buyer

Are you selling non-native plants? Consider:

- do you have the right to sell?
- under what terms should the plant be sold?
- how to communicate any special terms to the buyer

Benefit-sharing issues/questions to consider include:

- What about species that are found in several countries?
- Can you use a consistent approach for pre- and post-CBD material (regardless of the date of collection)?
- How will you share benefits – directly via partnerships, or indirectly, e.g. via a benefit-sharing trust fund?



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End of Module 4B (Practical Implementation – Benefit-Sharing and Commercialisation)

Why not try the [quick quiz?](#)

Then, please go to [Module Five](#)
(A checklist for your garden)



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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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