

IPEN Code of Conduct (new version, 5-2018)
for botanic gardens¹ governing
the acquisition, maintenance and supply of living plant material²

The conservation of the Earth's biological diversity is the responsibility of all humankind. Throughout their history, botanic gardens have made essential and indispensable contributions to teach, research, understand and preserve diversity of plant life. The *Convention on Biological Diversity* (Rio de Janeiro, 1992) acknowledges the sovereignty of individual countries over their own biological resources as elements of biological diversity. The fair and equitable sharing of the benefits arising out of the utilization of genetic resources is one of the three objectives of the CBD. This aspect is explicitly regulated by the "Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization to the Convention on Biological Diversity" (Nagoya Protocol, 2010; entered into force on 12 Oct 2014).

As a collective answer of botanic gardens to CBD provisions, the International Plant Exchange Network (IPEN) was established in 2002. It is a registration system for botanic gardens worldwide to exchange plant genetic resources in compliance with the CBD. The objective of IPEN is to provide a sound basis for cooperation, transparency and communication, taking into account the concerns of both, the providers and the users of genetic resources.

When implementing the IPEN Code of Conduct, botanic gardens act within the framework of the CBD and the NP when acquiring, maintaining, and transferring living plant material. In addition, IPEN member gardens will endeavour to comply with other relevant national and international laws, including established rights of indigenous and local communities as well as the Convention on International Trade in Endangered Species (CITES). In the framework of their mission, IPEN member gardens support countries of origin in promoting their indigenous biodiversity and its potential value.

IPEN member gardens are strongly recommended to treat all plant material 'as if' acquired after the CBD came into effect and therefore being subject to the CBD. This does, however, not imply that responsibility is accepted for retroactive benefit-sharing claims regarding commercial use of plants acquired before the CBD came into effect.

Member gardens of IPEN will act under the following Code:

1. Acquisition

IPEN member gardens shall only accept plant material from in-situ or ex-situ conditions acquired in accordance with the provisions of the CBD, the NP and national and international laws related to the protection and sustainable use of biological diversity, access to genetic resources, associated knowledge, and benefit sharing, as far as can be ascertained.

¹ ,Botanic gardens are institutions holding documented collections of living plants for the purposes of scientific research, conservation, display and education' (Wyse Jackson, BGCI 1999)

² According to the CBD "genetic resources" means genetic material of actual or potential value. This definition covers both living and not living material. The Code of Conduct and IPEN covers only the exchange of living plant material (living plants or parts of plants, diaspores) thus falling in the definition of genetic resources.

The garden must

- a. seek information on the providing countries' access laws³,
- b. if applicable, obtain Prior Informed Consent (PIC) and negotiate Mutually Agreed Terms (MAT),
- c. if applicable, obtain other relevant permits (such as CITES, research, or collection permits),
- d. document and comply with the terms and conditions under which the plant material was acquired.

2. Curation

For the purposes of conserving biological diversity, supporting scientific study, education and benefit-sharing, the garden will make best efforts to ensure the care and cultivation of the plants entrusted to it.

The garden needs to use a database system and a plant labelling system that secures long term storage of all relevant data on acquisition, propagation, use and transfer of plant material. The database must clearly flag out restrictions connected with this material.

Curation includes the obligation to attribute a unique [IPEN number](#) to plant material to be entered into the IPEN system unless it already has an IPEN number. Any IPEN number must be recorded and never lost or altered, and is transmitted to all progeny.

For further aspects of curation see 5 and 6.

3. Use

Plant material exchanged within IPEN can only be used for basic research, teaching, education, conservation as well as for information and display to the public. Any use of plant material is restricted to the terms and conditions under which it has been acquired originally. If a garden intends to use material in a way not covered by these terms (including commercial use), it must obtain, in advance, a new PIC and MAT of the country of origin and, if applicable, also of the providing country (also see 5.2; 5.3).

³ Sources are the National Focal Points of the CBD and of the NP. Relevant information can be found at the ABS Clearing House website (<https://absch.cbd.int/>).

4. Benefit Sharing

In the spirit of implementing the objectives of the CBD and the NP, IPEN member gardens share benefits resulting from the use of plant material with the country of origin, and if applicable, with the providing country. Since the garden's use of the material covered by IPEN is non-commercial, such benefits will most likely be non-monetary.

The following list includes examples of benefit sharing which are already in practice among botanic gardens and are based on co-operation with partner institutions:

- joint expeditions and projects with a partner institution in the country of origin
- knowledge and know-how transfer
- technical support
- exchange of scientists, gardeners and other staff
- monetary contributions to infrastructure or staff of institutions involved in research, teaching or and conservation
- exchange of plant material
- reintroduction of threatened plant species
- support in habitat restoration
- joint publications with scientists and institutions from the country of origin
- publication of research results in the country of origin or providing access to the research results in the country of origin

5. Supply of material

One major objective of IPEN is to facilitate plant material exchange between its member gardens for the purposes of scientific research, conservation, display and education. Under the IPEN scheme, plant material acquired under terms and conditions allowing transfer can be supplied. Transfer is possible within (5.1) or outside IPEN (5.2, 5.3).

5.1. within IPEN

- a. The first garden supplying a specific plant sample (accession) within IPEN has to provide the material with an "[IPEN Number](#)". This number serves as a unique identifier which must not be altered. It ensures that all important information (like IPEN-garden which introduces material first, country of origin) stays connected with the material and all of its progeny.
- b. Furthermore, the first garden supplying a specific plant sample has to keep all documents and permits related to the origin and acquisition of this material including the terms under which it was acquired (e.g. with the "[Documentation sheet for plant material entering the International Plant Exchange Network](#)").
- c. A garden receiving material from another member of IPEN only needs to document the information listed in the "[Minimum set of data to be documented in any case of transfer of plant material](#)". Recipients of material have to ensure that the IPEN number is never lost or altered and stays connected with the plant material and all of its progeny.

5.2. to non-IPEN members, without change of intent

If there is no change of intent in the use, plant material will be supplied under the same terms under which it was acquired. The IPEN member garden supplies the requested material to non-

IPEN members after the „[Agreement on the supply of plant material for non-commercial purposes leaving the International Plant Exchange Network](#)“ has been signed and returned by the applicant.

The supply of plant material includes the transfer of information connected to the material especially data relevant for benefit sharing with the country of origin (see “[Minimum set of data to be documented in any case of transfer of plant material](#)”).

5.3. with change of intent

Requests for IPEN plant material for uses not covered by the terms under which it has been acquired (such as commercialisation) cannot be handled under the IPEN scheme. This applies to requests of IPEN members as well as non-IPEN members. However, such material can be supplied if adequate evidence is provided that the country of origin’s and/or the providing country’s PIC for the intended use has been granted to the recipient of the material, and that new MAT have been agreed upon (see [Practical models and examples](#)).

6. Terms of Membership

Only botanic gardens (see footnote 1) that are a legal entity or part of a larger legal entity, e.g. a university, and maintain an accession based documentation system can join IPEN.

6.1. Application to and renewal of IPEN membership

To join IPEN, the botanic garden has to sign an [application](#) including acceptance of its Code of Conduct. IPEN membership is valid for a 10 year period from the date of acceptance of the application. For the [renewal of the membership](#), the latest version of the Code of Conduct has to be accepted.

6.2. End of membership

Membership ends through

- a. non-renewal of the membership or written declaration of ending the membership
- b. non-compliance with IPEN provisions and a corresponding decision of the IPEN Coordination Group
- c. ceasing operation of the IPEN member garden.

In the case of the end of membership, IPEN related documentation must be safeguarded. Any plants acquired under the IPEN scheme need to be treated in compliance with the terms and conditions under which they have been received.