



# **PlantNetwork**

**The Plant Collections Network  
of Britain & Ireland**

**Nagoya Protocol and Plant Collection  
Responsibilities Training Day**

February 19<sup>th</sup> 2015

Royal Botanic Garden Kew

[www.plantnetwork.org](http://www.plantnetwork.org)



# PlantNetwork

The Plant Collections Network  
of Britain & Ireland

## 2015 Training Events

- 19<sup>th</sup> February **Nagoya Protocol and Plant Collection Responsibilities**  
Royal Botanic Garden Kew
- 20<sup>th</sup> March **Teaching and research in gardens**  
University of Leicester Botanic Garden
- 2nd – 4th June **Tidy lawns to wild meadows: managing grassland in parks and gardens**  
PlantNetwork conference at Westonbirt, the National Arboretum
- 2nd – 3rd July **Tree safety: legislation and developing your policy**  
The Yorkshire Arboretum, Castle Howard
- 22nd July **Plant Records**  
Royal Botanic Garden Edinburgh
- 22nd October **Seed Collection and Storage**  
Millennium Seedbank, Wakehurst Place
- Autumn **PlantNetwork Autumn Conference**  
Provisional themes: ethical plant sourcing, plant collections management, legislation and compliance

# Programme

**9.30am Welcome**

**9.40 – 10.20am *The Development of and ABS regime under the CBD – what your garden needs to know***

China Williams Senior Policy Advisor (CBD) Office of the Science Directorate, RBG Kew

**10.20- 11.00am *Nagoya Protocol and UK users***

Julian Jackson, ABS and Agricultural Plant Genetic Resources, Department for Environment Food and Rural Affairs

**11.00 – 11.30am Coffee break**

**11.30 – 12.00 pm *The National Measurement office, enforcing EU legislation and potential options to enforce the Nagoya Protocol.***

Michael Worrell EUTR Enforcement Policy Officer, National Measurement Office

**12.00 – 12.45pm Discussion and questions**

**12.45- 1.45 Lunch**

**1.45 – 2.15pm *Keeping a plant collection Nagoya compliant***

Dr Matthew Jebb Director of the National Botanic Gardens of Ireland

**2.15 – 2.45pm *If you're not confused you're not paying attention – the impact of Nagoya on the agricultural plant breeding sector***

Penny Maplestone, Chief Executive of the British Society of Plant Breeders

**2.45 - 3.30pm Discussion and questions**

**3.30pm Close**

## **Speaker Biographies**

### **China Williams Senior Policy Advisor (CBD) Office of the Science Directorate.**

c.williams@kew.org

My role focuses on ensuring that Kew staff comply with the Convention on Biological Diversity, the Nagoya Protocol on Access to Genetic Resources, as well as the national laws of our partner countries. This involves supporting Kew staff preparing for overseas collecting trips, developing legal agreements with partners, and making sure that policies in all research areas ensure that we are using material legally. In addition I represent Kew at national and international meetings and work with the UK government so that Kew's breadth of science knowledge is used to guide policy decisions. I have developed and deliver a range of policy training modules for Kew staff, partners, others in the non-commercial research sector, graduate and post graduate level.

### **Julian Jackson ABS and Agricultural Plant Genetic Resources DEFRA**

julian.jackson@defra.gsi.gov.uk

Working in the UK's Department for Environment and Rural Affairs' in the International Biodiversity team since 2008, Julian is the UK's policy lead for access and benefit sharing of genetic resources and the Nagoya Protocol Focal Point for the UK. Julian led the UK delegation at several of the

ABS Working Groups that paved the way for the agreement of the Nagoya Protocol and also coordinated the UK's input into the negotiation of the EU Regulation on ABS. Julian is also the UK's policy lead for plant genetic resources for food and agriculture, sponsoring several genebanks within the UK. Working in the Farming Team, he is the Focal Point for the International Treaty on Plant Genetic Resources for Food and Agriculture and Head of Delegation at FAO's Commission on Genetic Resources for Food and Agriculture and its technical working groups on plant genetic resources.

**Michael Worrell EUTR Enforcement Policy Officer  
National Measurement Office**

Michael.Worrell@nmo.gov.uk

Michael is the Enforcement Project Manager at the NMO, currently responsible for delivering the EUTR & FLEGT regulations. Has been working on close collaboration with DEFRA regarding the implementation of ABS. Michael has experience in implementing new regulatory regimes and work programmes for high profile pieces of legislation. He has worked on the delivery of the European timber regulation for 2 & ½ years and has been at the agency for nearly 6 years following graduation from the University of Kent

**Matthew Jebb Director of the National Botanic Gardens  
of Ireland**

matthew.jebb@opw.ie

Matthew Jebb has been the Director of the National Botanic Gardens of Ireland since 2010. Formerly his role was that of horticultural taxonomist and keeper of the National Herbarium since 1996. He is the current Chairman of PlantNetwork: The Plant Collections Network of Britain and Ireland, a role he is filled since 2004. He is also a member of the European Consortium of Botanic Gardens. Matthew spent many years living and working in Papua New Guinea from 1980 onwards. He was the European representative on the bureau of the Convention on Biological Diversity from 2004 to 2006.

### **Penny Maplestone Chief Executive of the British Society of Plant Breeders**

penny.maplestone@bspb.co.uk

Penny Maplestone is a Durham Botany Graduate with a PhD from Bristol University on take-all disease of wheat. She has worked in plant biology since 1986, first as a researcher, then in technical roles with AFRC/BBSRC and now as Chief Executive of the British Society of Plant Breeders. She has broad expertise in intellectual property, regulatory and research issues as they relate to the agricultural plant breeding industry and a strong interest in communications and promoting the benefits and value of plant breeding. Penny is a Fellow of the Society of Biology.

# The Nagoya Protocol

## Introduction for gardens

by China Williams

The Nagoya Protocol on Access and Benefit Sharing under the Convention on Biological Diversity entered into force on 12 October 2014. It has been ratified by 54 Parties, including the EU. The Nagoya Protocol, when implemented at a national level, will govern the way genetic resources are accessed (in countries where the organisms carrying them are found) and used (by researchers and commercial entities), and how any benefits arising out of such use should be shared.

The Nagoya Protocol is a legally binding instrument and asks Parties to implement compliance mechanisms to ensure genetic resources are used legally, and to institute penalties if they are not.

### EU Regulations on ABS

The EU has ratified the Nagoya Protocol (June 2014) and The EU Parliament has recently approved legislation that will implement the Protocol in the EU. The EU Regulation on Access and Benefit Sharing will also come into force from October 2014, and is **directly applicable in EU member states**. Articles 4 (Obligations of Users), 7 (Monitoring User Compliance) and 9 (Checks on User Compliance) will come into force one year later (October 2015).

### UK Implementation

The UK government has signed the Protocol and in order to ratify is preparing a Statutory Instrument to clarify implementation in the UK but this has not yet been finalised. This is likely to introduce criminal sanctions for non-compliance, and will designate the National Measurements Office (NMO) as national competent authority responsible for implementation in the UK.

## **Implications of the Nagoya Protocol and the EU Regulations**

### **The Nagoya Protocol – Key points**

- Applies to genetic resources that are covered by the CBD (that is accessed since December 1993) and to benefits arising from their utilisation, as well as to associated Traditional Knowledge (TK), and benefits arising from its utilisation.
- Uses definitions in CBD and also defines derivatives and utilisation
- Leaves it to Parties to decide whether to regulate access, but if they so choose then NP lays out clearly what to do in Article 6
- Parties **must** introduce compliance mechanisms. These include the designation of 'one or more checkpoint' to collect information from users of genetic resources to ensure that material utilised as been legally acquired and prior informed consent (PIC) and mutually agreed terms (MAT) complied with.
- It encourages countries to explore the need for and modalities of a global multinational benefit sharing



mechanism to facilitate benefit sharing and support equity (A10)

- Whereas CBD focused on ACCESS to genetic resources, the trigger for benefit sharing in the NP is 'utilisation' of genetic resources.

The two big unanswered questions are:

- What is the temporal scope of the Protocol? Can it have 'retroactive' effect? E.g. what about genetic resources accessed pre NP (or CBD), but not utilised until after NP? This is not clear from the text of the NP, is subject to disagreement of Parties, and will need to be clarified by national law
- What is 'utilisation of genetic resources' and how much of what botanic gardens do is covered by this definition? (think about activities such as DNA barcoding, taxonomic and phytochemical research, selective breeding, propagation and ecological studies). Again, this is not clear and needs to be clarified by national law
- The NP encourages countries to introduce 'simplified measures on access for non-commercial research purposes'. This is a positive step for botanic gardens, but we need to ensure trust is maintained by having procedures in place to ensure change of use/intent is recognised and new PIC/MAT negotiated as appropriate.
- Although the NP is 'legally binding' so far only 54 countries have ratified the Protocol. The crucial issue will be how countries implement the Protocol in national law and although guidance in the NP should ensure legislation is more standardised, it is likely

that there will be significant differences in countries interpretation of definitions e.g. of crucial things like genetic resources and utilisation, and of issues regarding retroactivity.

- It is crucial that gardens put in place curation and tracking mechanisms to enable us to record and store terms and conditions under which we accept, use and supply all material coming into our collections, in order for utilisation to be monitored and benefits shared. We are likely to be asked to report on this in the future.
- The NP does not affect Parties obligations under other international treaties, such as the ITPGRFA (FAO)

### **The EU Regulations – key points**

- The EU Regulations focus on compliance measures for *users of genetic resources in the EU*
- Following the Protocol, Member States are free to decide whether to introduce access measures. The UK is unlikely to do so. France is planning to do so.
- Requires users to exercise ‘due diligence’ that genetic resources have been legally accessed
- Clearly only apply to utilisation of genetic resources that were accessed since the NP came into force (which gives us welcome certainty)
- Establishes two checkpoints
  - receipt of funding for utilisation project
  - final stage of development of product

- Introduces concept of Union Registered collections - to be included on this list collections need to satisfy certain criteria ( their ability to record and track)
- Users obtaining material from union registered collections will be deemed to have fulfilled the due diligence requirements
- Competent authorities in each MS will carry out checks on user compliance (A9) which will include spot checks.
- MS will introduce penalties for non-compliance
- encourages the development of sectoral codes, best practices and model contractual clauses (and following best practice guidance can be used as a defence)
- The EU Regulations will be implemented through further guidance that is yet to be developed by MS. This will be crucial to, for instance, setting procedures for notification of checkpoints and setting due diligence standards for user sectors.

## **UK Implementation update**

- Statutory Instrument has been drafted and consultations held in government departments
- Likely to be held up due to UK election next May
- Likely to include criminal sanctions

- Working according to an approved sector best practice standard likely to be a defence
- NMO likely to be NCA

## **Action for Gardens**

- Ensure that all new accessions are collected or transferred to us legally, according to the national law of the provider country.
- Record the date of accession into your garden, and also, where possible, the date of legal extraction of the genetic resource from the country of origin.
- Review databases in all departments to ensure that they have fields for this information and that they are secure from tampering and have a clear audit trail for any changes made.
- Review staff procedure in all departments to ensure that material is always used and supplied in line with terms and conditions under which it was acquired.
- Develop or review ABS policy and specifically Model Supply Agreements. We need to make it clearer in agreements with third parties that we are only supplying material on non-commercial terms and that if a change of use is intended they need to inform us so that new PIC and MAT can be negotiated with the Provider.
- Weigh up the risks and benefits of becoming a Union Registered Collection. On the one hand this may mean we are eligible for certain EU funding streams, but on the other we need to consider the possible reputational risk. Some provider countries take the view that the URC idea will make it easier for

commercial companies to freely access genetic resources without getting PIC and MAT. We need to ensure our internal processes are robust so that we remain trusted partners. In addition, for some of collections we simply may not be able to meet the URC criteria (e.g. requirements for unique identifiers and fully documented samples)

- Need to work with UK ABS focal point, and through the UK ABS stakeholders group to ensure we are consulted on every step of the UK and EU implementation process (email: Charlotte.Kelsey@defra.gsi.gov.uk to be included in this group)
- EU process - we are awaiting publication by the Commission of draft Implementing Acts. We should be involved in the stakeholder consultation on this.
- Need to work closely with NMO to establish best practice and due diligence requirements and standards for our sector are set practically.
- Work with the UK and EU botanic garden/university and non-commercial research sector to develop best practices standards and models to ease implementation.

China Williams, Kew [c.williams@kew.org](mailto:c.williams@kew.org)

*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; text and annex*

©2011 by the Secretariat of the Convention on Biological Diversity. To download: <http://www.cbd.int/abs/>

NP IUCN guide:

**<https://portals.iucn.org/library/efiles/documents/EPLP-083.pdf>**

BGCI webpages: **[www.bgci.org/resources/abs/](http://www.bgci.org/resources/abs/)**

EU Regulations:

**[http://ec.europa.eu/environment/nature/biodiversity/international/abs/index\\_en.htm](http://ec.europa.eu/environment/nature/biodiversity/international/abs/index_en.htm)**

You Tube: ABS Simply Explained

Access and benefit sharing clearing house:

**<https://absch.cbd.int>** and **<https://absch.cbd.int/help>**.

## **Material Transfer Agreements (MTAs)**

A Material Transfer Agreement (MTA) is a document used to outline the terms under which material is supplied. CBD-friendly MTAs generally set out permitted uses of material, terms for supply to others, requirements for benefit-sharing, and usually, non-commercialisation. Many gardens now use a standard form, to which extra terms can be added where necessary (for example if the material was acquired under a more restrictive permit).

*Extract from Botanic Gardens Conservation International  
[www.bgci.org](http://www.bgci.org)*

## **The Global Strategy for Plant Conservation**

In 2010, the Conference of the Parties, by decision X/17, adopted the Updated Global Strategy for Plant Conservation 2011-2020. The Strategy's vision is to halt the continuing loss of plant diversity and to secure a positive, sustainable

future where human activities support the diversity of plant life (including the endurance of plant genetic diversity, survival of plant species and communities and their associated habitats and ecological associations), and where in turn the diversity of plants support and improve our livelihoods and well-being.

The Strategy includes 16 outcome-oriented global targets set for 2020, and provides a framework to facilitate harmony between existing initiatives aimed at plant conservation, to identify gaps where new initiatives are required, and to promote mobilization of the necessary resources. The global targets for 2011–2020 should be viewed as a flexible framework within which national and/or regional targets may be developed, according to national priorities and capacities, and taking into account differences in plant diversity between countries.

In 2002, the Conference of the Parties, by decision VI/9, had adopted the Global Strategy for Plant Conservation which provided a pilot exercise for the development and use of outcome targets under the first Strategic Plan of the CBD.

The updating of the Strategy for the new decade was undertaken in parallel to the consultations leading to the adoption of the Strategic Plan for Biodiversity 2011-2020 and its implementation should be considered within the broader framework of the Strategic Plan for Biodiversity 2011-2020.

## **The targets 2011-2020**

### ***Objective I: Plant diversity is well understood, documented and recognised***

**Target 1:** An online flora of all known plants.

**Target 2:** An assessment of the conservation status of all known plant species, as far as possible, to guide conservation action.

**Target 3:** Information, research and associated outputs, and methods necessary to implement the Strategy developed and shared.

***Objective II: Plant diversity is urgently and effectively conserved***

**Target 4:** At least 15 per cent of each ecological region or vegetation type secured through effective management and/or restoration.

**Target 5:** At least 75 per cent of the most important areas for plant diversity of each ecological region protected with effective management in place for conserving plants and their genetic diversity.

**Target 6:** At least 75 per cent of production lands in each sector managed sustainably, consistent with the conservation of plant diversity.

**Target 7:** At least 75 per cent of known threatened plant species conserved in situ.

**Target 8:** At least 75 per cent of threatened plant species in ex situ collections, preferably in the country of origin, and at least 20 per cent available for recovery and restoration programmes.

**Target 9:** 70 per cent of the genetic diversity of crops including their wild relatives and other socio-economically valuable plant species conserved, while respecting, preserving and maintaining associated indigenous and local knowledge.



**Target 10:** Effective management plans in place to prevent new biological invasions and to manage important areas for plant diversity that are invaded.

***Objective III: Plant diversity is used in a sustainable and equitable manner***

**Target 11:** No species of wild flora endangered by international trade.

**Target 12:** All wild harvested plant-based products sourced sustainably.

**Target 13:** Indigenous and local knowledge innovations and practices associated with plant resources maintained or increased, as appropriate, to support customary use, sustainable livelihoods, local food security and health care.

***Objective IV: Education and awareness about plant diversity, its role in sustainable livelihoods and importance to all life on earth is promoted***

**Target 14:** The importance of plant diversity and the need for its conservation incorporated into communication, education and public awareness programmes.

***Objective V: The capacities and public engagement necessary to implement the Strategy have been developed***

**Target 15:** The number of trained people working with appropriate facilities sufficient according to national needs, to achieve the targets of this Strategy.

**Target 16:** Institutions, networks and partnerships for plant conservation established or strengthened at national, regional and international levels to achieve the targets of this Strategy.

**<http://www.cbd.int/gspc/strategy.shtml>**

## **GSPC Toolkit**

The toolkit for the Global Strategy for Plant Conservation has been developed under the leadership of Botanic Gardens Conservation International. You are invited to use it, provide feedback, and recommend material to be added.

**<http://www.plants2020.net/>**

## **Convention on Biological Diversity**

The Convention on Biological Diversity (CBD) entered into force on 29 December 1993. It has 3 main objectives:

1. The conservation of biological diversity
2. The sustainable use of the components of biological diversity
3. The fair and equitable sharing of the benefits arising out of the utilisation of genetic resources

**[www.cbd.int/abs](http://www.cbd.int/abs)**

# NOTES







**PlantNetwork** is the national network of botanic and heritage gardens and arboreta and other documented plant collections

- promoting botanical collections in Britain and Ireland as a national resource for research, conservation and education
- facilitating networking and training among holders of plant collections through a programme of conferences and workshops and a regular newsletter.

Chairman: Dr Matthew Jebb

Vice-Chair: Dr Tim Upson

Hon. President: Dr David Rae OBE FRSE

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# PlantNetwork membership

Membership is open to all who support the aims of PlantNetwork. Applications from gardens, staff, students, Friends' groups, trustees, personal members, colleges and those overseas are welcome.

In return for your subscription, you will receive:

- regular newsletters, currently four per year, containing news and information from botanic gardens, arboreta and other holders of plant collections in Britain and Ireland
- invitations to conferences, workshops and training sessions
- advice and support for yourself
- opportunities to take part in co-operative activities with other holders of plant collections

Please see our website for application forms and payment options. Online booking and payment now available.

## Membership categories 2015

Small garden/organisation £130 (less than 20 horticultural staff)

Large garden/organisation £350 (more than 20 horticultural staff)

Personal member £33

Personal member for those working in a member garden £15

Student £10

Membership runs from 1st April to 31st March. New members joining now before April 1st 2015 will receive membership to March 2016.

<http://plantnetwork.org/about/join>

