

Gardens Robbie's rare plants

Nagoya Protocol: plant hunters need to step up to this new challenge

Robbie Blackhall-Miles

New legislation on collecting plants from the wild should help us realise the value of biodiversity, writes Robbie Blackhall-Miles



Hoodia gordonii growing wild in Namibia. Extracts from this plant are now used in a slimming aid, researched and developed using the traditional knowledge of the local people in its native home. Photograph: Alamy

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The earliest recorded instance of plant hunting was in 1495 BC when the Egyptian queen [Hatshepsut](#) sent her botanists to Somalia to collect incense trees for her; time ticked on. The Romans brought to the UK such iconic species as corn cockle and field poppy from southern Europe, Britain's countryside was never the same again. In 1580, Sir Francis Drake is said to have introduced the potato to Britain; life changed immeasurably. By the Victorian era plant hunters were putting themselves at considerable risk to explore the farthest corners of the world with the intent of bringing often rare, botanical treasures to the UK. These are the garden plants you and I now grow. They travelled in the biblical belief that man had a god given right to the world's natural riches: "...and let them have dominion over the fish of the sea and over the birds of the heavens and over the livestock and over all the earth" (Genesis 1:26).



Tulipa sprengeri is extinct in the wild, but safe in cultivation. Photograph: Alamy

They often sought these plants for purely selfish reasons, and some of the plants collected were driven to their current threatened state by these exploits. Others, however, are now severely threatened or extinct in the wild due to greater pressures brought on by man, such as climate change and illegal logging. By securing these plants in cultivation, the plant hunters of the past became the unknowing conservationists of the future.

Since Darwin and Wallace's theories of evolution, we very slowly come to realise that we are not the over lords of nature but an integral part of it. Indeed, it is at this time when the natural world is under such great pressure that we are only just starting to understand the importance of biodiversity to humanity. And so, it is imperative that we take on the role of the protectors of it.

[CITES](#), or the Convention on International Trade in Endangered Species, came into being on July 1 1975. It is one of the oldest pieces of international legislation controlling the sustainable use of the world's biodiversity. No longer were plant hunters able to collect threatened species, as they had before. They had to adapt or become extinct themselves.



Podophyllum 'Spotty Dotty' is a hybrid plant created using seed recently brought from China. It is now being produced by Dutch nurseries for sale in British garden centres. Photograph: Alamy

These days, there is still an illegal trade in endangered species, which CITES is working hard to counter. In the main, however, plant hunting has adapted to work with the law. New and interesting plants are still being introduced to British cultivation from far flung regions of the world. Yet panic that the demise of this great British tradition may be nigh is kicking in again.

This time the seemingly black cloud comes in the form of a new international treaty under the CBD ([The Convention on Biological Diversity](#)), which is an instrument for the conservation and sustainable use of biological diversity. It acknowledges jurisdiction over biological resources to the people of the countries from which the resources come and the right of countries to set out terms by which these resources may be used by the wider world. These terms are mainly formed by the fair and equitable sharing of any benefit that may come from the use of these resources.



The wollemi pine (*Wollemia nobilis*) is critically endangered in the wild, but it now propagated for the mass market and sold through garden centres, with some of the profits going to fund its wild conservation. Photograph: Luke Macgregor/Reuters
Plans for sharing this benefit were laid out in the [Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization](#) - or ABS for short. The protocol came into force on October 12 2014. It aims to establish more predictable conditions for access to genetic resources from their country of origin and helps to ensure benefit-sharing when these

genetic resources, be they plant, animal, micro-organism or traditional knowledge associated to these genetic resources, are researched and developed. So, what does utilisation of genetic resources mean? In this case, it's to conduct research and development on the genetic and/or biochemical composition of genetic resources.

The actual act of plant hunting has been and is still is governed by the laws of the countries of the plants' origin. What Nagoya will ensure is that anyone wishing to develop or research these plants has the relevant contracts which permit them to do so. These contracts, between the collector and the country, will additionally lay out mutually agreed terms of sharing the benefits arising from any research or development conducted using the plants.

So, a plant hunter collects a seed, grows it and sells the resulting plant in its natural state. As long as they have a valid permit or contract with the country of origin allowing them to do so, they are working legally. No benefits would need to be shared by them with the country of origin at this point. If they then select a specific characteristic of that plant and/or breed from it, develop it and sell it, then a fair proportion of any resulting benefit, financial or intellectual, may have to be shared as defined by the mutually agreed terms of their contract.

If the original terms of collection do not allow for the development of the plants collected, then new terms may need to be negotiated with the country of origin before any benefit is gained. If the mutually agreed terms state that the plants and any resulting material arising from them is not to be distributed, then the plant hunter cannot sell the plant, even in its wild form, and may not even be able to give it away without renegotiating these terms. So assuming that plant hunters are currently obtaining permits to collect, which do not prohibit them from distributing and selling the plants, there will be no change to the way they operate.

If they sell the plant in its natural state to someone that subsequently develops a product from it, then the developer may be liable to set up access and benefit sharing (ABS) terms with the origin country. Most importantly, if a plant is sold to a member of Britain's gardening public who subsequently researches and develops a product from it, they could also be legally required to set up an ABS agreement, if there is an obligation to do so clearly communicated to them.

The implementation of the Nagoya Protocol within the EU requires that we show due diligence when buying new plants, collected from the wild after October 2014, for our gardens by making sure that they have been collected in accordance with any relevant legislation of their country of origin and that ABS agreements are in place, where required.

So if you visit a nursery that collects plants from abroad, it may be worth asking the origin of the plants you are buying and when they were collected. If recently and from a party to the Nagoya Protocol, then the plants should have all the relevant documentation in place.

What of those plants with fancy cultivar names sold at the local garden centre, produced en masse and shipped in from a huge commercial nursery? Well if they were developed using genes from plants collected in the wild after October 2014 from a Nagoya Protocol country, then they too must comply with an access and benefit sharing arrangement, and will hopefully be playing their part in helping conserve their relatives in the wild.

And that's what this is all about. Conservation is an expensive business that is vastly underfunded. The CBD is there to help people to realise the real value of biodiversity to humanity, to ask those profiteering from it to pay their dues and to make sure that local, national and international legislation is adhered to. The sole reason for the Nagoya Protocol is not to stop the use of nature for profit, but to promote its ethical and legal use and to fund its future.

It's time for plant hunters to step up to a new challenge. Many already work within the laws of the countries in which they operate and as such haven't far to go to meet the requirements of the CBD. A few, though, may not survive the evolutionary process required of them. It's also time large-scale commercial horticulture put its money where its mouth is and gave something back to the plants that give us gardeners so much.

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It makes for very interesting reading. It's complexity seems to offer many interpretations depending on where one is in the chain of collection or supply. My sense though is that this Nagoya Protocol is not really aimed at gardeners per se this is aimed at corporations (e.g pharma) 'developing' products (e.g drugs) from raw materials collected in one country which subsequently become multi-billion £/\$ winners in another or even globally.

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Guardian Pick

Many thanks are due to Robbie Blackhall-Miles for helping to publicise the new rules that govern the acquisition and use of genetic resources, following the incorporation into European law of the Nagoya Protocol. Few plant hunters have stuck their necks out on this subject.

I think that Robbie makes a number of assumptions that are worth challenging, however, and it's in the spirit of open debate that I share the following comments.

The Nagoya Pr...

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