

### Biodiversity Conference at a glance: steady but insufficient progress and the way ahead

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**W**ith the mid-point of the Strategic Plan for Biodiversity 2011-2020 rapidly approaching, the 12<sup>th</sup> Meeting of the Conference of the Parties to the Convention on Biological Diversity (CBD COP 12) convened for intense negotiations from 6<sup>th</sup> to 17<sup>th</sup> October 2014, in Pyeongchang, Republic of Korea. Besides, the Nagoya Protocol on Access to Genetic Resources and Benefit-sharing (ABS) came in to effect on 12<sup>th</sup> October 2014 and its First Meeting of the Parties (COP MOP 1) was held concurrently with the second week of COP 12. This issue brief critically assesses key outcomes of these negotiations, their implications for national-level implementation as well as for key international negotiations on sustainable development in other relevant fora.

#### HIGHLIGHTS

- The mid-term review of progress in implementation of the Strategic Plan for Biodiversity 2011-2020 revealed an insufficient rate of progress towards most of the Aichi Biodiversity Targets. Out of 53 sub-targets, 15 show no progress at all or even deterioration. This is due to continuing pressures on biodiversity (including the degradation and fragmentation of habitats, pollution from excess nutrients and anthropogenic pressures on coral reefs), as well as to persistent structural causes of biodiversity loss (e.g. biodiversity-harmful subsidies).
- While current budget constraints from developed countries could have prevented reaching agreement, commitments at COP 12 confirmed the doubling of total biodiversity-related international financial resource flows to developing countries by 2015 and the maintenance of this level of funding until 2020. However, greater efforts will be required in order to keep the achievement of the targets within reach by 2020. Increased mobilization of financial resources at the international and domestic levels from a variety of sources, including market mechanisms and the private sector, as well as through collective action approaches by indigenous and local communities, and non-market-based approaches, is badly needed.
- Governments shall mainstream biodiversity across all sectors by including biodiversity in national priorities and development plans, reform perverse incentives, influence sectorial policies and strategies to better protect biodiversity, and revise their National Biodiversity Strategy and Action Plans.
- Privately as well as publicly regulating global value chains however remains one of the biggest challenges in a context of internationalization. At this stage, engaging businesses in sustainable production is still limited and left to voluntary initiatives. But this might well actually be the sinews of the war.
- The adoption of the new terminology “Indigenous peoples and local communities” can be regarded as an important step forward towards the full and effective participation of indigenous peoples within the UN System.

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## THE PYEONGCHANG ROADMAP: WILL BIODIVERSITY FIND ITS WAY?

Building on conclusions from the fourth edition of the Global Biodiversity Outlook, Parties did review progress towards implementation of the Strategic plan for biodiversity 2011-2020, including Aichi Biodiversity Targets. They recognised that current progress will not be sufficient to achieve targets by 2020 unless further urgent and effective action is taken to reduce the pressures on biodiversity. No progress was for example made in halving the loss of habitats while their degradation and fragmentation have increased (target 5). The situation has similarly deteriorated concerning pollution from excess nutrients (target 8) and threatened species (target 12). Overall, for 48 sub-targets out of 53 for which progress could be evaluated, progress is insufficient, non-existent, or worse, things are deteriorating.

Most importantly, targets to address the underlying causes of biodiversity loss (Strategic Goal A) as well as enhance the Strategic plan (Strategic Goal E) display slow progress. Target 3 to eliminate, phase out or reform incentives, including subsidies, harmful to biodiversity, is increasingly recognised but with no action. Hence, integrating biodiversity issues within all sectoral policies (mining, agriculture, forestry, industry, infrastructures) remains a great challenge to be tackled. Supposedly, ministries and other national stakeholders concerned with biodiversity protection were since 2010 to rapidly engage in active domestic policy debates to trigger changes in sectorial policies. In this regard, target 17 to develop and adopt by 2015 an updated National Biodiversity Strategy and Action Plan (NBSAP) as a policy instrument is a missed opportunity. Although 179 out of 194 Parties have developed at least one NBSAP, actually 57 NBSAPs have targets with timelines extending to 2014 or beyond, and only 26 Parties adopted (or revised) NBSAPs since 2010, hence efficiently taking the Strategic plan into account. Without mainstreaming biodiversity across all sectors of government and society, including at the global value chains level, biodiversity conservation will remain fragmented and limited to a sectoral approach. During COP 12 Parties have tried to reverse this trend and insisted on mainstreaming biodiversity issues in a number of other agendas and sectors. Largely in vain.

The Pyeongchang Roadmap falls short of boldly and practically operationalizing key actions and commitments for the enhanced implementation of the Strategic plan and the achievement of the Aichi Biodiversity Targets. The list of key potential actions that could accelerate progress towards

targets indeed remains broad, and is to be used in a flexible and voluntary manner, varying with national circumstances and priorities. Even rather symbolic, two decisions might nevertheless partly contribute to mainstreaming biodiversity and tackle underlying causes of its loss. First, Parties that have not yet done so are urged to review and revise their NBSAPs and adopt indicators at the national level as soon as possible; accordingly, developed country Parties are invited to provide funding for such activities as well as for technical and scientific cooperation. Second, following important milestones, countries are called to develop and implement policy plans leading to the removal, phasing out, or reform of harmful subsidies. By 2015, Parties should even include a national target reflecting this in revised NBSAPs.

## SAILING UNCHARTED WATERS: BIODIVERSITY AND THE PROPOSED SDGs AND POST-2015 AGENDA

In the context of the UN negotiations of proposed Sustainable Development Goals (SDGs) and the post-2015 agenda, COP 12 was an important moment for reaffirming the importance of biodiversity for sustainable development. In particular, the High-level Segment culminated with the adoption of the “Gangwon Declaration on Biodiversity for Sustainable Development”. In particular, it calls on Parties and other stakeholders to link the implementation of the post-2015 development agenda to other relevant processes such as the NBSAPs, and to integrate implementation of the Strategic Plan and its Aichi Biodiversity Targets with the implementation of the post-2015 agenda.

However, the political message conveyed by the Declaration appears to be rather weak in comparison, for instance, with the draft initially prepared by the Korean Presidency. In essence, it refrains from placing a firm emphasis on the centrality of cross-cutting biodiversity considerations into the upcoming SDGs negotiations in 2015. This was the inevitable consequence of the compromise mainly stricken with CBD Parties that are reluctant to use the current 24-page “outcome document” (of the Open Working Group on SDGs) and its 17 draft SDGs as the basis for future negotiations at the UN General Assembly (UNGA) and of fears that stronger commitments in CBD could have prejudged the outcome of such negotiations. However, since the UNGA is a prominent forum where the interface between socioeconomic, development and biodiversity issues, including relevant financial aspects, will be decided, this watering down of political commitments is unfortunate since no *community*

of practice other than the CBD will indeed be in a position to launch an authoritative call for recognizing that the conservation of biodiversity is an irreplaceable condition for the realisation of any SDG. Biodiversity concerned stakeholders should nevertheless continue to contribute to the SDGs' negotiations, as the latter can offer an opportunity to influence and promote changes in models of socio-economic development and with socio-economic actors, which are not normally involved in CBD deliberations.

## RESOURCE MOBILIZATION: SEEING THE GLASS HALF EMPTY OR HALF FULL?

After tense negotiations, Parties confirmed preliminary targets set in Hyderabad at COP 11: doubling by 2015 total biodiversity-related international financial resource flows to developing countries, using average annual biodiversity funding for the years 2006-2010 as a baseline, and at least maintain this level until 2020. While in a context of budget constraints this might at least secure a commitment to increase finance for implementing the Strategic Plan, most of the G77 countries, apart from questioning the chosen baseline, actually stated this was insufficient to cover funding needs identified by the High-level Panel on the Global Assessment of Resources.

Interestingly, Parties further adopted a national target, *i.e.* to mobilize domestic financial resources to reduce the gap between identified needs and available resources at domestic level, for effectively implementing their NBSAPs by 2020. While this target is unfortunately not associated with any set figure and thus lacks strong commitment, it symbolically transfers some biodiversity funding responsibilities to all Parties, not only developed country Parties. Regarded by some G77 countries as departing from the principle of common but differentiated responsibilities, this is a sign for the discussion on financing SDGs, because it opens the door to discussions where domestic financial resources in developing countries are also part of the resources mix, as recommended by the Intergovernmental Committee of Experts on Financing Sustainable Development. Besides, together with the commitment by Parties to include biodiversity in their national priorities or development plans by 2015, this decision reiterates the importance of NBSAPs to mainstream biodiversity across all government and economic sectors. Though mostly symbolic for now, this importantly indicates the necessity to tackle underlying causes of biodiversity by regulating activities across all economic sectors and value chains.

One bone of contention between developed and developing countries, designing options for strengthening systems of transparent information about international and domestic financial resource flows was also requested.<sup>1</sup> Besides, the possibility by 2016 at COP 13 to review progress towards such targets and their adequacy has been agreed to, although in broad terms. It remains very improbable that this will eventually lead to increased commitments in two years.

Following the legacy of COP 10 and 11, lengthy discussions also took place about funding instruments to be promoted. The final decision in this regard seems balanced enough to appease fears from developing countries and allow for diversified and new funding mechanisms to be mobilized. While the decision now refers to 'biodiversity financing mechanisms' rather than the debated terminology of 'new and innovative financial mechanisms' and the role of collective action by indigenous and local communities as well as non market-based approaches is strongly recognised, Parties are nevertheless still urged to use various sources of funding, including market instruments. In order to further address potential risks when implementing the latter, voluntary guidelines on safeguards in biodiversity financing mechanisms were also adopted.

## HISTORIC DECISION RECOGNISES INDIGENOUS PEOPLES' DISTINCT IDENTITIES UNDER THE CONVENTION

In 2011, the UN Permanent Forum on Indigenous Issues' called to adopt the terminology "indigenous peoples and local communities" (IP & LCs), instead of "indigenous and local communities" (ILCs), as an "accurate reflection of the distinct identities developed by those entities since the adoption of the [CBD]".

While the possible response to this call triggered divisive discussions during the negotiations at COP 11 in Hyderabad, COP 12 successfully overcame these divisions by eventually deciding to use the terminology IP & LCs in future decisions and secondary documents under the Convention. However, CBD Parties also confirmed that use of this expression shall not affect in any way the legal meaning of Article 8(j) on the protection of

1. Developing countries initially called for a MRV (Measurement, Reporting and Verification) system which would only concern international flows from developed countries. The latter could not accept and rather preferred a softer option of 'systems of information' to be applied both to international and domestic flows.

traditional knowledge and other related provisions. The relevant COP 12 decision also provides that the use of “IP & LCs” may not be interpreted as implying, for any Party, a change in rights or obligations under the Convention and that the use of “IP & LCs” shall not constitute a context for the purpose of interpretation of the CBD.

The combined provisions of this decision amount to an important symbolic recognition of indigenous peoples’ distinct identities. However, the new terminology does not automatically apply to decisions and secondary documents under the CBD Protocols. Hence, whether the terminology “indigenous peoples” can be used, *mutatis mutandis*, under the Nagoya and Cartagena Protocols will need to be expressly considered by their respective COP MOPs at future meetings.

The adoption of this decision is an important step forward towards the full and effective participation of indigenous peoples within the UN System. However, in terms of its expected biodiversity-friendly impact, it shall be recalled that the responsibility to protect biodiversity as well as the rights of any citizen, including those of indigenous peoples, rests with national governments and is subject to national legislation. Hence, national level implementation and good governance are—and will continue to be—key factors to allow a proper consideration of biodiversity values in arbitrating between alternative development pathways.

## COP MOP 1 OUTCOMES: ADOPTION OF PROCEDURES AND MECHANISMS TO PROMOTE COMPLIANCE WITH THE NAGOYA PROTOCOL

The Nagoya Protocol on ABS, which was adopted at the closure of CBD COP 10 in October 2010, eventually entered into effect on 12<sup>th</sup> October 2014. Its first COP MOP was held from the following day, with 54 ratifications reached by the end of the week. Therefore, this first COP MOP marked the possible early achievement of Aichi target 16, including the effective operationalization and implementation of the Protocol. Several decisions were discussed and adopted in a positive spirit of cooperation with a view to providing Parties with the necessary tools for addressing the needs and challenges ahead, including the ABS Clearing House and its modalities of operation, measures for capacity building, awareness raising and cooperation.

In particular, the agreement reached on the Compliance Committee and its procedures can be regarded as a major achievement of these

negotiations. The Compliance Committee is set out to have a facilitative and non-adversarial character and it will be composed of 15 full members and two observer representatives from ILCs. These observers can fully participate in the Committee’s work except for taking decisions. As a last resort, the latter can be taken by a three-fourths majority vote. The Committee can perform its duties on individual cases, either based on a Party triggering or based on information from national reports, the ABS Clearing House or information submitted by ILCs through a Secretariat’s filter.

While no ombudsman<sup>2</sup> was established at this time, the Compliance Committee was given the mandate to further consider the need for and modalities to provide advice and assistance to developing countries and ILCs to address cases of non-compliance. Therefore, the proposal to establish an ombudsman could be tabled again at COP MOP 2, based on the Committee’s recommendations jointly with the views submitted by Parties and stakeholders.

## THE WAY AHEAD

The next conference of the Parties to the CBD will be held in Los Cabos, Mexico, in the second half of 2016. COP 13 will undertake another interim review of progress towards the implementation of the Strategic Plan for Biodiversity 2011-2020 and the achievement of the Aichi Targets. Funding needs to inform the next replenishment of the Global Environmental Facility will have to be reassessed. The implications of the post-2015 UN development agenda and the Sustainable Development Goals will certainly play an important role—in one way or another—in the future governance of biodiversity.

However, many challenges will have to be addressed by then, particularly at the national level. Notwithstanding the overall confirmation—and possibly—the strengthening of earlier global engagements, the current trend towards non-binding and increasingly flexible commitments will have to prove its effectiveness against the backdrop of the relentless erosion of biodiversity worldwide. In other terms, even in the absence of country specific targets, related indicators and MRV measures, Government will have to do their homework—and not just on paper. ■

2. An Ombudsman is an independent public office charged with representing the public interest by addressing complaints of maladministration or a violation of rights.