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Briefings on the Post-2020 Global Biodiversity Framework

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Cornerstones of the Post-2020 Biodiversity Framework

* Extract from the civil society report 'Spotlight on Sustainable Development 2019', published in July 2019.

www.2030spotlight.org

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The state of our natural world – the biological diversity that is critical for life on earth – is in great peril. Action to stem the loss of biodiversity, including through the implementation of Sustainable Development Goal 15, is urgently needed. Under the Convention on Biological Diversity (CBD), efforts are underway to develop a post-2020 biodiversity framework. It is imperative that key governance issues are addressed. Key among these is to establish binding targets and implementation commitments for Parties to the CBD. New and additional financial resources, in accordance with the principle of common but differentiated responsibilities, are needed to ensure the means of implementation. Reversing the structure of power relations, by holding corporations to account for biodiversity loss and adopting rigorous safeguards for private sector involvement, while strengthening and protecting the rights of indigenous peoples and local communities, will allow community-based, biodiversity-protecting solutions to flourish.

The fact that life on earth is in crisis is not a new conclusion. Climate change scientists have been warning of an existential crisis for more than a decade. What is new is the proposition that biological diversity and ecosystems – nature itself – are so threatened that this risks global catastrophe, linked to but independent of the dire climate change warnings.

As veteran environment journalist John Vidal puts it,

Nature is in freefall and the planet's support systems are so stretched that we face widespread species extinctions and mass human migration unless urgent action is taken.

The last year has seen a slew of [brutal](#) and [terrifying warnings](#) about the threat climate change poses to life. Far less talked about but just as dangerous, if not more so, is the rapid decline of the natural world. The felling of forests, the over-exploitation of seas and soils, and the pollution of air and water are together driving the living world to the brink...¹

Central role of the IPBES report

These shocking warnings from the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services (IPBES) were officially adopted by world governments in May 2019.² The IPBES report is the first such report since the Millennium Ecosystem Assessment (2005), and offers insights on achievements towards key international goals, including the Sustainable Development Goals (SDGs), the Aichi Biodiversity Targets of the Convention on Biological Diversity (CBD) and the Paris Agreement on climate change.

¹ Vidal (2019).

² IPBES (2019) and IPBES (n.d.).

SDG 15, to “Protect, restore and promote sustainable use of terrestrial ecosystems, sustainably manage forests, combat desertification, and halt and reverse land degradation and halt biodiversity loss”, could not be more pressing.

The IPBES report will play a central role in CBD processes, especially in informing its negotiations for the post-2020 biodiversity agenda. The 14th Conference of the Parties (COP 14) to the CBD in November 2018 launched formal and ambitious negotiations for a “Post-2020 Global Biodiversity Framework”. In 2020, COP 15 is expected to adopt its final outcome.

The post-2020 framework is touted as a stepping stone towards the CBD’s 2050 Vision of “Living in harmony with nature”, and will be accompanied by an “inspirational and motivating” 2030 mission.³ It is expected that the post-2020 framework will follow on from the Aichi Biodiversity Targets, which translate the CBD’s general obligations into specific strategic goals and targets.

The CBD treaty itself establishes general obligations, which its Parties must implement through national measures. In particular, the Strategic Plan for Biodiversity 2011-2020 together with the Aichi Biodiversity Targets are to be implemented through Parties’ National Biodiversity Strategies and Action Plans (NBSAPs).⁴ The Aichi Targets are a “flexible framework” for the development of national and regional targets which in turn are to be incorporated into Parties’ NBSAPs and mainstreamed into national policies, strategies and planning.⁵

The Aichi Targets will not be met by 2020. We have to ask why this is true, and critically examine the core systemic issues. To move beyond 2020, a clear understanding of the failure to arrest the

biodiversity crisis to date is necessary. Much can be said about this, but here we will focus on structural governance issues in the post-2020 framework which can still be shaped at this early stage.

Voluntary pledges must not detract from legally binding obligations

But some of the writing is already on the wall. In the wake of the Paris Agreement on climate change, the same momentum towards *voluntary* pledges and erosion of the long-agreed Rio principle of “common but differentiated responsibilities” (CBDR), in relation to developed countries’ obligations to take action and to provide the necessary means of implementation – finance, technology transfer and capacity building – to developing countries for them to take action, are already evident. CBDR has been reaffirmed in the 2030 Agenda for Sustainable Development.

The serious work of establishing voluntary pledges, including from actors beyond national governments, as the way forward has already begun. The COP 14 post-2020 framework decision invites all countries to consider developing “voluntary” biodiversity “commitments” that “contribute to an effective post-2020 global biodiversity framework, without prejudging the outcomes...”.⁶ Indigenous peoples and local communities, organizations and stakeholders are also encouraged to do the same. The co-chairs of the post-2020 framework negotiation process have summarized the submissions to date from Parties and observers to the CBD on this issue, stating: “There is general support for voluntary commitments from Parties and the private sector.”⁷

A *voluntary* commitment is not a real commitment; it is not legally binding. It must be simply understood for what it is – a pledge. While the Aichi Targets are international obligations on Parties to implement, the nature of targets in the post-2020 framework and its relationship with national pledges remains to be seen. While contributions from various sectors of society are in principle welcome and are undoubtedly

³ Comprehensive and participatory process for the preparation of the post-2020 global biodiversity framework, CBD/COP/DEC/14/34, 30 November 2018 (www.cbd.int/doc/decisions/cop-14/cop-14-dec-34-en.pdf).

⁴ Secretariat of the Convention on Biological Diversity (2011).

⁵ The Strategic Plan for Biodiversity 2011-2020 and the Aichi Biodiversity Targets, UNEP/CBD/COP/DEC/X/2, 29 October 2010 (www.cbd.int/doc/decisions/cop-10/cop-10-dec-02-en.pdf).

⁶ CBD/COP/DEC/14/34.

⁷ Post-2020 Global Biodiversity Framework: Discussion Paper, CBD/POST2020/PREP/1/1, 25 January 2019 (www.cbd.int/doc/c/d431/b38f/3d580bb73e7c2b5aaa286310/post2020-prep-01-01-en.pdf).

voluntary, this must not detract from state Parties' legally binding obligations to conserve and sustainably use biodiversity in their territories, and to share the benefits equitably. Mixing the two obfuscates obligations by Parties and voluntary contributions by other actors, diluting and lessening Parties' obligations.

Contributions by the private sector, business and industry, especially those that are driving the biodiversity crisis, are contradictory in many ways. Allowing them, among other things, provides an opportunity for companies to 'greenwash' their practices, often with tokenisms, leaving systemic flaws intact. It opens the door to conflicts of interests. It allows for the introduction of false solutions, which often benefit the companies. It turns a blind eye to the corporate lobby that prevents real action. There is also evidence that some corporations are playing a role in destroying biodiversity and violating human rights.⁸

Efforts at the CBD in 'mainstreaming biodiversity' in sectors such as agriculture, forestry, fisheries and aquaculture, tourism, energy and mining, infrastructure, manufacturing and processing will have to be implemented with caution so as to not provide corporations with cover to continue business-as-usual on their own terms. Systemic measures such as the move by the United Nations Human Rights Council to negotiate "an international legally binding instrument... to regulate the activities of transnational corporations and other business enterprises"⁹ are truly needed and much welcomed. Negotiations are now underway on such an instrument.

Most of the world's biodiversity is in developing countries, and States have sovereign rights over their own biological resources. However, as Article 20.4 of the CBD recognizes:

The extent to which developing country Parties will effectively implement their commitments under this Convention will

⁸ See, e.g., the case studies in Amis de la Terre France et al. (2018).

⁹ Resolution 26/9. Elaboration of an international legally binding instrument on transnational corporations and other business enterprises with respect to human rights. Adopted by the UNHRC. 14 June 2014. <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G14/082/52/PDF/G1408252.pdf?OpenElement>

depend on the effective implementation by developed country Parties of their commitments under this Convention related to financial resources and transfer of technology and will take fully into account the fact that economic and social development and eradication of poverty are the first and overriding priorities of the developing country Parties.

These articulations of the CBDR principle enshrined in the CBD are absent from recent COP decisions, marking a retreat by developed country Parties from their international commitments and leaving a huge biodiversity financing gap.¹⁰ In the COP 14 decision on resource mobilization,¹¹ an expert panel will "explore options and approaches for mobilizing and providing additional resources from all sources" and "consider ways to strengthen the engagement of a wider range of financial and private institutions, at all levels and from all sources, to support the implementation of the post-2020 framework". Resource mobilization is to be an "integral part" of the post-2020 framework.

The move towards resource mobilization "from all sources" includes South-South cooperation, the private sector, foundations, non-governmental organizations and academia, as well as domestic resource mobilization from developing countries.¹² While such contributions are in principle welcome, this cannot be an opportunity for developed country Parties to avoid their legal obligations. Further, any private sector contributions or innovative financing mechanisms can only be supplemental, and rigorous safeguards must be in place.

The CBD's implementation rests not only on the Strategic Plan and the Aichi Targets, it is also supported by thematic programmes of work on critical ecosystems, work on cross-cutting issues, and a standing working group on the knowledge, innovations and practices of indigenous people and local communities. These fundamentals, including the Aichi Targets, must be built upon, and not lost in the hype around the post-2020 framework.

¹⁰ See, e.g., Zhu/Chee (2016).

¹¹ Resource mobilization, CBD/COP/DEC/14/22, 30 November 2018 www.cbd.int/doc/decisions/cop-14/cop-14-dec-22-en.pdf.

¹² Zhu/Chee (2016).

The CBD's three objectives are the conservation of biological diversity, the sustainable use of its components, and the fair and equitable sharing of the benefits arising out of the utilization of genetic resources. The last objective has now been operationalized by another international agreement, the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization. Another earlier agreement, the Cartagena Protocol on Biosafety operationalized the CBD's provisions on living modified organisms (LMOs) resulting from biotechnology. Additionally, the Nagoya – Kuala Lumpur Supplementary Protocol on Liability and Redress to the Cartagena Protocol on Biosafety was adopted to deal with potential damage from LMOs.

These three additional legal instruments now form part of the CBD's scope of work. The issues safeguarded by these instruments were championed by developing countries as important issues for them. They must remain central, and not be sidelined in the negotiations and outcome of the post-2020 framework.

Crucial role of indigenous peoples and local communities

The CBD recognizes the role of indigenous peoples and local communities (IPLCs) in safeguarding biodiversity. Indeed, IPLCs play a crucial role in protecting forests and the biodiversity within them, at the same time helping to mitigate climate change. According to recent estimates, this “avoided deforestation”, through community-based tenure systems, continues to protect the equivalent of over 1,000 Gt CO₂ as carbon stocks in (and under) community-managed lands and forests.¹³ While half of the world's land is associated with customary land use, only 10 percent is legally under IPLC ownership. Concerted effort to secure community land rights is therefore an “effective, efficient and equitable climate action”,¹⁴ and also important for biodiversity and food security.

In addition, real solutions can be found in the numerous efforts by IPLCs, who are the guardians of biodiversity. In the realm of agriculture, for example, a global crowdsourcing contest called “Solution Search” yielded 338 community-based

solutions from over 75 countries across six continents that help farmers and other agricultural practitioners adopt ecologically friendly practices that protect soils, water, forests, and fish stocks.¹⁵ The resulting report demonstrates that communities are at the heart of biodiversity protection and sustainable use of its resources.

However, in many areas, IPLCs are facing threats from destructive logging, industrial agriculture and mining. The persistent violation of their rights means that both biodiversity and the climate remain under threat. These wrongs must be put right. And the kinds of bottom-up solutions implemented by IPLCs on the ground, together with “governance from below” must be safeguarded, promoted and entrenched in the post-2020 framework, and privileged in its negotiation process.

Post-2020 governance cornerstones

In light of the above, key governance cornerstones for the post-2020 framework include:

- **Binding targets and implementation commitments for Parties, in accordance with common but differentiated responsibilities (CBDR).** International biodiversity targets that are integral to the post-2020 framework, that strengthen and build upon the Strategic Plan for Biodiversity for 2011-2020 and its Aichi Biodiversity Targets, with corresponding implementation obligations and commitments on state Parties should be adopted by the COP in 2020. International commitments by Parties should not be downgraded to voluntary national pledges.
- **Contributions by other actors must be regarded as supplemental to, not a replacement for, commitments by Parties.** The USA, which is not a Party, and other stakeholders should additionally be encouraged to undertake voluntary commitments, in line with their responsibilities, that complement and enhance Parties' commitments. Their contributions must not undermine or supplant the international obligations of state Parties.
- **Rigorous safeguards for private sector involvement, and ensuring corporate accountability at all levels.** Any private sector

¹³ Dooley et al. (2018).

¹⁴ Ibid.

¹⁵ Gwinner/Neureuther (2018).

involvement in the post-2020 framework should be subject to careful evaluation to ensure that such involvement has no net negative impact on biodiversity or on the communities that nurture it, and that issues such as conflicts of interest are effectively addressed. Mechanisms by which corporations can be held to account for biodiversity loss and rights violations are also needed in the post 2020 outcome.

- **Implementation of the principle of common but differentiated responsibilities for financial flows and technology transfer.** Principle 7 of the Rio Declaration on Environment and Development (1992) specifies that: “In view of the different contributions to global environmental degradation, States have common but differentiated responsibilities. The developed countries acknowledge the responsibility that they bear in the international pursuit of sustainable development in view of the pressures their societies place on the global environment and of the technologies and financial resources they command.” The principle of CBDR should be operationalized in the context of international biodiversity commitments by developed countries through the well-established means of implementation - financial flows, technology transfer and capacity building of developing countries.
- **Mobilization of new and additional financial resources from developed country Parties, with robust safeguards in place for biodiversity financing mechanisms.** Developed country Parties are legally bound under the CBD to provide new and additional financial resources to enable developing country Parties to implement their biodiversity commitments. This should not be sidelined or overtaken by calls for resource mobilization from all sources in the post-2020 framework. Parties have adopted voluntary guidelines on safeguards in biodiversity financing mechanisms, intended to avoid or mitigate unintended impacts on the rights and livelihoods of indigenous peoples and local communities. A specific safeguards framework on indigenous peoples and local communities under the CBD should be an integral part of the post-2020 outcome.

- **Building upon and ensuring implementation of existing obligations, including under thematic programmes of work, cross-cutting issues and the Protocols to the CBD.** The existing implementation obligations and a whole body of work that has progressed under the CBD and its Protocols since 1992 should be the foundation of the post-2020 framework. The lack of implementation of the CBD and related obligations is a major factor in its failure to halt biodiversity loss. Measures to address compliance and enforcement of the CBD and other obligations, in accordance with the principle of CBDR, must be addressed in the post-2020 framework.
- **Coherence with other relevant international agreements and processes that are supportive of the CBD’s objectives.** It is crucial that the biodiversity crisis is tackled coherently with other environmental crises, which are safeguarded by other multilateral agreements, such as the UN Framework Convention on Climate Change (UNFCCC) and the UN Convention to Combat Desertification (UNCCD), as well as with other environment and biodiversity-related processes and treaties, which include the 2030 Agenda for Sustainable Development and the International Treaty on Plant Genetic Resources for Food and Agriculture. Furthermore, linkages should be built with other processes that will have positive implications for biodiversity, such as the proposed international legally binding instrument on transnational corporations and other business enterprises with respect to human rights.
- **Strengthening and protecting the rights of IPLCs.** The role that IPLCs play in conserving and sustainably using biodiversity is recognized by the CBD. Often they are at the forefront of these efforts but are facing threats to their lands and territories. Concerted effort needs to be made, globally and nationally, to ensure that their rights are not violated, but instead fully respected, protected and fulfilled. The UN Declaration on the Rights of Indigenous Peoples sets the international norms and standards that Parties should adhere to and relevant corresponding targets should be set within the post-2020 framework.

- **Recognizing and incentivizing community-based solutions, including indigenous peoples and community conserved areas.** The post-2020 framework should include clear recognition of community-based solutions and require Parties to put in place the requisite policy measures to support and incentivize such efforts. Such support should complement the protection of the rights of indigenous peoples and local communities.
- **Establishing structures for bottom-up governance.** Facilitating the genuine participation of indigenous peoples and local communities should be a priority at international, national and local levels of governance. Structures for ‘bottom-up’ governance or ‘governance from below’ should be established at all levels for the democratic governance of the post-2020 framework. In the negotiations of the post-2020 framework, existing practices in the CBD for enhanced participation by indigenous peoples and local communities, such as in the working group on Article 8(j) on traditional knowledge, innovation and practices of indigenous peoples and local communities, should be built upon.

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References

Amis de la Terre France/CETIM/Observatoire des multinationales/OMAL/Transnational Institute (TNI) (2018): The EU and the Corporate Impunity Nexus: Building The UN Binding Treaty on Transnational Corporations and Human Rights. Paris/Amsterdam. www.foei.org/wp-content/uploads/2018/10/eu_corporate_impunity_nexus.pdf

Dooley, Kate et al. (2018): Missing worldwide Pathways to 1.5°C: The role of the land sector in ambitious climate action. www.climatelandambitionrightsalliance.org/report/

FAO (2019): The State of the World’s Biodiversity for Food and Agriculture, J. Bélanger & D. Pilling (eds.). FAO Commission on Genetic Resources for Food and Agriculture Assessments. Rome. www.fao.org/3/CA3129EN/CA3129EN.pdf

Gwinner, Valerie/Neureuther, Ann-Kathrin (2018): Farming for Biodiversity: Proven Solutions

Meet Global Policy. Analysis report based on a worldwide Solution Search. Berlin, Germany: Rare. www.rare.org/wp-content/uploads/2019/03/2018.08-Farming-for-Biodiversity-Report-11-12-1.pdf

Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services (IPBES) (2019): Summary for policymakers of the global assessment report on biodiversity and ecosystem services. Advance unedited version, 6 May 2019. www.ipbes.net/news/ipbes-global-assessment-summary-policymakers-pdf

Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services (IPBES) (n.d.): IPBES to launch first Global Assessment Report on Biodiversity and Ecosystem Services since 2005: A Primer. www.ipbes.net/sites/default/files/downloads/ipbes_global_assessment_primer_english.pdf

Secretariat of the Convention on Biological Diversity (n.d.): Preparations for the Post-2020 Biodiversity Framework. Montreal. <https://www.cbd.int/post2020/>

Secretariat of the Convention on Biological Diversity (2011): Strategic Plan for Biodiversity 2011-2020 and the Aichi Targets. Montreal. www.cbd.int/doc/strategic-plan/2011-2020/Aichi-Targets-EN.pdf

Secretariat of the Convention on Biological Diversity (2000): Sustaining life on Earth: How the Convention on Biological Diversity promotes nature and human well-being. Montreal. www.cbd.int/doc/publications/cbd-sustain-en.pdf

Vidal, John (2019): The Rapid Decline of the Natural World Is a Crisis Even Bigger than Climate Change. HuffPost US. 15 March. www.huffpost.com/entry/nature-destruction-climate-change-world-biodiversity_n_5c49e78ce4b06ba6d3bb2d44

Zhu Zhenyan/Chee Yoke Ling (2016): Biodiversity - Divergent views on progress towards resource mobilization targets. TWN Info Service on Biodiversity and Traditional Knowledge, 22 December. Penang. www.twn.my/title2/biotk/2016/btk161210.htm