

## The post-2020 global biodiversity framework: Taking stock and some key issues

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### The post-2020 GBF process

The negotiations for the post-2020 global biodiversity framework (GBF) have been ongoing, in fits and starts, since the first meeting of the Open-ended Working Group on the Post-2020 Global Biodiversity Framework (OEWG) was held in 2019. Subsequently, the second meeting of the OEWG was held in Rome in February 2020, even as the COVID-19 pandemic began to unfold in the north of Italy.

The plans to hold the third and final meeting of the OEWG, and to adopt the GBF at the 15th Conference of the Parties (COP 15) to the Convention on Biological Diversity (CBD) in 2020 were upended as restrictions, lockdowns and border closures swept across the globe in response to the pandemic.

The first part of OEWG 3 (OEWG 3.1) was finally held a year later, in August 2021, as an online meeting. The second part is planned for January 2022 in Geneva as an in-person session.<sup>1</sup> COP 15, eventually rescheduled for October 2021, will now also be held in two parts – a mainly online session that was held in October, and an in-person meeting planned for April/May 2022 in Kunming, China.

The COP 15 session in October did not see any substantive negotiations, which will be reserved for the Kunming session. It was a largely formal and procedural opening of the meeting, and the Presidency of the COP was handed over from Egypt to China. There was a high-level segment, including adoption of the “Kunming Declaration”, and negotiations on the interim budget for the CBD Secretariat for 2022.

The inequitable distribution of vaccines globally, new variants of the coronavirus that weaken the effectiveness of the vaccines, and the implementation of pandemic restrictions still threaten this plan, even as mass vaccinations, mainly in developed countries who are hoarding vaccine stocks, have fuelled the easing of restrictions in those countries, despite new waves of the pandemic.

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<sup>1</sup> This meeting has now been postponed due to travel measures and restrictions imposed by some countries, including Switzerland, as a result of the emergence of the Omicron variant of the SARS-CoV-2 virus which causes COVID-19.

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**Third World Network (TWN)** is an independent non-profit international research and advocacy organisation involved in bringing about a greater articulation of the needs, aspirations and rights of the peoples in the South and in promoting just, equitable and ecological development.

Published by Third World Network Berhad (198701004592 (163262-P))

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The pressure by developed countries to convene formal virtual negotiations in lieu of in-person negotiations during the pandemic first resulted in online meetings of the 24th Subsidiary Body on Scientific, Technical and Technological Advice (SBSTTA 24) and the 3rd Subsidiary Body on Implementation (SBI 3) in May and June 2021 in order to “make progress” on the GBF. A number of scientific, technical and implementation issues relating to the GBF had to be considered sequentially first by the subsidiary bodies of the COP, in order to inform the further negotiations of the GBF.

Many civil society organizations (CSOs) (see [“Open letter on virtual negotiations under the CBD”](#), 9 April 2021) and developing country Parties to the CBD, the African region in particular (see [“Africa calls out inequitable virtual negotiations on biodiversity”](#), 2 June 2021), had protested the convening of formal virtual negotiations as inequitable for numerous reasons.

In addition, the inability to foster good regional coordination and to effectively interact with other Parties only served to widen the gaps and harden positions. The limited time also meant that many issues and documents could not even be discussed, and it became apparent that this work had to be deferred, and that a resumed in-person meeting was necessary. Clearly, sufficient time and inclusive in-person participation by Parties are necessary to facilitate trust and build consensus in order to reach common understanding and agreement (See [“Biodiversity talks stymied by inequities in virtual negotiations”](#), 16 June 2021).

The first parts of OEWG 3 and COP 15 have concluded and this briefing takes stock of where we are now in the GBF negotiations, focusing on some key aspects of the discussion.

### **Draft text of the post-2020 GBF**

So far, there have been no actual negotiations of the draft text of the GBF. All the drafts to date have been produced by the Co-Chairs of the process – Basile van Havre from Canada and Francis Ogwal from Uganda.

At OEWG 1, Parties gave their views on what they wanted to see in the GBF, and these were compiled and annexed to the report of the meeting. The Co-Chairs then produced a “zero draft”. At OEWG 2, Parties gave their views on the zero draft and proposed text, and these were compiled and annexed to the report of the meeting.

An updated zero draft was then produced by the Co-Chairs, in order to facilitate discussions on GBF elements during SBSTTA 24 and SBI 3. Subsequently, the Co-Chairs produced a first draft of the GBF, which was meant to be negotiated at OEWG 3.

But due to the two-part structure of the OEWG 3 meeting, Parties again gave their views at OEWG 3.1, this time on the first draft, and made text proposals. These were again compiled and annexed to the report of the meeting. “Composite text” has also been prepared, which attempts to put together all the text proposals by Parties as coherent alternative text. However, the first draft of the GBF will still remain the basis of negotiations in Geneva, and new text can also be introduced. For Parties, the utility of OEWG 3.1 remains questionable; nevertheless, the airing of views and text proposals made at this session helped to identify the positions of Parties.

The Co-Chairs will produce their “reflections” in the run-up to the Geneva meeting. This is meant to provide their assessment of where the negotiations are and where the consensus and divergences among Parties seem to lie. The “reflections” may also include some text proposals from the Co-Chairs.

Frustration is therefore mounting, as after two years, Parties to the CBD still have not been able to actually negotiate the text of the GBF. The process has remained in the hands of the Co-Chairs and the Secretariat. Nonetheless, many proposals are on the table for now, with Parties expected to negotiate and defend their positions at the Geneva meeting. It is anticipated that the outcomes of the Geneva meeting will be forwarded to the second part of COP 15 as a final draft GBF for further negotiation and adoption in Kunming.

The core elements of the GBF are its 2050 goals and 2030 action targets, and possible 2030 milestones to assess progress towards the 2050 goals. It also includes 2050 vision and 2030 mission statements. The draft COP 15 decision adopting the GBF envisages that the GBF will be adopted together with a monitoring framework with headline indicators.

COP 15 in Kunming is also expected to adopt a number of complementary decisions including on planning, monitoring, reporting and review; the updated action plan on subnational governments, cities and other local authorities; the strategy for resource mobilization; the long-term strategic framework for capacity-building and development; the gender plan of action; the communications strategy; the long-term approach and action plan for mainstreaming; and on cooperation with other conventions and international organizations. COP 15 is also expected to adopt a decision on digital sequence information on genetic resources (DSI), which is also on the agenda of the OEWG (see later section), as well as other decisions based on the recommendations of the Subsidiary Bodies, many of which have links to the GBF.

In addition, two other documents will be significant: a glossary with a definition of terms used in the framework, and supporting technical information on each goal and target.

### **The post-2020 GBF and CBD implementation**

The GBF is meant to guide implementation of Parties' CBD obligations for the decade post 2020, through specific goals and targets. As a global framework, its implementation lies with Parties at national and regional level. The first draft of the GBF specifies that national targets are established as part of Parties' national biodiversity strategy and action plans (NBSAPs), as contributions towards the achievement of the global targets. Reporting on national targets would enable evaluation of their sufficiency to meet the global targets, and point to any necessity for adjusting them. There is, however, still no agreement on this.

The GBF follows on from the CBD's Strategic Plan 2011-2020 and its Aichi Biodiversity Targets, which have not been fully met. This failure comes amidst worsening and interconnected climate, biodiversity, health and economic crises. The pandemic has deepened inequities, and the situation is very critical now.

It is widely acknowledged that effective implementation of the CBD has been hugely lacking in the decades since it entered into force. Comprehensive implementation of the CBD remains an issue in the GBF, as there are concerns over the "cherry picking" of issues to include in the 4-goals-and-20-plus-targets format of the GBF. There are concerns that this may result in the non-implementation of the totality of the CBD obligations. Indeed, concerns also arise over the possible supplanting of the CBD, drawing parallels with the United Nations Framework Convention on Climate Change (UNFCCC) and the Paris Agreement.

Developing country Parties have consistently raised the issue of the need for adequate balance in the GBF in addressing the three objectives of the CBD, which 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. Regrettably, there has been disproportionate implementation focus on the first objective, which is the priority of conservation organizations and developed countries, while the other two objectives, which are at the heart of developing country realities, have not garnered the same kind of attention.

At OEWG 3.1, text proposals were put forward by developing country Parties to increase the number of targets related to the third objective, in order to try to promote more balanced implementation of the CBD.

Another imbalance has been on the "means of implementation". At the insistence of developing country Parties at OEWG 2, a fourth goal was added to the updated zero draft, to address not just the three objectives of the Convention, but also the means to implement them, which include financial resources, capacity building and transfer of appropriate technology. Nonetheless, the discussions at OEWG 3.1 on resource mobilization, in particular, remained fraught with large divergences in positions (see later section).

## **Equity**

Achieving balance among the three objectives of the CBD is critical to ensuring equity. Historically, developing country Parties have championed the third objective, because of North-South inequities – much of the world’s biological resources are located in developing countries, while its commercialization for profit has mainly been driven by entities in developed countries. As such, the fair and equitable sharing of benefits with provider countries of genetic resources has been a consistent demand of developing countries.

Another key aspect of equity relates to the sustainable use of biological resources. Much of the world’s biological resources are located in developing countries, yet a key driver of biodiversity destruction is historical and continued overconsumption by the rich world, leading to extractive activities in developing countries. This means that while much of the responsibility to protect biodiversity lies with developing countries, it is incumbent on developed countries to address their overconsumption. Global targets, such as those envisaged under the GBF, therefore imply differentiated obligations on Parties. This aspect of equity needs to be discussed and is currently absent from the first draft of the GBF, although some text proposals were made at OEWG 3.1 in the sections on goals and targets to address this issue.

A crucial differentiated responsibility therefore of the developed country Parties is to provide for the means to implement CBD obligations. The Rio principle of “common but differentiated responsibilities” is operationalized in Article 20 of the CBD, which requires developed country Parties to provide financial resources to developing country Parties, and recognizes that the extent to which developing country Parties effectively implement their commitments depends on the effective implementation by developed country Parties of their commitments related to financial resources and transfer of technology. These obligations have not been met and continue to be resisted by developed country Parties.

To add insult to injury, rich industrialized countries have accrued vast ecological and climate debts over the last 500 years through their overuse of the world’s resources and their disproportionate contribution to greenhouse gas concentrations in the atmosphere, which also negatively impacts on biodiversity. And to make matters worse, extractivism has social and environmental costs that fall disproportionately on indigenous peoples and local communities (IPLCs), smallholder producers, women and people of colour, especially in the global South.

The issue of equity is even more important than ever given the vast inequities that exist and that have been exacerbated by the COVID-19 pandemic, as exemplified by the “vaccine apartheid” that the World Health Organization (WHO) Director-General has called out. There is urgent need for action on this front, and to resist the systematic dismantling of equity principles, including that of common but differentiated responsibilities, in international agreements, a move which is apparent elsewhere and also rearing its ugly head in the CBD discussions.

## **Root causes of biodiversity loss**

It is clear the CBD cannot address the biodiversity crisis with more of the same strategies; there is a real need to address the structural and systemic root causes of biodiversity loss. This must include issues such as overconsumption by the rich, the power of elites and corporations, trade and investment rules and financial flows that continue to incentivize extractive industries, and the lack of regulation to rein in biodiversity-harming industries and activities.

The first draft of the GBF is a disappointment in this respect, with very few targets addressing the root causes of biodiversity loss. The target that deals with “mainstreaming” biodiversity across all sectors is weak, with merely a call for aligning activities and financial flows with the vague notion of “biodiversity values” and little mention of the need for strong regulation. Furthermore, instead of obliging governments to take action, businesses are called upon to “assess and report on their dependencies and impacts on biodiversity, from local to global, and progressively reduce negative impacts...” Yet, experience has shown that self-regulation and voluntary measures fail to deliver at the scale and speed required, and moreover they may have deleterious environmental and social impacts.

At OEWG 3.1, some Parties attempted to strengthen the language by, inter alia, providing text proposals that called for regulation of businesses whose activities have impact on biodiversity, imposing penalties for non-compliance, ensuring liability and redress for biodiversity damage and addressing any conflicts of interest that may hamper regulation or influence policy-making, in the target addressing business.

In terms of addressing overconsumption, the first draft of the GBF remains weak, focusing on individuals' consumption choices. It remains silent on the critical role that governments should play in putting in place regulatory and policy tools to limit overconsumption. Furthermore, the draft does not address the issue of equity at all (see previous section). At OEWG 3.1, some of these ideas were introduced in the sections on goals and targets but the overall discussion remained lacklustre. Thus, much work remains to be done in Geneva to adequately address the root causes of biodiversity loss in an equitable manner.

### **Human rights, IPLC rights, gender and youth**

The CBD recognizes the pivotal role of IPLCs' knowledge, innovations and practices in conserving and sustainably using biodiversity. This has been recently reaffirmed by the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services (IPBES), which confirmed that biodiversity is declining less rapidly in lands managed by indigenous peoples. However, in many areas, IPLCs are facing threats from extractive activities such as destructive logging, industrial agriculture and mining, along with persistent violation of their rights. In order for IPLCs to continue to steward biodiversity, there is urgent need for their rights to be fully protected.

The need to integrate a human rights-based approach into the GBF has therefore long been a demand of IPLC organizations and civil society. This means that biodiversity policies and governance should not violate human rights, but rather these rights should be protected in the design and implementation of biodiversity protection efforts. The discussions on rights have also received a boost with the recent adoption of a resolution by the UN Human Rights Council recognizing the human right to a clean, healthy and sustainable environment.

The UN Special Rapporteur on Human Rights and Environment has also called for the GBF to put human rights at its centre. He urged special attention to the rights of indigenous peoples, people of African descent, local communities, peasants, rural women and rural youth, who are key partners in protecting and restoring biodiversity. This includes the legal recognition and implementation of their human, land and tenure rights, as well as prioritizing their empowerment and meaningful participation in biodiversity decision-making.

Furthermore, the key aspect of protecting environmental defenders has to be urgently addressed, as many have lost their lives in the defence of biodiversity. The Special Rapporteur proposed a GBF target of zero murders of environmental human rights defenders. He highlighted the duty of all conservation actors to protect them, and to take effective actions to ensure their freedom from harassment, intimidation, violence, criminalization and other forms of abuse.

Many of these elements were therefore proposed at OEWG 3.1, not just in the one target that addresses these issues, but across the other targets as well, in order to ensure that a human rights-based approach is central and systemic to the whole GBF.

In addition, the CBD recognizes women's vital role in biodiversity conservation and sustainable use, and has attempted to mainstream gender through its programmes. The 2015-2020 Gender Plan of Action was developed to align with the Strategic Plan for Biodiversity 2011-2020 and its Aichi Biodiversity Targets. A post-2020 Gender Plan of Action is currently being developed for consideration by Parties when COP 15 resumes in Kunming next year.

At OEWG 3.1, a new gender target in the GBF was proposed that would aim to ensure women's and girls' equitable access and benefits from the conservation and sustainable use of biodiversity, as well as their informed and effective participation at all levels of biodiversity policy- and decision-making.

Many Parties are also supportive of the proposals from the youth constituency, which is seen as a vital actor in ensuring the future viability of our planet. In particular, a proposal on “transformative education”, to be included in the relevant GBF target and in the section of the GBF on “outreach, awareness and uptake”, received support from several Parties at OEWG 3.1. The integration of transformative education on biodiversity and cultural diversity into educational programmes is critical to promote values and long-term behaviours that are protective of biodiversity.

### **Climate change and “nature-based solutions”**

The twin crises of biodiversity loss and climate change are increasingly recognized as stemming from the same systemic root causes. Additionally, climate change causes biodiversity loss and vice versa, further downward spiralling and exacerbating both crises. On the flipside, protecting biodiversity and limiting climate change are mutually reinforcing.

One of the issues that have increasingly gained prominence in the discourse on the biodiversity and climate change crises, and around the GBF and the Paris Agreement on climate change, is around the use of the term “nature-based solutions (NbS)”, which has been recently coined and is broadly and vaguely self-defined. Different understandings of the term lead to vastly different conclusions, making common ground on the use of the contested term elusive.

“NbS” are actively promoted by many large Western conservation organizations, developed countries and fossil fuel companies in particular, for the unsubstantiated claim that “nature” could provide around one-third of the global climate change mitigation effort by 2030. This proposition advances the idea that “nature” can compensate for (or “offset” through the carbon market) the continued burning of fossil fuels through carbon sequestration.

The vocal chorus of supporters and detractors of the concept and terminology of “NbS” continues to mount on both sides. Many civil society organizations and some developing country Parties remain strongly opposed to the use of the term in the GBF, preferring to use the defined and established CBD concepts of “ecosystem approaches” or “ecosystem-based approaches”.

They oppose using the term “NbS” because of its link to carbon markets and offsets, which do not actually reduce the overall concentration of carbon dioxide in the atmosphere, but instead provide ample “greenwashing” opportunities for fossil fuel actors to continue business-as-usual. This obscures their responsibility to stop fossil fuel emissions, with the failure to do so causing more biodiversity harm.

In addition, “NbS” as currently used conflates natural ecosystems such as forests, soils, grasslands, estuaries and mangroves with, for example, monoculture tree plantations, which would clearly not provide the same benefits, whether in terms of mitigation, adaptation or other ecosystem functions. There is a danger that these false solutions to the climate crisis will substitute for real action to protect biodiversity.

Despite their shortcomings, carbon markets and the “NbS” model have also been held out as a means of financing conservation of biodiversity. Using forests and lands to serve such “NbS” strategies, however, threatens to dispossess IPLCs, who are the true stewards of the planet’s biodiversity. The injustice of fossil fuel actors using the ecosystems that are inhabited, protected and managed by IPLCs, to offset *their* emissions, while claiming to provide biodiversity conservation financing is nothing more than “carbon colonialism”.

While the zero draft of the GBF introduced the term “NbS”, the first draft now does not include this term. However, the target on climate change proposes that biodiversity should be responsible for mitigating 10 gigatonnes of carbon dioxide equivalent (Gt CO<sub>2</sub>-e) per year. This still relies on the “NbS” premise that biodiversity can mitigate climate change by a specified amount. This is not backed by credible science, and the carbon-absorbing ability of nature is limited and cannot fully compensate for the continued burning of fossil fuels. This could lead to, for example, misguided efforts such as monoculture tree plantations and controversial bioenergy with carbon capture and storage (BECCS) projects, land-grabbing and rights violations, instead of real emissions cuts and actions that protect and restore biodiversity.

Many Parties at OEWG 3.1 called for the 10 Gt CO<sub>2</sub>-e per year figure to be deleted, while others reserved their position on the quantum. Others sought to reintroduce the term “NbS” into the text. A few Parties called for a refocusing of the target on addressing the threats to biodiversity from climate change and from actions that might be taken to address climate change, while recognizing the role, and protecting the rights, of IPLCs.

### **The 30 by 30 target**

Closely related to the concept of “NbS” and its demand for ecosystems to offset carbon emissions, is the proposal to strictly protect at least 30 percent of the world’s lands and oceans by 2030, which has gained traction in recent years. This is known as the “30 by 30” target, and is reflected in the first draft of the GBF.

The corresponding Aichi Biodiversity Target had called for the protection of 17 percent of terrestrial and inland water areas, and 10 percent of coastal and marine areas by 2020. While these numerical targets are likely to have been met in terms of area coverage, progress has been more modest in addressing the qualitative aspects of the target – ensuring that protected areas safeguard the most important areas for biodiversity, are ecologically representative, are connected to one another as well as to the wider landscape and seascape, and are equitably and effectively managed. Thus, the target as a whole has only been partially achieved.

Nonetheless, there has been a strong push in the GBF negotiations for the 30 by 30 target. The major proponents belong to the High Ambition Coalition (HAC) for Nature and People. This is an intergovernmental grouping of 70 countries, co-chaired by Costa Rica and France and by the UK as Ocean co-chair.

There are strong concerns from IPLCs and civil society that the 30 by 30 target, without due attention to equitable governance and the rights of IPLCs, including their right to free, prior and informed consent (FPIC), would result in the dispossession of IPLCs from their lands, territories and waters. The legacy of “fortress conservation”, where conservation efforts have evicted and excluded peoples from their traditional lands and sources of livelihood to “protect” an ecosystem of value to some other, usually non-local, entities such as international conservation organizations, is still very real today.

With the increasing attention on “NbS”, there are fears that the 30 by 30 target is also being used to serve such ends, by locking up swathes of land for their carbon sequestration potential. It should also be noted that despite a number of countries pledging to strictly protect 30 percent of their lands and oceans, the proposed target in the first draft of the GBF is a global target, which emphasizes protecting “areas of particular importance for biodiversity and its contributions to people”, and these areas would largely lie in developing countries.

Proposals at OEWG 3.1 tried to redress this balance, with language focused on IPLC rights, including FPIC, recognition and support for IPLCs’ collective lands, territories and resources, including community-conserved areas. Several Parties were not in agreement with the 30 percent figure.

### **Resource mobilization**

This issue must first be understood within the larger context of the deeply extractive and inequitable global economy that is in place, both historically and today. While more resources are required to halt biodiversity loss, it is not just a problem of funding (or rather, lack thereof), but one of structural and systemic political-economy root causes, driven by wealthy, powerful elites and corporations.

These root causes include: governments actively subsidizing extractive and biodiversity-harming industries and encouraging extractivism through trade and investment deals; austerity and debt loads on developing countries depleting public finances, impeding government action and further fuelling extractivism; and tax evasion by wealthy elites and corporations draining public coffers.

Nothing in the current goals and targets of the draft GBF addresses these structural resource mobilization issues. This is a fundamental flaw.

At OEWG 3.1, key issues that were discussed under the resource mobilization targets include addressing harmful incentives and subsidies, given that these figures dwarf biodiversity financing. These harmful incentives should be redirected, repurposed, reformed or eliminated, and in a just and equitable way. And when financial savings are generated from subsidy reform, the resources should be equitably redistributed, especially to those conserving and sustainably using biodiversity.

There are also other key issues that still need to be included in the GBF targets on resource mobilization, such as the need to regulate finance, divest from harmful financial flows, and put in place penalties for industries that violate the rights of IPLCs, as penalizing industries that damage biodiversity is also a key component of addressing harmful incentives.

Some Parties called for subsidy reduction to be counted separately from the resources mobilized for biodiversity. As the African Group eloquently put it, “reduction of harmful subsidies is a tactic for threat removal, not resource mobilization”.

At OEWG 3.1, in the finance target, the amount of financial resources of \$200 billion per year was seen as too unambitious by many developing country Parties. Various figures and proposals are now on the table, ranging from increased quanta, to a percentage of global GDP, to a proposal for the creation of a global multilateral benefit-sharing mechanism funded by a 1 percent levy on retail sales in developed countries of all products derived from biodiversity. Furthermore, the target only envisaged “increasing by at least US\$ 10 billion per year international financial flows to developing countries...”, which was viewed by many developing country Parties as grossly insufficient.

Whatever agreement is eventually forged needs to be fair and equitable for developing countries and must fulfil Article 20 of the CBD. In addition, there is a need for resources to be specifically channelled to support IPLCs, and to protect their rights, so that they can continue autonomously safeguarding biodiversity. This aspect is still missing.

A further key question to be answered is where financial resources should come from. There is a lot of attention to “leveraging”, “mobilizing” and “scaling up” private finance. This is based on the claim that the public sector cannot provide all the finance needed, hence the need for private sector financing. Yet the track record of private biodiversity finance shows that flows are actually small and pose risks to livelihoods and rights.

“Leveraging private finance” is essentially about blended finance – the use of public funding to “leverage”, “unlock” or “catalyze” private investments. However, with blended finance, there is a risk of private gains and social losses, as blended finance merely guarantees the incomes of investors and investment bankers, rather than protecting peoples and biodiversity.

In addition, the increasing financialization of nature with the emergence of natural asset companies and the developments in the area of natural asset capital markets are a cause for concern. Instead of the fixation on private and blended finance, and on financializing nature, there has to be focus on other ways of mobilizing public funds and establishing policies that disincentivize environmental degradation in the first place.

If the global community addresses structural barriers – debt, austerity and tax avoidance, for example – there will be adequate public funds. At OEWG 3.1, there was at least a nod to some of these systemic issues, with language proposed on prioritizing public finance, and addressing sovereign debt in just and equitable ways.

### **Technology horizon scanning, monitoring and assessment**

The Aichi Biodiversity Targets did not have a specific biosafety target, which is viewed as a significant oversight, given Parties’ obligations on this issue under the CBD, Cartagena Protocol on Biosafety and the Nagoya – Kuala Lumpur Supplementary Protocol on Liability and Redress. The first draft of the GBF includes a biosafety target, which is couched in broad terms of preventing, managing or controlling the “potential adverse impacts of biotechnology on biodiversity and human health”.



At OEWG 3.1, many Parties were in favour of focusing the target on living modified organisms resulting from biotechnology or modern biotechnology (which are the formulations in the CBD and Cartagena Protocol, respectively). There was also a proposal to include synthetic biology and other new genetic techniques. Other proposals brought in the issues of socio-economic considerations, precaution, liability and redress, the need for the free, prior and informed consent of potentially affected IPLCs, and horizon scanning, monitoring and assessment. These are seen as essential elements of biosafety, for which Parties to the Cartagena Protocol are also adopting a post-2020 Implementation Plan and Capacity-Building Action Plan, which are meant to be complementary to the GBF.

In 2018, CBD Parties had agreed on the need for broad and regular horizon scanning, monitoring and assessment of the most recent technological developments in synthetic biology. Horizon scanning would enable the scanning of the literature and existing research for future developments, which would be very useful to identify and track new developments, as well as anticipate potential adverse effects.

Given the rapid developments, not only in synthetic biology and other new genetic techniques, but also in other fields of technology such as geoengineering, there were efforts at OEWG 3.1 to introduce the idea of an overarching technology horizon scanning, monitoring and assessment mechanism under the CBD, so as to ensure that technology development and transfer is based on the precautionary principle and does not introduce technologies that could have adverse effects on biodiversity or on IPLCs. Proposals were put forward for an additional paragraph to the biosafety target addressing technology horizon scanning, monitoring and assessment, as well as to the 2030 milestone on the means of implementation.

### **Digital sequence information**

In recent years, discussions on the fair and equitable sharing of benefits that arise from the use of genetic resources have focused on the issue of “digital sequence information on genetic resources” (DSI) because of advancements in genome sequencing technologies. This has allowed DSI to bypass the need for the physical genetic resource, and DSI is stored in so-called “open access” databases that are actually a free-for-all for corporations to use and profit from. This was not envisaged when the CBD’s Nagoya Protocol on access and benefit sharing was negotiated. Misappropriation of genetic resources through use of DSI is therefore undermining the CBD’s third objective, and rendering the Nagoya Protocol meaningless.

Many developing country Parties view the issue of DSI as so important that at COP 14 in 2018, several Parties linked the progress of discussion on the GBF to also making progress on DSI, and this issue was officially on the agenda at OEWG 3.1.

Given the two-part structure of OEWG 3, no negotiations on DSI occurred at OEWG 3.1, only discussions, and on the table for the resumed meeting in Geneva are several documents for consideration, including potential elements of a draft recommendation for the COP. Text currently reflects the divergent views of Parties.

Two aspects that are currently not yet agreed, but that are critical, are the need for: (i) the development of a multilateral benefit-sharing system, with benefits paid into an international fund. Such a system would ensure collection of payments for commercial use of DSI and mandatory implementation of benefit-sharing terms and conditions by open access databases on their users; and (ii) for the fund to support IPLCs, particularly women, given the correlation between their land rights and biodiverse ecosystems. It should prioritize IPLCs’ autonomous development of their own knowledge systems for biodiversity conservation and sustainable use.

### **“Voluntary commitments”**

The COP decision launching negotiations on the GBF invited Parties and other governments (the United States is the only country that is not Party to the CBD) to consider developing “voluntary commitments” that “contribute to the achievement of the three objectives of the Convention, strengthen national biodiversity strategies and action plans, facilitate the achievement of the Aichi Biodiversity Targets and contribute to an effective post-2020 global biodiversity framework”.

At the same time, IPLCs, and organizations and stakeholders, including the private sector, were encouraged to consider developing biodiversity “commitments” that may contribute to an effective GBF and to make such information available as a contribution to the “Sharm El-Sheikh to Kunming Action Agenda for Nature and People”.

As such, an online engagement platform for the Action Agenda has been launched by Egypt and China, which are the hosts of the previous and current COPs respectively. To date, 293 “commitments” have been registered on the online platform from academia and research institutes, non-governmental organizations, the private sector, the UN system, youth, IPLCs and individuals.

“Commitments” from governments are also registered. Civil society groups have however been critical of the voluntary approach for Parties, as a “voluntary commitment” is not legally binding and is merely a pledge.

And while contributions from various sectors of society are welcome in principle, they must not detract from Parties’ legally binding obligations under the CBD. Mixing up Parties’ legally binding obligations with the voluntary contributions of other actors blurs the distinction, and dilutes and lessens Parties’ obligations.

Contributions from business and industry, especially those that are driving the biodiversity crisis, are also very problematic. It provides an opportunity for companies to “greenwash” their practices often with tokenisms, leaving systemic flaws intact; it opens the door to conflicts of interest; it allows for the introduction of “false solutions”, which often benefit the companies themselves; and it turns a blind eye to the corporate lobby that prevents real action. There is also evidence that some corporations are destroying biodiversity and violating human rights. Rather than being the subject of regulation, corporations are instead invited to contribute, with no means to distinguish between real and false efforts. There are also no requirements for independent verification of the “commitments” or for disclosure of conflicts of interest.

For example, the agrochemical and biotechnology industry trade association, CropLife International, has made four “commitments”. These are commitments to issue a biennial report on their members’ activities relating to biodiversity and climate; “facilitate equal access to plant science innovations” including through “science-based decision making on imports and cultivation of living modified organisms”; promote effective stewardship for the appropriate management and use of their products; and information-sharing to support compliance with the Cartagena Protocol on Biosafety through three databases. CropLife’s member companies include the largest agrochemical and genetically modified (GM) crop companies, with vested interests in ensuring continued sale of their products and keeping the industrial and GM crop agricultural model in place, which have serious negative impacts on biodiversity.

## **Conclusion**

Many challenges still lie ahead, and the path towards the successful implementation of the CBD remains uncertain.

An honest assessment of where the post-2020 GBF is heading regrettably does not provide much comfort. Divergent views among Parties over extremely difficult issues will be difficult to resolve satisfactorily with the limited opportunity and in the short time frame remaining. Parties may no doubt try to paper over the differences and attempt to reach consensus. In this regard, some sort of agreement will likely be crafted and may well move the needle on action to prevent biodiversity loss a little.

Yet, unless the systemic flaws that are the real root causes of biodiversity loss are dismantled, unless there is equity between developed and developing countries, unless the rights of IPLCs are fully recognized and protected, the outcome will be ill-equipped to truly address the biodiversity crisis.

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*This paper was produced with partial financial contribution from SwedBio/Stockholm Resilience Centre and Brot für die Welt.*