**Further views on the post-2020 global biodiversity framework**

*Submission by Third World Network*

To move beyond 2020, a clear understanding of the failure to arrest the biodiveristy crisis to date is necessary. In this submission, we will focus on structural governance issues in the post-2020 global biodiversity framework.

The Rio Declaration on Environment and Development (1992) established the 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 and technology – to developing countries for them to take action. CBDR has also been reaffirmed in the 2030 Agenda for Sustainable Development.

1) The move towards establishing voluntary pledges including from actors beyond national governments as the way forward is problematic.[[1]](#endnote-1) A “voluntary commitment” is not a commitment; it is not legally binding. It must be simply understood for what it is – a pledge. The Aichi Targets are international obligations on Parties to implement. However, the nature of targets in the post-2020 framework and its relationship with national pledges remains to be determined.

While contributions from various sectors of society are in principle welcome and are undoubtedly voluntary, this must not detract from States’ legally binding obligations to conserve and sustainably use biodiversity in their territories, and to share the benefits equitably. Mixing the two obfuscates obligations by States and voluntary contributions by other actors, diluting and lessening States’ obligations.

2) Contributions by the private sector, business and industry, especially those that are driving the biodiversity crisis, are contradictory in many ways. Among other things, it provides an opportunity for companies to “greenwash” their practices, often with tokenisms, leaving sytemic 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.[[2]](#endnote-2)

Efforts to “mainstream 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 the cover to continue business-as-usual on their own terms.

3) Article 20.4 of the CBD recognizes, “The extent to which developing country Parties will effectively implement their commitments under this Convention will 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 noticeably absent, marking a retreat by developed country Parties from their international commitments and leaving a huge biodiversity financing gap.[[3]](#endnote-3) In COP Decision 14/22 on resource mobilization, 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 mobilisation 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.[[4]](#endnote-4) 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.

4) 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 by the Article 8(j) working group on the knowledge, innovations and practices of indigenous people and local communities. These fundamentals, including the Aichi Targets, must be built upon in the post-2020 framework.

# 5) 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 the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization. The Cartagena Protocol on Biosafety operationalised 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 and their implementation must remain central, and not be sidelined in the negotiations and outcome of the post-2020 framework.

6) 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, at the same time helping to mitigate climate change. In addition, real solutions to the biodiversity crisis can be found in the numerous efforts by IPLCs, who are the guardians of biodiversity.

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 must be addressed. And the kinds of solutions implemented by IPLCs on the ground, together with bottom-up governance must be safeguarded, promoted and entrenched in the post-2020 framework, and privileged in its negotiation process.

7) In conclusion, the following are some key governance cornerstones for the post-2020 framework:

* Binding targets and implementation commitments for Parties, in accordance with common but differentiated responsibilities
* Contributions by other actors must be supplemental to, and not replace, commitments by Parties
* Rigorous safeguards for private sector involvement, and ensuring corporate accountability at all levels
* Implementation of the principle of common but differentiated responsibilities for financial flows and technology transfer
* Mobilization of new and additional financial resources from developed country Parties, with robust safeguards in place for biodiversity financing mechanisms
* Building upon and ensuring implementation of existing obligations, including under the thematic programmes of work, cross-cutting issues and the Protocols to the CBD
* Coherence with other relevant international agreements and processes that are supportive of the CBD’s objectives
* Strengthening and protecting the rights of indigenous peoples and local communities
* Recognizing and incentivizing community-based solutions, including indigenous peoples and community conserved areas
* Establishing structures for bottom-up governance
1. Decision 14/34. Comprehensive and participatory process for the preparation of the post-2020 global biodiversity framework. CBD/COP/DEC/14/34. 30 November 2018. <https://www.cbd.int/doc/decisions/cop-14/cop-14-dec-34-en.pdf> [↑](#endnote-ref-1)
2. See for example the case studies in Amis de la Terre France, CETIM, Observatoire des multinationales, OMAL and the Transnational Institute (TNI) (2018). [↑](#endnote-ref-2)
3. See for example, “Biodiversity - Divergent views on progress towards resource mobilization targets” by Zhu Zhenyan and Chee Yoke Ling. TWN Info Service on Biodiversity and Traditional Knowledge. 22 December 2016. <http://www.twn.my/title2/biotk/2016/btk161210.htm> [↑](#endnote-ref-3)
4. Zhu and Chee (2016). Op. cit. [↑](#endnote-ref-4)