

COP16 BIODIVERSITY SUMMIT: WHAT PROGRESS WAS MADE?



GOVERNANCE & SUSTAINABILITY
Part of the Horizon Scanning series

The COP16 Biodiversity Summit came to a dramatic conclusion in the early hours of Saturday 2 November, following two intense weeks of negotiations. As discussions ran into overtime, the number of attendees dropped below quorum before resolutions were passed, leaving a number of significant issues unresolved. Nonetheless, progress was made on several topics, including a new benefit-sharing mechanism for genetic resources and the further inclusion of indigenous peoples and local communities (IPLCs) in COP processes. The action wasn't just in the main negotiating rooms either - important announcements were made from the sidelines, including the Taskforce on Nature-related Financial Disclosures' (TNFD) launch of [new draft guidance](#) on nature transition planning for corporates and financial institutions, and businesses were [praised](#) for their enthusiasm and engagement during COP16.

We have set out below an overview of the most significant developments for biodiversity and nature, topics that have been kicked into the long grass for now, and notable announcements. The final report and list of final decisions have yet to be published on the COP16 [website](#) (and may not be for some time) - as a result, our commentary is based on reporting and [the COP16 summary statement](#).



Richard Hilton
Partner



Samantha Brady
Head of
Environment
and Climate



**Helena
Campbell**
Professional
Support Lawyer

WHAT DID GET AGREED?

A fund for digital sequence information (DSI)

As trailed in [our pre-COP blog](#), at COP15, the parties agreed to put in place a multilateral mechanism for benefit-sharing from the use of DSI on genetic resources, including a global fund, but the details of how this should work in practice required ironing out. The idea is that biodiversity-rich countries should

benefit when DSI is downloaded and used for commercial purposes (e.g., to make medicines).

At COP16, parties decided that the global fund will be known as the "Cali Fund". Users of DSI (which could include companies in the pharmaceuticals, nutraceuticals, cosmetics, animal and plant breeding and certain technology sectors) should contribute a proportion of their profits or revenue to the Fund, according to their size. It is proposed that large entities

should contribute 1% of their profits or 0.1% of their revenue to the Fund. Public databases, academic, and public research institutions are not expected to make monetary contributions to the Fund. At least half of the funding is to go towards supporting the needs of IPLCs.

Commentators have observed that the language “should contribute” (as opposed to “shall contribute”) implies that contributions to the fund will be voluntary, with reputational prestige the main incentive. However, countries are invited to take measures to “*incentivise contributions from users*” to the Fund, including via legislation. The Fund’s success will likely depend on the extent to which governments and businesses are willing to support it.

Participation of indigenous peoples and local communities

The involvement of IPLCs at COP16 has been remarked on from the start, with participation thought to be at **an all-time high**. This likely contributed to meaningful outcomes for IPLCs, which include the adoption of a programme of work to implement Article 8(j) of the **UN Convention on Biological Diversity** which covers respecting, preserving and maintaining IPLCs’ knowledge and practices in relation to biodiversity and promoting their wider application, and establishing a new permanent subsidiary body on IPLCs. The body is expected to support with implementing the new programme of work and enhance the participation of IPLCs across all COP processes.

In addition, a decision was taken to recognise the role of people of African descent in conservation and use of biodiversity.

Best of the rest

Other achievements include an agreement on mainstreaming biodiversity, i.e., embedding biodiversity considerations into policies and practices that rely on or may have an impact on biodiversity, although there is little detail as to how this should be achieved. In the UK, ministers and policy makers have been subject to an **environmental principles duty** since November 2023, which requires them to consider the environmental impact of new policies.

Agreements have also been reached on the assessment and application of synthetic biology technologies, processes to identify ecologically or biologically significant marine areas, and a voluntary global action plan on biodiversity and health that recognises the links between biodiversity and health and aims to minimise the risk of future zoonotic diseases, building on lessons learned from COVID-19.

WHAT HAS BEEN LEFT UNRESOLVED?

Mobilising biodiversity finance

Perhaps the thorniest issue at COP16 was how best to tackle the question of biodiversity finance, including the implementation of Target 19 of the Kunming-Montreal Global Biodiversity Framework (GBF) agreed at COP15 which aims to mobilise at least \$200 billion per year for biodiversity from all sources by 2030, including increasing total biodiversity-related international financial resources from developed countries to developing countries to at least \$20 billion per year by 2025, and to at least \$30 billion per year by 2030.

Although a biodiversity fund already exists under the COP, contributions have been limited to date. “Finance day” (on 28 October) saw some progress, with seven countries, including New Zealand and France, as well as Quebec, pledging \$163 million to the fund. Commentators were quick to observe that billions, not millions, are needed, however. Throughout COP16, developing countries pushed for an entirely new funding instrument to be put into place. Agreement could not be reached, and the issue has been deferred to intercessional discussions post-COP.

Whether progress will be made in the near future, with so much yet to be agreed upon, is uncertain. Disagreements remain as to the proportion of funding that should come from private and “innovative” sources, with developing countries **expressing concerns** that developed countries should be kept accountable. What exactly these sources should look like is also up for debate - for example, what (if any) role biodiversity credits should play is controversial. The International Advisory Panel on Biodiversity Credits (an independent initiative established by the UK and France in 2023) launched its **Framework for high integrity biodiversity credit markets** on Finance day. Meanwhile, environmental activists at Cali **protested** against the use of biodiversity credits.

Meaningful progress on GBF implementation

A central focus of COP16 was implementing the ambitious goals and targets set out in the GBF, which aims to halt and reverse biodiversity loss by 2030 and put nature on a path to recovery by 2050. Many countries failed to produce updated national biodiversity strategies and action plans (NBSAPs), despite having agreed to do so by COP16. NBSAPs are a crucial way of tracking the actions countries are taking to tackle biodiversity loss.

Although several countries published their updated NBSAPs during COP16, overall numbers remained low, with 44 out of 196 parties having produced new NBSAPs by the time COP16 ended. More positively, 119 countries submitted national biodiversity targets (including the UK), although these don't set out the detail of how they will be achieved. Parties also adopted a new decision text which "urges" parties to produce their new NBSAPs "as soon as possible".

The UK isn't expected to produce its updated NBSAP until 2025, as progress seems to be tied to the Government's review of the Environmental Improvement Plan for England (due to be completed by the end of the year). However, during COP16, the Government [published](#) its confirmed criteria and next steps for delivering on the UK's target to protect 30% of land for nature by 2030, in line with the global target to protect 30% of the world's land and oceans by 2030 agreed at COP15 under the GBF.

Parties were also unable to reach agreement on an updated monitoring framework for the GBF, seen as critical to achieving its targets, meaning that, along with biodiversity finance, the decision will be punted to intercessional discussions post-COP.

NOTABLE ANNOUNCEMENTS

Launch of nature transition plan guidance

During COP16, the TNFD published [new draft guidance](#) aimed at corporates and financial institutions developing nature transition plans. A nature transition plan is defined in the guidance as "*an aspect of an organisation's overall business strategy that lays out the organisation's goals, targets, actions, accountability mechanisms and intended resources to respond and contribute to the transition implied by the [GBF]*". The TNFD welcomes feedback by 1 February 2025, with a view to publishing the final guidance later that year.

The draft guidance aligns with the recommendations of the Transition Plan Taskforce for climate transition plan disclosures, incorporating its three guiding principles of Ambition, Action and Accountability. It also proposes structuring plans around the five themes recommended by the Glasgow Financial Alliance for Net Zero (GFANZ) for climate transition plans. Adaptations have been limited to reflecting differences between nature and climate, including the multiple aspects of nature to be considered and the importance of location. There are lots of helpful worked-through examples to guide organisations, as well as links throughout to useful resources.

The guidance also recognises that while businesses would ideally integrate their climate and nature transition plans, it may be more practical (at least initially) to develop separate plans, with a view to merging in the future.

In addition, the TNFD announced at COP16 that more than 500 companies and institutions have now committed to voluntarily reporting in line with the TNFD's recommendations - a significant milestone, and one that may encourage others to commit.

Separately, GFANZ released [a consultation paper](#) which describes the role that nature plays in net-zero implementation through net-zero transition plans. Its focus is on the reduction and avoidance of nature emissions and the preservation and increase of nature sinks. The paper draws out various characteristics that distinguish nature-related levers from the energy-based activities that populate a climate transition plan. These include timelines reliant on biological processes, the lower availability and quality of data and the primary importance of location-specific context. It also recognises the inextricable linkage between nature and climate, and that including nature within a net-zero transition plan supports the goals of the Paris Agreement and the GBF. Doing so is also cost-effective, as many nature-related levers are among the most scalable and affordable means to reduce emissions.

Financial institutions and other interested parties are encouraged to respond to the consultation to inform the publication of final supplemental guidance, expected in Q1 of 2025.

Although many of the 'big ticket' items have been left unresolved, there is still cause to be cautiously optimistic post-COP16. Private sector engagement was [reported](#) to be at an all-time high and it is significant that organisations such as the TNFD chose COP16 as a launchpad. Businesses can play an important role in supporting the aims of the GBF, both as they plan their transitions and consider how to protect and restore nature across their value chains, and in directing financing to areas where it is most needed. Understanding what an organisation's nature-related dependencies, impacts, risks and opportunities are can kickstart developing a strategy and, longer-term, a detailed plan, and support with responding to upcoming mandatory requirements such as reporting under the [Corporate Sustainability Reporting Directive](#).

CONTACT US TO FIND OUT MORE

Richard Hilton

Partner

T +44 (0)20 7090 3611

E richard.hilton@slaughterandmay.com

Samantha Brady

Head of Environment & Climate

T +44 (0)20 7090 4279

E samantha.brady@slaughterandmay.com

Helena Campbell

Professional Support Lawyer

T +44 (0)20 7090 4046

E helena.campbell@slaughterandmay.com

Daniel Whitham

Associate

T +44 (0)20 7090 5478

E daniel.whitham@slaughterandmay.com



To view the full Horizon Scanning 2024 programme, including our podcast series, please scan the QR code or visit www.slaughterandmay.com/horizonscanning