

## **COP15: Charting a course for a sustainable planet**

By

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### **Introduction**

Around 20,000 delegates from about 190 countries convened at Montreal, Quebec, the seat of the UN CBD Secretariat, to guide global action to protect nature through 2030 amid protests from Indigenous community groups and social movements. Chaired by China and hosted by Canada, the Fifteenth meeting of the Conference of the Parties to the Convention on Biological Diversity (COP15) was convened from 7-19 December 2022, after being postponed multiple times on account of Covid19 pandemic.

### **Opening statements- Stating the Obvious**

Justin Trudeau, the Prime minister of Canada, welcomed the delegates and opened the COP15 stating Montreal as the land of Indigenous communities. He highlighted Canada's commitment to ensure the success of COP15 and pledged CAN\$350 million to advance conservation efforts, particularly for the developing countries. He reiterated the need to have an agreement on biodiversity conservation among the parties to bring in solid initiatives for the same. "We are waging war with the nature and this COP15 is an urgent call", remarked Antonio Guterres, the Secretary General, United Nations during the opening session of COP15. He expressed his concerns over the degradation of ocean and land affecting the communities that depend on these resources for their livelihoods. Huang Runqui, the Minister of Ecology and Environment, China, and the COP15 president, mentioned that biodiversity loss is a shared challenge affecting food security, human survival and development. The Mayor of Montreal, while commemorating the Montreal Protocol adopted thirty five years ago, warned about the challenging situation humanity is going through. All the opening speakers unequivocally resonated the urgent need for action and called for the adoption of a Global Biodiversity Framework to stop the destruction of biodiversity, to protect and restore it.

### **The Process**

Held over two weeks, the UN Biodiversity Conference was preceded by the Fifth meeting of the Open-Ended Working Group of the Post-2020 GBF(OEWG5). The last preparatory meeting, OEWG5, held from 3-5 December 2022, was intended to develop a strategic framework (the Post-2020 GBF) for the parties to negotiate and reach a consensus during the COP15. The CBD process at Montreal included COP15 of the CBD, Meeting of Parties (MOP10) of the Cartagena Protocol on biosafety and the MOP4 of the Nagoya protocol on access to genetic resources and fair and equitable sharing of benefits arising from their utilization.

The COP15 started on 7 December and extended up to 19 December 2022 with discussions and negotiations on 30 agenda items. The meeting was divided into Plenary, Working Group

and Contact Group sessions. The plenary established two working groups to address major agenda items and to deliver a set of draft decisions to the COP. For complex unresolved items, contact groups were established to facilitate negotiations between the parties to develop a draft text that could further be transmitted to the working groups for approval. The draft text developed by the contact group and the working groups will be submitted to the plenary by the COP president for adoption. The COP15, after more than forty plenary sessions, over sixty working group meetings and further contact group meetings late into the night, adopted the ‘Montreal-Kunming Global Biodiversity Framework’ and a few other major decisions with a view to offer global roadmap for the conservation and restoration of biodiversity until 2030.

### **The way to Montreal-Kunming Global Biodiversity Framework**

The GBF, adopted by the COP15 in the wee hours of 19 December 2022, can be treated as a truly historic and hopeful turning point for the humanity to reconnect with nature after mass destruction for decades. The GBF was the most and longest negotiated item in the COP15 and it took the whole two weeks for reaching a consensus. The OEWG5 couldn’t finalize a clean text on the GBF and the draft was taken to the COP15 for further negotiations and finalization. Most of the opposition in the OEWG5 came from Bolivia, African region and the Russian Federation for the disregard of indigenous People’s rights and the non-democratic process involved in the development of the Informal Group text on the GBF. Although the Parties were in support of the GBF in the COP15 and the plenary pushed for its adoption in a spirit of compromise, , the structure and content of the GBF was contested left, right and centre.

In the opening plenary, the representation from the African region, Small Island Developing States (SIDS), Costa Rica and Ethiopia, aired their concern over the technical and financial resources requirements for the successful implementation of the GBF. Costa Rica and the SIDS representation further pointed at the need to adopt the GBF respecting the right of Indigenous Peoples and Local Communities (IPLC), women, youth and environment defenders. European Union (EU) underscored the need for a monitoring framework to ensure the successful implementation of GBF and suggested that financial resources be mobilized from all resources, especially for the developing countries. The Women Caucus, CBD alliance and the International Indigenous Forum on Biodiversity (IIFB) shared their vision of a GBF that acknowledges the rights of Women, Indigenous peoples; respects their traditional knowledge and wisdom and ensures their meaningful participation.

Target<sup>1</sup>, 23 and 19 were the most contested ones in the negotiations. With regard to Target 2, parties took long to reach a consensus on the percentage of degraded ecosystems that needs to be brought under effective restoration. Mexico and India maintained that it is a political decision and needs to be left with the parties to decide. Finally, an ambitious 30% was chosen

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<sup>1</sup>CBD 2022. Decision adopted by the Conference of the Parties to the Convention on Biological Diversity. 15/4. Kunming Montreal Global Biodiversity Framework. CBD/COP/DEC/15/4 19 December 2022. Montreal. <https://www.cbd.int/doc/decisions/cop-15/cop-15-dec-04-en.pdf>

to be included in the text over 20% after multiple rounds of negotiations. The EU, Russian federation, Switzerland, insisted on using an area measurement in the target than a proportion measurement (%), however Japan, India, Canada, African region, Mongolia and Dominican Republic opposed the proposition, and also held against differentiating marine and terrestrial ecosystems.

On Target 3, Brazil, talking from their Amazonian experience, stated that protected areas are efficient strategies for conservation. The High Ambition Coalition (HAC) led by Costa Rica and France pledged their support for the target unanimously. However, there were oppositions in the way target 3 was envisaged in the draft text. Chile, Nepal, India, negotiated for the inclusion of Other effective area-based conservation measures (OECMs) under the purview of Protected Areas and Nepal stated that OECMs opens up avenues of democratic process in conservation. Canada and Japan also supported the proposition for diverse modalities of conservation. IIFB brought to notice, the threat of increasing number of Marine Protected Areas (MPAs) in terms of displacement of IPLCs and asserted for the incorporation of a language acknowledging the rights of IPLC and respecting diverse governance models. These negotiations and campaigns bore fruit with the recognition of IPLCs rights and territories in the target 3

The incorporation of term 'fisheries' in Target 10 on sustainable management of areas was opposed by Malaysia since fisheries is an act of harvesting a natural resource. However, Philippines, Costa Rica, Senegal, European union, Columbia, Peru and the African representation maintained that fisheries be kept in the target and the term found its way through the negotiations into the target in the final text. Peru and Senegal commented on the importance of sustainable management of small-scale fisheries. But the GBF lacked any other text with direct mention of fisheries.

Negotiations on Target 19 witnessed heated exchanges between the Parties. The rampant disconnect between the developed countries' ambition to ratchet up the targets of the framework and developing nations concerns over the resources to do so, was visible all through the negotiations. The target aims to raise up to US\$200 bn per year from all the sources. The African region, India, Iran, The Group of Latin America and Caribbean Countries (GRULAC), Philippines and Indonesia catalogued the biodiversity funding gap focusing on the disconnect between the aspiration and the actual need. Indonesia opposed the redirection of harmful subsidy fund as a part of responsibility shifting since there are outstanding issues regarding harmful subsidies, including its definition and scope. Nigeria commented that the support to the developing countries be in the form of grants, not loans.

The final adopted GBF document comprising four goals and twenty-three targets has taken into account most of these considerations and has made strong references to the recognition of rights of IPLCs all through the goals and targets. In addition to that, the GBF also have references to the free, prior and informed consent as envisaged in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and explicit mention of full and effective participation in decision making.

The CBD COP15 offered a historic win for women all across the globe with a stand-alone target—Target 23-- on gender equality, a Gender Plan of Action supporting the gender responsive implementation of the Kunming-Montreal Global Biodiversity Framework and a monitoring framework for the GBF with indicators assessing gender responsiveness in implementation. The Target 22 ensured a gender responsive representation and participation in decision making in relation to biodiversity. Further, Target 23 ensured gender quality in implementation of the framework through a gender responsive approach. There were contentions on the adoption of the term ‘gender responsive’ especially from the Russian Federation who suggested an alternative of ‘gender sensitive’, however these were lifted during the final adoption of the framework.

Altogether, the Montreal- Kunming Global Biodiversity Framework can be considered as one in a good spirit to support the parties towards real transformations with measurable targets and a monitoring framework to assess the implementation of the same.

Along with the new framework, the COP15 also laid out a few other decisions text on Resource mobilization, Coastal and Marine Biodiversity, Ecologically or Biologically significant Marine Areas and so on.

### **Resource mobilization- The most contested Item**

In addition to long discussions on resource mobilization (Target 19) within the GBF negotiations, a separate agenda item (12A) was exclusively on resource mobilization and can arguably be termed the most contested item in the COP15. As mentioned earlier, most of the developing nations pointed out the inadequacy of the current financial mechanism adopted in the GBF and urged the need for financial flow from the developed countries. The African region, India, Indonesia and the GRULAC called for a separate Global Biodiversity Fund (GBF) other than GEF, based on common but differentiated responsibilities. This call was opposed by the EU, Norway, Canada, Japan and Switzerland. On the final day of the negotiations, the final document on resource mobilization was adopted. In lieu of GBF, it called on GEF to establish a ‘Global Biodiversity Framework Fund’ (GBF fund), a trust fund to increase international biodiversity finance to support the implementation of GBF in 2023 and until 2030.

### **Bringing in the Ocean**

In addition to the mention of Ocean, marine and coastal ecosystems in Target 2, Target 3 and Target 8 of the GBF, the discussions surrounding oceans were brought to the table through the agenda items on conservation and sustainable use of Marine and Coastal Biodiversity (20 B) and Ecologically or Biologically Significant Marine Areas (EBSA)-(20A). These two items were more technical in nature and were discussed in the working group 2. The agenda item on Coastal and Marine biodiversity also held deep discussions and difference of opinions on incorporating protection of 30% of ocean in the text, sustainable use of areas beyond national jurisdiction and so on. The EU and Japan argued for the incorporation of protection of 30% of ocean in the text whereas Indonesia and China staunchly opposed it.

Reference to respect for traditional knowledge, Free, Prior and Informed consent and respect of the rights of IPLCs were supported by Canada and the UK and found its way into the final text. The final document calls for collaboration and co-operation between CBD and other global and regional organizations in the context of binding instruments like United Nations Convention on the Law of the Sea (UNCLOS) While noting the contribution of the FAO in the sustainable use of marine resources, Norway proposed the addition of its role and called for technical support and technology transfer for the implementation of GBF with respect to fisheries and the proposition was supported by Canada and EU.

During the discussion on the agenda item on EBSA, the working group defined 17 new EBSAs in and around the Northeast Atlantic Ocean, including areas around Iceland, the UK, Denmark and the Azores. The discussions noted that the description process of EBSAs may directly contribute to the implementation of the GBF. There were not many contestations in the discussion on EBSA and the text was finalised without much changes. The text focused mostly on capacity building for the identification of EBSAs, since they were expected to contribute directly to the conservation and sustainable use of marine and coastal biodiversity. Parties were also encouraged to consider documentation on EBSA during deliberations of the high sea treaty.

### **What is in store for fisheries sector**

Right from the remarks of the UN secretary general who stated that “destruction of coastal and marine ecosystem has impact on communities depending on these systems for livelihoods”, multiple targets of the GBF and agenda items of the COP15 have implications (direct or indirect) for the fisheries sector. The GBF as a framework of action ensures the protection of rights; free, prior and informed consent; meaningful participation and respect of traditional knowledge and territories of the Indigenous people and Local communities. However, it’s upon the nation States to grab the opportunity to envisage their policies taking into considerations these tenets. The GBF offers scope for the parties to design policies taking into account a human rights-based approach while implementing the framework. For example, Target 3 on 30 x30 allows for sustainable use in protected areas which are consistent with the conservation outcomes. This gives an opportunity for the parties to think beyond the traditional ‘no take zones’ and MPAs and design conservation strategies ensuring meaningful and responsible participation of the local communities.

However, Target 3 could also be a matter of concern to fisheries since the Parties to CBD are limited to enact policies only within areas under their national jurisdictions. These national territories are often used for fishing activities. Any decisions to declare MPAs or expand the PA networks in these territories are likely to have a direct impact on the fisheries sector.

Target 8 which talks about minimizing the impact of climate change and ocean acidifications on biodiversity have ramifications impacting the livelihood of the coastal communities. However, the lack of any numerical targets associated with the same questions, the mode of implementation and assessment of the target raises concerns over its translation to actionable points.

Target 18 on the elimination of harmful subsidies initially had mention of fisheries as a sector with harmful subsidies. Though the sector specific language was dropped in the final text, the target is expected to have an impact on the fisheries sector, especially in the South Asian countries that are major fish producers who are dependent on the fisheries subsidy. However, the target also offers provisions for scaling up positive incentives for the conservation and sustainable use of biodiversity. In that context, it again is upon the State to devise conservation-positive strategies of fisheries management involving communities depending on fisheries to bring them under the purview of positive incentives. So is the case of Target 10, which ensures that areas under fisheries are managed sustainably.

As discussed, since none of the decisions of the CBD is legally binding, it is entirely up to the Parties to decide their priorities and to devise strategies for the implementation of the GBF. In that sense, there is a need to gather political will in support of fisheries sector and this is possible only through constant engagement with these processes and political action. Few of the side events at the CBD was in this regard.

### **Bringing in visibility- The side events**

A number of associated workshops and side events were also organized in parallel and also during lunchtimes and early evenings. There were mainly two side events where small-scale fisheries were represented. The European Bureau for Conservation and Development (EBCD) in collaboration with the IUCN Fisheries Expert Group, the Convention on Biological Diversity (CBD) and the Food and Agriculture Organization (FAO) hosted a side event “*Fisheries in the Post-2020 Global Biodiversity Framework: where and how do they fit*”. The side event stressed on the importance of ‘sustainable use’ for conservation and also for the protection of livelihoods of communities dependent on natural resources and presented the need to incorporate the language on ‘sustainable use’ in the GBF text. The speakers also noted the importance of recognition of rights of IPLCs. The side event on Indigenous and local communities small scale fisheries: local stewardship for the implementation of the 2030 biodiversity conservation agenda, witnessed small-scale fishers from different regions taking the stage discussing the challenges and claiming their right over their territories. They shared their suggestions to ensure a truly transformative biodiversity agenda that includes participatory, inclusive, transparent and accountable implementation of the Post-2020 GBF.

### **Final impressions**

Overall, the outputs of the CBD process- the Global Biodiversity Framework, the Gender Plan of Action, the monitoring framework for the GBF and other decision documents has hopeful elements in it, which if implemented could benefit people, landscapes and seascapes. However, the process was also rampant with missed opportunities, vague language and disregard for dissent. The highly ambitious, at the same time aspirational, targets with a little financial arrangement will be the greatest challenge in the implementation of GBF through 2030.

And for the fisheries sector, the CBD process and the COP15 in particular witnessed minimal engagement of the community stakeholders and related organizations. Strong alliances, representation and participation in the process is important for the fisheries sector to carve out a space for themselves in the CBD discourse, since these discourses are going to redefine what is in store for the sector.