

Biodiversity COP 15

Thinking beyond just the global:
strengthening mechanisms of multi-level
accountability for transformative change

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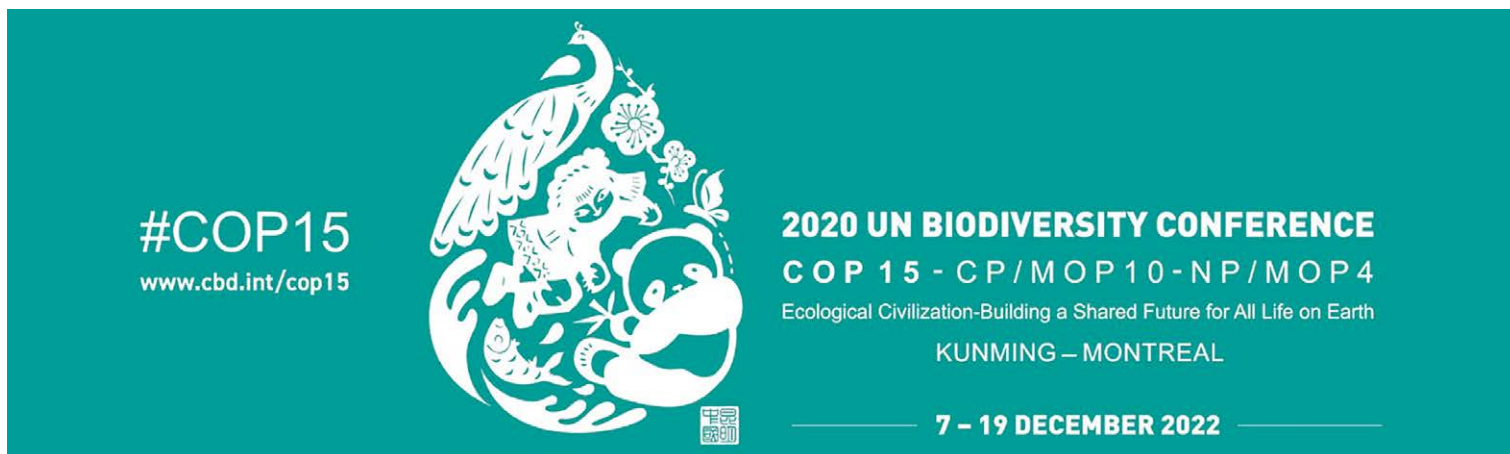
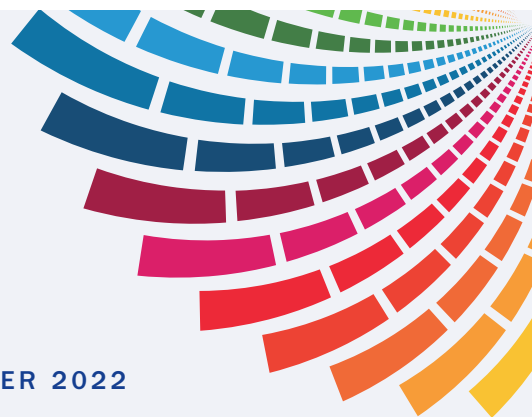


Figure 1: official promotion poster of the 15th meeting of the Conference of the Parties (COP 15) to the Convention on Biological Diversity (CBD) ©UN Biodiversity

EXECUTIVE SUMMARY

The Convention on Biological Diversity's (CBD) post-2020 Global Biodiversity Framework (Post-2020 GBF) provides an opportunity to steer successful implementation to support biodiversity goals and further progress towards goals for climate and sustainable development. Fundamental to the success of the Post-2020 GBF is ensuring that member parties (and other actors) are held accountable for their actions towards global goals and targets for biodiversity. Negotiations on strengthened responsibility and transparency mechanisms at CBD COP 15 are therefore a key element.

It is of concern that the working groups leading up to COP 15 have made limited progress towards strengthened review mechanisms and focus on collective global efforts as opposed to providing transparency on country level actions.¹ Much text is still contained in square brackets, indicating the unwillingness of member parties to agree to a strengthened system of review.²

Part two of COP 15 held in Montreal, in Canada, December 2022 is a vital opportunity to heighten ambition for responsibility and transparency Post-2020 and political will could be mobilised at COP 15 by: (1) heads of state (2) the presidency and bureau of the COP (3) coalitions of willing ministries (4) other groups such as Indigenous Peoples and local communities, youth, women, civil society and research communities. Raised ambition could lead from the development of the voluntary peer review mechanism to a compulsory peer review mechanism for use alongside a 'review and

AUTHOR

Dr Joanna Miller Smallwood,
Solicitor and Lecturer in Law,
School of Law, Politics and
Sociology, University of Sussex

Researchgate:

[Joanna Miller Smallwood](#)

LinkedIn:

Dr Joanna Miller Smallwood
www.linkedin.com/in/dr-joanna-miller-smallwood

Twitter: [@BiodiversityJo](#)

CONTACT

Sussex Sustainability Research
Programme
University of Sussex, Falmer,
Brighton, BN1 9SL United Kingdom

E: ssrp@sussex.ac.uk

W: <https://www.sussex.ac.uk/ssrp>

Twitter: [@SSRP_UoS](#)

¹ The Subsidiary Body on Implementation has drafted a recommendation to COP 15, and there are the two working proposals in Section J of Post-2020 GBF on responsibility and transparency.

ratchet' system. This would enhance transparency and accountability, and facilitate action.

In the event that global agreement for a stronger implementation mechanism is not achieved at COP 15, individual member parties can focus on strengthening reporting, review and other accountability mechanisms at national, sub-national and local levels to facilitate implementation. This will require the adoption of 'interactive' processes of review: firstly, ambitious national targets for biodiversity must be set through a just, fair and inclusive process, outlining their contribution towards global targets. Secondly, transparent national and local review and feedback processes need to be implemented targeting support for implementation. And lastly, a commitment to continually increasing ambition towards global targets through self-reflection, following review and feedback at the national to local levels, is required.

Key findings

1. Increased and shared understandings of the need for strengthened interactive implementation mechanisms at multiple levels of governance to achieve transformative change for biodiversity – through the mobilisation of actors including those at COP 15 such as the presidency, bureau, heads of state, coalitions of the willing, the CBD secretariat and other groups.
1. Agreement at COP 15 to mandate a transparent and transformative implementation mechanism, including a Compulsory Peer Review Mechanism (CPRM), similar to that used during the human rights regime. This would involve a transparent global report of individual party progress identifying parties struggling to adopt and/or achieve national targets in line with global objectives. These parties are then subject to the CPRM to improve implementation of the Post-2020 GBF, as well as targeted for support through resource mobilisation and capacity building. The CPRM would work in combination with a 'review and ratchet' mechanism when parties would be expected to ratchet up commitments every 2 years.
1. Agreement at COP 15 by member parties to adopt 'interactive' implementation mechanisms at multiple levels (national, subnational and local) through (i) just, fair and inclusive systems of target and indicator setting, (ii) transparent review processes, (iii) targeted feedback and support through capacity building, resource mobilisation; to improve implementation and raise ambition towards global targets.

THE CURRENT CBD REPORTING AND REVIEW MECHANISM AND WHY IT DOESN'T WORK

If CBD member parties are truly committed to achieving transformative change and to achieve the vision of living in harmony with nature by 2050,³ significantly increased ambition is urgently needed in negotiations at COP 15 for a strengthened implementation mechanism. For the last three decades obligations have been agreed by the 197 state parties of the CBD in the form of legally binding treaty provisions, protocols, soft law goals, targets, decisions, recommendations and guidelines. Repeatedly, goals and targets for biodiversity are unmet and biodiversity declines at unprecedented rates,⁴ and we have exceeded planetary boundaries which define a safe ecological living space for humans,⁵ and are on a cliff edge of multiple societal collapses.⁶

The changes required within society to halt and reverse biodiversity loss are complex and challenging and require addressing direct drivers (e.g. land use and sea change, overexploitation, pollution, invasive alien species, and climate change) and more importantly the indirect drivers of biodiversity loss (e.g. consumption patterns, human population dynamics, trade, production and development).⁷ This in turn means fundamental change to the way many of us live, noting serious global disparities in relation to those driving biodiversity loss and those most impacted, and the subsequent need for just transformations.⁸ Addressing indirect drivers of biodiversity loss will support other international environmental and sustainability ambitions including the 1.5 degree target for climate and the UN Sustainable Development Goals (SDGs).⁹

To provide an incentive for states (and other actors) to implement change at national, sub-national and local levels, the CBD should ideally adopt a compliance mechanism or significantly strengthen its implementation system of reporting and review.¹⁰ To date the CBD has no agreed compliance mechanism, has never utilised the dispute resolution mechanism and follows the trend of governance by disclosure, popular in the environmental field, through reporting and review. Currently, member parties must adopt policy instruments (National Biodiversity Strategies and Action Plans, NBSAPs); they may adopt national targets in line with global objectives; and they must report on progress on their actions towards biodiversity objectives in national reports. The CBD reporting and review process lacks transparency;¹⁰ the broad synthesis of information provided by Global Biodiversity Outlook reports, and analyses by the secretariat of the CBD,¹¹ fail to communicate progress of member parties, or groups, towards global biodiversity goals. Instead, good practice case studies and actions

to enhance progress to each target are highlighted. This is a key limitation for attainment of global biodiversity targets, as there is no process of naming and shaming, and most state parties have not adopted national targets in line with global ambition. The current implementation mechanism does not hold member parties accountable and has proven as evidenced by the fact that no global biodiversity targets were met by 2020.⁴

A STRENGTHENED POST-2020 GLOBAL IMPLEMENTATION MECHANISM?

At the time of writing, political will for a strengthened CBD review mechanism is lacking. At COP 13 the secretariat of the CBD tested the ground regarding the need for a stronger review mechanism, but the idea was pushed back by some member parties and described as 'premature', and 'distracting', illustrating the challenges to achieving global consensus.^{12 13}

COP 15 is an opportunity to educate, persuade and develop the shared understandings of member parties of the overarching importance of a strengthened implementation mechanism (at the very least) to achieve transformative change for biodiversity. Delegates at COP 15 such as the presidency, bureau, heads of state, coalitions of the willing, the CBD secretariat and other groups can push forward shared understandings in this respect. For example, the presidency, Huang Runqiu from China, and Steven Guilbeault can play a key role through political leadership. Setting the tone that a strengthened implementation mechanism is fundamental to transformation, and steering efforts of the international community in negotiations towards agreement. A Coalition of the willing for a strengthened implementation mechanism could help develop a coordinated effort of willing ministries. The CBD secretariat can co-ordinate efforts of groups such as Indigenous People and local communities, women, youth, civil society and academia to inform party delegates and strengthen the dialogue and understandings around the importance of ambition in relation to 'responsibility and transparency' for the Post-2020 GBF. The role of non-state actors is also key in this respect to reduce transparency gaps by reporting on implementation progress and play a role in persuading countries of the usefulness of this approach.

This lack of transparency in review of progress towards global biodiversity targets at the CBD indicates a lack of buy-in from state parties to take concrete action on addressing the direct and indirect drivers of biodiversity loss.¹⁴ Decision-making at the CBD promotes and reproduces neoliberal values of the environment, as a resource to be exploited, seeking to maintain 'business-as-usual',¹⁵ thus precluding progress for the adoption of compliance mechanisms. Education, persuasion and just, equitable and inclusive decision-making are key to promote the adoption of a strengthened implementation mechanism,¹⁰ yet are hard to attain within the procedural boundaries of global consensus decision-making, where only member parties can participate, and the power dynamics to contribute to negotiations is unbalanced.

Reducing transparency gaps in the CBD review process can be achieved by non-state actors. An NGO coalition report at CBD COP 13 aligned national targets to global biodiversity targets and outlined progress towards them,¹⁶ thus demonstrating what a strengthened review process might look like. The synthesis of data revealed progress towards targets by political and economic groupings, clearly showing where further action is required while encouraging state parties to meet their obligations within the global community.¹⁷ The role of non-state actors in review processes proved unpopular with state parties at the CBD, yet, as with the SDGs, can reduce transparency gaps. Whilst not officially recognised, NGO reports on progress can inform, shape and influence state parties and other actors in institutional bodies and play a role in persuading countries of the usefulness of this approach.

WHAT WOULD A TRANSFORMATIVE GLOBAL IMPLEMENTATION MECHANISM LOOK LIKE?

A more detailed global analysis of implementation is required at the CBD, to give a clear picture of individual country progress, and the adoption of a 'naming but not shaming' approach, which, rather than punish noncompliance, aims to support state parties struggling to reach their goals. The NBSAP peer review mechanism could be strengthened in line with the mechanism used by the Universal Periodic Review of the UN Human Rights Council (UHRPR) created in 2006. Peer review mechanisms provide an important opportunity to identify where and what support is needed for countries struggling to achieve implementation and compliance, including financial resources, capacity building and highlighting key actions and solutions for implementation.

¹³ The EU, Australia and Norway considered the establishment of a mechanism for review of implementation premature. Indonesia called for additional time for in-depth discussions on the peer-review process. Canada considered voluntary self-evaluation sufficient. New Zealand opined that a mechanism for review of implementation would distract efforts towards implementing the Strategic Plan, urging that an additional mechanism be considered at a later date, bearing in mind continued work on a voluntary peer-review mechanism. Switzerland welcomed the voluntary peer-review mechanism, but, with Brazil, highlighted that the process requires further piloting to improve methodologies.

The UHRPR mechanism has a compulsory requirement for all member states to be reviewed every four years,¹⁸ and is designed to create an interactive dialogue around implementation. The review Working Group consists of a 'troika' of three states who actively engage with the human rights situation of the state under review, using information from independent human rights experts, treaty bodies, and other stakeholders, thus promoting inclusivity and equity in the process. The outcome of the review is approved by the Working Group and submitted to the Human Rights Council for adoption. States under review should provide information on the actions taken to implement the recommendations in the previous review.

The peer review process can align with a 'review and ratchet mechanism'. In the wake of the United Nations Framework Convention on Climate Change (UNFCCC) COP 27, drafts persons of the Paris agreement have called for COP 15 to reach an ambitious 'sister deal' for nature. This would mean countries agreeing to adopt national targets in line with biodiversity goals and targets in their biodiversity policy instruments (NBSAPs). The review mechanism would then communicate national progress transparently and state parties would periodically ratchet up their ambitions on actions for biodiversity (following the review process). It is recognised that challenges are presented for biodiversity, and measuring progress is more complex than for greenhouse gases, yet a constant process of development of national biodiversity targets, review of progress towards them, peer review and ratcheting up ambition would facilitate progress towards global biodiversity goals.

TIME IS CRITICAL

So far, the Post-2020 plans for strengthened implementation lack ambition and will take time to put in place. This is worrying, given that time is of the essence and adoption of the Post-2020 GBF has been delayed by two years already. It is suggested that plans for concrete procedures for a global stock take for biodiversity will take until COP 16 (2023) or COP 17 (2024). As will the 'request' that member parties adopt national targets. To date, Parties are only encouraged to use headline indicators, peer review remains voluntary, and non-state actors are only encouraged to align commitments with the GBF. The current proposals for responsibility and transparency are weak and indicate that member parties are not seeking transformative change, rather to maintain business-as-usual and avoid any accountability for their lack of action to address the biodiversity crisis.

OPPORTUNITIES TO STRENGTHEN ACCOUNTABILITY AT MULTIPLE LEVELS OF GOVERNANCE DURING IMPLEMENTATION

The latest text for negotiation at COP 15 is littered with square brackets indicating lack of consensus on wording. Moreover, it is extremely low in ambition and seeks to maintain a voluntary, facilitative system which lacks transparency. There is no agreement that transparency will be strengthened, focusing instead on collective responsibility, so parties will not be held accountable.

If COP 15 fails to strengthen the global implementation mechanism for the Post-2020 GBF, opportunities still exist at national, sub-national and local levels to develop interactive systems of review to facilitate implementation and support progress towards global biodiversity targets. Continual interactive systems of reporting and review can take place at national to local levels whereby (i) measurable targets or goals and indicators are agreed in an inclusive, just and participatory manner (in law, policy or other commitments), (ii) a regular reporting system is put in place to monitor progress towards targets and goals, and to provide an opportunity of self-reflection and social learning for the relevant authority or body, (iii) progress made is transparently reported alongside a system of feedback, with ideas for improvement and targeted resource allocation to further implementation and increase ambition.

An example of an interactive national review process exists in Great Britain's implementation of the 2015 British Invasives Strategy, which assesses progress towards delivery of the strategy actions every four months. Following review, representatives from British governments and their agencies identify and agree priorities; facilitate delivery and assess delivery mechanisms; co-ordinate research; exchange information and experience; increase public awareness; and encourage the development of guidelines and codes of conduct with industry. The review process identifies where funding should be targeted. For instance, the Department for Environment Food and Rural Affairs (DEFRA) funded a network of 29 Invasive Non-Native Species (INNS) community-led Local Action Groups (LAGs) in England to help tackle aquatic and riparian INNS ranging from a single site, such as a pond, to an entire river catchment. The LAGs were set up by charities and relied heavily on volunteers and formed partnerships with landowners. They were successful in mobilising local action, raising public awareness and securing additional funding from local businesses and authorities.¹⁹ Interactive processes

¹⁸ 48 states reviewed annually. UN General Assembly in resolution 60/251.

of review and feedback around INNS in Great Britain have helped to develop shared understandings around policy obligations to improve implementation and facilitate a mutual learning process between multiple stakeholders. Best practice at national to local levels can feed into and influence international governance.¹⁰ For example, the GB INNS secretariat informs CBD UK negotiations on best practices for Invasive Alien Species (informed by stakeholder forums, local action groups and industry) and supports relevant government agencies when requested, and is therefore an important actor spanning local, to international governance processes.

Developing multi-level systems of accountability can begin immediately, thereby facilitating implementation and furthering progress towards global biodiversity targets.

FURTHER INFORMATION

This policy brief is produced by the Sussex Sustainability Research Programme (SSRP) and is based on Smallwood's ESRC/SENNS PDF funded post-doctoral fellowship and forthcoming book 'Implementing International Biodiversity Law' (Routledge, 2023).

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REFERENCES

2. CBD (2022) 'Fifth Meeting of the Open-ended Working Group on the Post-2020 Global Biodiversity Framework 3-5 December 2022, Montreal, Canada', *CBD Meeting Documents*, Available at: <https://www.cbd.int/meetings/WG2020-05> (Accessed: 06 March 2018).
3. CBD (2011) 'Strategic Plan for Biodiversity 2011–2020 and the Aichi Targets "Living in Harmony with Nature"', Available at: <https://www.cbd.int/doc/strategic-plan/2011-2020/Aichi-Targets-EN.pdf> (Accessed: 05 December 2022).
4. IPBES (2019) Summary for policymakers of the global assessment report on biodiversity and ecosystem services of the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services. S. Díaz, J. et al. (eds.). IPBES secretariat, Bonn, Germany. Available at: <https://doi.org/10.5281/zenodo.3553579> (Accessed: 05 December 2022).
5. Steffen, W. et al. (2015) 'Planetary boundaries: Guiding human development on a changing planet', *Science*, 347 (6223), Available at: <https://www.science.org/doi/full/10.1126/science.1259855> (Accessed: 05 December 2022).
6. Spinney, L. (2020) 'Panicking about societal collapse? Plunder the bookshelves', *Nature Publishing Group*, pp. 355–357. Available at: <https://doi.org/10.1038/d41586-020-00436-3> (Accessed: 05 December 2022).
7. Visseren-Hamakers, I. and Kok, M. (2022) 'The Urgency of Transforming Biodiversity Governance', in Visseren-Hamakers, I. and Kok, M. (eds.) *Transforming Biodiversity Governance*. Cambridge: Cambridge University Press, pp. 3-22, Available at: <https://doi.org/10.1017/9781108856348> (Accessed: 05 December 2022).
8. Bennett, N. J. et al. (2019) 'Just transformations to sustainability', *Sustainability*, 11 (14), p.3881, Available at: <https://doi.org/10.3390/su11143881> (Accessed: 05 December 2022).
9. Smith, R. et al. (2019) 'Ensuring Co-benefits for biodiversity, climate change and sustainable development', in Leal Filho, W., Barbir, J. and Preziosi, R. (eds.) *Handbook of climate change and biodiversity*, Springer: Cham, pp. 151-166. Springer, Cham. Available at: <https://doi.org/10.1007/978-3-319-98681-4> (Accessed: 05 December 2022).
10. Smallwood, J. (Forthcoming 2023) *Implementing International Environmental Law*. Abingdon: Routledge.

REFERENCES

11. SCBD (2016) *Updated analysis of the contribution of targets established by Parties and progress towards the Aichi Biodiversity Targets*. UNEP/CBD/COP/13/8/Add.2/Rev.1 21. Available at: <https://www.cbd.int/doc/meetings/cop/cop-13/official/cop-13-08-add2-rev1-en.pdf> (Accessed: 06 March 2018).
12. IISD (2016) 'Summary of the Twentieth Meeting of the CBD Subsidiary Body on Scientific, Technical and Technological Advice and First Meeting of the Subsidiary Body on Implementation', *Earth Negotiations Bulletin*, 9 (664), pp. 1-33. Available at: <https://enb.iisd.org/events/20th-meeting-cbd-subsidiary-body-scientific-technical-and-technological-advice-and-1st-0> (Accessed: 05 December 2022).
14. Smallwood, J. et al. (2022) 'Global Biodiversity Governance: What Needs to Be Transformed?', in Visseren-Hamakers, I. and Kok, M. (eds.) *Transforming Biodiversity Governance*. Cambridge: Cambridge University Press, pp. 43-66. Available at: <https://doi.org/doi:10.1017/9781108856348.004> (Accessed: 05 December 2022).
15. Smallwood, J. et al. (2022) 'The governmentality of tropical forests and sustainable food systems, and possibilities for post-2020 sustainability governance', *Journal of Environmental Policy & Planning*, Available at: <https://doi.org/10.1080/1523908X.2022.2082931> (Accessed: 05 December 2022).
16. RSPB et al. (2016) 'CBD progress report towards the Aichi biodiversity targets, national commitments fall short of action needed to safeguard nature', *RSPB Community Martin Harper's Blog*, Available at: <https://community.rspb.org.uk/ourwork/b/martinharpers/posts/national-commitments-fall-short-of-action-needed-to-safeguard-nature> (Accessed: 06 March 2018).
17. RSPB et al. (2016) 'Progress and alignment of national targets to the Aichi biodiversity targets – World Maps' [PowerPoint], Available at: https://www.changingtheconversation.ca/sites/all/files/eDialogues/world_maps_in_powerpoint_progress_and_alignment_updated12_12_16_v2.pdf (Accessed: 06 March 2018).
19. DEFRA (2015) *The Great Britain Invasive Non-native Species Strategy August 2015*. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/455526/gb-non-native-species-strategy-pb14324.pdf (Accessed: 26 July 2018).