

Convention on Biological Diversity - COP 16

Summary of negotiations | 21 October–2 November 2024, Cali

Overview

COP16 meetings in Cali ended without decisions taken on major items such as resource mobilization and the monitoring framework, but was presented as a success based on a decision on modalities of the multilateral mechanism on DSI (including what is now known as the “Cali Fund”) and the establishment of a new subsidiary body on Article 8j concerning indigenous people’ rights. The negotiations were carried out in 2 working groups and numerous contact groups, and then moved into political negotiations at Ministerial level at the end of the second week. After a marathon twelve-hour night session lasting till the next morning - prolonging COP16 by a day - the COP16 closing plenary was finally suspended due a lack of quorum as delegates had to leave to catch flights. The closing plenary will be resumed at a later time to be agreed to discuss unfinished items, including resource mobilization and the monitoring framework. The L documents submitted to the closing plenary can be found on the [COP-16 document portal](#), though these do not include changes made during the plenary e.g. for the DSI decision.

Armenia was voted to be the host country for COP17.

Underlying all the negotiations were tensions caused by the lack of financial flows from developed to developing countries to support the implementation of the Global Biodiversity Framework (GBF), and fundamental disagreement on whether the GBF Fund should continue to be hosted by the Global Environment Facility or if a new dedicated global financing instrument should be established. Only US \$400 million have been pledged by donor governments to date, with US \$163 million pledged during COP 16, a far cry from the target of 200 billion per annum to be raised from all sources by 2030. Only 44 out of 196 CBD Parties submitted National Biodiversity Action Plans (NBSAPs) to implement the GBF. Resource mobilisation was the main focus of opening statements of all countries.

Given the unlikelihood of any successful outcome on resource mobilisation, there was a strong political imperative to achieve a tangible outcome from DSI which could be seen to allow the operationalization of the system and be presented as a success. Despite the lack of progress in the DSI Contact Group to achieve consensus on key issues, and the recognition by many negotiators that there remained too many open issues for a detailed decision, a COP Presidency text defining many key elements was presented and finally adopted after protracted Ministerial negotiations, but with openings for future adaptation of the modalities built into the text.

In line with the Colombian Environment Minister’s stated desire that this should be the “Peoples’ COP”, several decisions were made in favour of Indigenous Peoples and Local Communities (IP&LC), including the establishment of a permanent subsidiary body

focused on IP&LC issues, a decision recognizing the contributions of people of African descent, and the allocation of at least half of the Cali fund to support IP&LC needs. This focus was also reflected in the design of the Green Zone to involve as much of the population as possible, and the high profile given to COP16 in Cali and the rest of the country, including opening and closing speeches by the Colombian President.

The ICC delegation engaged actively in the DSI negotiations making interventions, exchanging with delegates, and organising and intervening in related events. ICC Colombia and the Camara de Comercio de Bogota also organized a Forum on biodiversity and business in the Green Zone in which ICC members from several National Committees intervened.

Digital Sequence Information (DSI)

Negotiations in the Contact Group (CG) on DSI, co-chaired by the Will Lockhart (UK) and Lactitia Tshitwamulomoni (South Africa), were based on the heavily bracketed draft recommendation resulting from WGDSI-2 in Montreal. There was overall recognition that the system had to be incentive-based and ICC was explicitly asked by Parties during the negotiations for its views on certain items eg fund disbursement and contribution rates. Despite an intense schedule of meetings and three non-papers, several key issues were hardly discussed and little consensus achieved in the Contact Group. As time ran out towards the end, observers had little opportunity to make interventions and were even excluded from the final session.

Brazil unexpectedly presented a new proposal for the contribution mechanism during the CG session, and again during an informal discussion session open to all Parties and observers the next day. This included an option for companies to contribute based only on products developed using DSI, with a sub-option allowing for benefit sharing also on genetic resources used with DSI. It was too late to discuss this during COP16 but will be interesting to explore during the intersessional.

Despite a recognition by many negotiators that there were still too many open questions to agree on detailed modalities, the COP Presidency issued a detailed text proposal based on the heavily bracketed draft decision after individual consultations with Regional Groups and Parties, leading to some disquiet over the process. A revised text appeared later in the day, and after marathon backroom Ministerial negotiations on this (as well as on resource mobilisation, and other issues) a final agreed text was published towards the end of the closing plenary. A last minute addition by India of “without prejudice to national legislation” to paragraph 1 of the agreed negotiated text was included despite strong objections by Switzerland which received little support from other countries.

The final text in the Annex to the Decision sets up a system where all users of DSI in sectors that “directly or indirectly benefit” from its use in their commercial activities “should” contribute a proportion of their profits or revenues, at indicative rates for larger entities over a certain size (para 3). Countries are invited to take measures to “incentivize” them to do so (para 13).

The final text with the addition by India is [attached](#) while the [L document \(without India’s addition\)](#) can be found on the COP16 portal.

In addition to the opening statement during the plenary, ICC made interventions on triggers and the contribution mechanism, principles for fund disbursement, the combined approach to fund disbursement, and on the inclusion of genetic resources and proportionality of payments ([attached](#)).

For a preliminary analysis of the final text, please see the [Annex](#) below.

Monitoring Framework

Ahead of COP16, the continued refinement of the detailed monitoring framework accompanying the Global Biodiversity Framework (GBF) was stated as one of the most important negotiation items, with numerous technical indicators up for agreement by the COP.

- The establishment of the GBF monitoring framework was adopted via [decision 15/5](#) at COP15 in 2022 and includes:
 - Headline indicators for national, regional, and global monitoring
 - More detailed component and complementary indicators
- The monitoring framework will be the central tool used to track implementation progress of the GBF.

During the first week of negotiations at COP16, a Contact Group (CG) was established for Planning, Monitoring, Reporting, and Review (PMRR). This CG convened for two sessions in the later end of the first week, and continued its work through the second week of COP with multiple sessions.

Significant progress was achieved throughout the two weeks, and Parties agreed on all indicators except for indicator 7.2 on pesticides, and component indicators for Target 16 on sustainable consumption - both of which remained bracketed.

The [draft decision](#) was never adopted due to the suspension of COP16, and will have to be revisited at a later date.

Negotiations centered on:

- Agreement to add a new **headline indicator, 22.1** pertaining to land-use change and land tenure in territories of IPLCs. Parties further agreed to undertake inter-sessional work to develop a methodology to monitor this new headline indicator.
- No consensus could be reached on **indicator 7.2**, pertaining to pesticide pollution reduction, and considerations of pesticide environment concentration vs. aggregated total applied toxicity:
 - This item was marked by especially challenging and lengthy negotiations, with disagreements on either considering total applied toxicity (TAT) which centers on pesticide use, or the COP15 proposed indicator for this target; Pesticide Environmental Concentration, which is focused on risk management.
 - In the second week of negotiations, the EU introduced a proposal to remove brackets from both options to allow Parties to choose which indicator to use for their national reviews, and for the issue to be revisited by Parties in a few years, when more data would be available, to decide which indicator is the most suitable for measuring pesticide pollution.
 - This proposal was met with opposition from multiple Parties, expressing frustration at the possibility of adding new indicators at such a late stage of the negotiations - no consensus could be reached.
- Discussions on **Target 18** (reduction of harmful incentives/subsidies) were also marked by challenges, with negotiations on **18.1 and 18.2**.
 - In the second week of negotiations, Parties agreed on streamlined language for both of these indicators, with 18.2 including optional disaggregation by sector.

Resource Mobilisation

A Contact Group (CG) on resource mobilization (RM) was created within Working Group I. During the first week of COP16 negotiations, this CG encountered significant difficulties to move forward on cleaning text, forcing the co-chairs to take a step back and discuss some of the common denominators of the resource mobilization strategy. Despite significant efforts from the co-chairs, Week 1 concluded with little real progress on text and with international media reporting concerns on progress of discussions on resource mobilization strategy at this COP.

Discussions started with the text of the [draft decision coming from SBI-4](#). The Co-Chairs provided an overview of the text and explained that their objective was to develop a non-paper containing a more targeted approach to the text in the main decision. The co-chairs then proposed to first begin discussions on the RM strategy and then discuss the best way to address the proposed new instrument for biodiversity financing. Parties

expressed disagreement with the order proposed by the co-chairs, which were eventually overcome.

RM Strategy: Textual negotiations on the resource mobilization strategy managed to make modest progress on the headers of the strategy, in particular in relation to increasing financial resources from all sources and on the need for comprehensive, fair, timely, inclusive, simplified, and equitable access to financing resources, including non-market-based approaches.

Dedicated global instrument: Parties then turned their attention to discussions around a new dedicated global instrument for biodiversity finance. The co-chairs summarized the options presented to the parties as: (i) establishing a new instrument under the authority of the Conference of the Parties, (ii) postponing the decision to COP17, (iii) deciding that the Global Environment Facility (GEF) would continue to operate the financial mechanism and (iv) examining other possibilities based on the observations of the Advisory Committee on Resource Mobilization. Two sides to the discussion could be easily identified: those advocating for a longer period of consideration and evaluation of the need and feasibility of the mechanism and those asking for a swift creation and operationalization of a new dedicated instrument for biodiversity finance.

Outcomes, non-papers and draft decision: Faced with little progress on textual negotiations, the co-chairs initially suggested opening discussion on the headers of the draft decision on RM to allow textual negotiations without Parties requesting repeated safeguards throughout the text. This resulted in the [creation of the first non-paper](#) which gathered in three clusters the possibilities relating to the dedicated global instrument. This first non-paper was followed by a draft decision [CBD/COP/16/L.34](#) submitted by the COP President during the closing plenary. This draft decision included the establishment of a dedicated global financing instrument for biodiversity under the authority of the COP, to be made fully operational by 2030, and with an intersessional process to determine its modalities by COP 18. As expected, parties reiterated their positions with delegations led by the EU expressing that they could not accept that decision, and delegations led by the African Group and Brazil expressing support for the draft text. **A final decision on RM was not adopted due to the suspension of the closing plenary.**

Financial Mechanism

The Contact Group for the Financial Mechanism focused on the review of the effectiveness of the financial mechanism, and on the development of a list of requests to the GEF, including its agreement to emphasize the importance of providing “adequate and predictable support” to developing countries as they prepare their national reports, develop their NBSAPs, and establish national finance plans for their respective biodiversity targets.

Parties also engaged in lengthy discussions on the GBF Fund (GBFF).

There was consensus on the urgent need to scale up finance for the GBFF as proper resourcing of the GBFF was considered critical to ensure effective GBF implementation - especially through Target 19 and its goal of mobilizing \$200 billion/year towards biodiversity conservation. Several Parties expressed deep concern regarding the lack of adequate contributions.

For the draft decision, Parties agreed on a need to improve the strategic guidance developed by the COP to the GEF “as the institutional structure operating the financial mechanism of the Convention on an interim and ongoing basis.”

Also of note, on p.2 of the draft decision, is the still bracketed para on the importance of appropriate burden sharing among developed country Parties in the implementation of biodiversity obligations, highlighting the challenging negotiations that took place throughout the two weeks. The broad divide between developing and developed nations kept resurfacing during negotiations, with disagreements on how to fairly allocate financing responsibilities between countries.

During further discussions on the GBFF, Parties did agree on language pertaining to different degrees of responsibilities for developing and developed countries, “developed country parties and other parties which voluntarily assume the obligations of developed country parties,”

The draft decision was not adopted due to the suspension of the closing plenary, and will have to be revisited at a later date.

Biodiversity and climate change

At the start of COP16, a Contact Group (CG) was formed to discuss a [non-paper on biodiversity and climate change](#), based on a [draft recommendation](#) from SBSTTA25.

The CG convened four sessions during week 1 into early week 2, with discussions centered on the biodiversity and climate change nexus. [Decision 15/30](#), adopted at COP15 in 2022, calls on Parties to consider the critical threat to biodiversity posed by climate change and its role in adaptation, mitigation, and disaster risk reduction. The decision further calls on Parties to consider climate change beyond Target 8 and 11, while working towards implementing the GBF.

During the final session, text calling for the Secretariat to possibly establish a joint work programme for the Rio Conventions was significantly softened, with the EU introducing language to have the Joint Liaison Group of the Rio Conventions be responsible for gathering views on alternatives to “enhance policy coherence among the Rio Conventions”, to explore possible suitable topics for potential joint work programmes.

At the Friday closing plenary, the [decision was adopted](#). The final text urges Parties to maximize potential synergies between biodiversity and climate actions, and specifically urges Parties to consider the integration and promotion of Nature-based Solutions (NbS) and/or ecosystem-based approaches, and non-market-based approaches to climate change adaptation and mitigation when developing their updated NBSAPs and other national biodiversity targets.

Also of note, the decision calls on the COP16 President to collaborate with the UNFCCC COP29 and COP30 Presidents to identify opportunities for coordination on climate change and biodiversity loss, with references to more formal synergies between Multilateral Environmental Agreements (MEAs).

Throughout the two weeks:

- Parties struggled to strike a balance between mitigation and adaptation considerations, with some Parties cautioning that this is a CBD document and there is a need to be mindful of mandates to not interfere with work already being carried out under the UN Framework Convention on Climate Change (UNFCCC).
- There was a strong focus on better aligning the work between UNFCCC and UNCBD, to avoid overlapping agenda items, and better leverage synergies. There were also discussions on more technical items such as Article 6 of the Paris Agreement (carbon markets) and especially the role of NbS in implementing Article 6.8 of the Paris Agreement (non-market approaches).

Enhanced recognition of the role of indigenous peoples and local communities, and people of African descent in the conservation of biodiversity

- **Creation of subsidiary body on Article 8j:** One of the more significant decisions at COP16 was the creation of a permanent Subsidiary Body on Article 8j (SB8j) relating to indigenous peoples and local communities (IP&LC) after many years of discussion ([decision CBD/COP/16/L.6](#)). This will provide advice to the COP and other bodies of the CBD and its Protocols on issues relevant to indigenous peoples and local communities, enhancing and formalizing the engagement and participation of IP&LCs in all convention processes. Its modus operandi is expected to be defined at COP17.
- **Recognition of people of African descent:** After intense debate, [decision CBD/COP/16/L.7](#) proposed by Colombia and Brazil was adopted to recognize the contributions of people of African descent, embodying traditional lifestyles, to biodiversity conservation and the implementation of the Convention and the GBF (decision). The Decision invites Parties to recognize, and facilitate the participation of these communities in biodiversity efforts, protect their knowledge and practices,

provide financial support and capacity building, and include their contributions in national biodiversity reports.

ANNEX – PRELIMINARY ANALYSIS OF COP16 DSI DECISION

Below is a preliminary analysis of the final COP16 decision on DSI which still needs to be refined to understand its impact, after discussion internally and with Parties.

NB: The [almost final decision](#) can be found on the CBD COP16 portal. The final version (not yet published) will include the addition by India below in Paragraph 1.

1. The multilateral mechanism for the fair and equitable sharing of benefits from the use of digital sequence information on genetic resources covers without prejudice to national legislation digital sequence information on genetic resources:

The final text in the Annex to the Decision sets up a system where all users of DSI in sectors that “directly or indirectly benefit” from its use in their commercial activities “should” contribute a proportion of their profits or revenues, at indicative rates for larger entities over a certain size (para 3). Countries are invited to take measures to “incentivize” them to do so (para 13).

Sectors: Although the annexed list of sectors is arbitrary and has never been properly discussed, there is no specific provision for this to be reviewed, so it will presumably only be reviewed at COP18 during the overall review of the mechanism. While plant breeding disappeared off the list in the second version of the Presidency text, it reappeared in the final version. The sector list still includes providers of IT services related to use of DSI and laboratory equipment and supplies for sequencing activities. It is unclear what sectors would be considered to “indirectly benefit”.

Entities in sectors expected to contribute at indicative rates: Entities which on their balance sheet dates exceed at least two out of three of these thresholds (total assets: USD 20 million; Sales; USD 50 million; Profit: USD 5 million) averaged over the preceding three years are expected to contribute at the rates indicated.

Indicative contribution rates: Indicative rates of one percent of the profits or 0.1 percent of revenue are set out in paragraph 3. However, the decision provides that contribution rates and thresholds will only be established at COP17.

Relationship with national legislation: The relationship with national legislation is unclear, with caveats that elements should be “consistent with” or “without prejudice to” national legislation in the preamble and several operative paragraphs of the Annex. As for legal certainty with respect to compliance with national laws, the Decision provides that proof of contributions to the fund would exclude any expectation to share further monetary benefits from the use of DSI within scope for that year (para 15), while inviting countries to align national legislation with the MLM to avoid stacking of benefit sharing requirements

(para 26) – it is unclear to what extent the certificate will provide a clear licence to operate to contributors if countries have not yet aligned their laws.

Material scope: The term “DSI” itself is not defined, but DSI within the scope of the MLM is described in paragraph 1. This covers DSI that is made publicly available, except for DSI from GRs subject to mutually agreed terms (unless these allow the DSI to be made freely available) and DSI subject to obligations of other multilateral ABS instruments. The implications of this for legal certainty requires further analysis.

Relationship with other international ABS instruments: The decision provides for the MLM to be mutually supportive of and adaptive to other international access and benefit-sharing instruments to avoid obligation stacking (para 27), with the possibility of funds collected to also be used for their purposes if they decide to use the mechanism (para 18).

Fund administration and disbursement: Funds collected will be administered by the UN Multi-Partner Trust Fund Office (para 23), and allocated directly to developing (para 18) countries which should report on and account for how funds are used for conservation and sustainable use (para 20). At least half of the funding should support the needs of IP&LC (para 21) and a proportion may be allocated in the future towards capacity building (para 22).

Governance: The fund will be under the governance of the CBD COP (para 23) with a steering committee providing oversight (para 28). While the current terms of reference (Enclosure D) includes private sector representation, this is only in an observer capacity while IP&LCs will be full members.

Role of databases: Much time was spent discussing the responsibilities of databases (para 10) which now “should” provide information relating to benefit sharing obligations and also request those uploading DSI to indicate that it is not subject to any restrictions which prohibits its sharing.

Possible extension to genetic resources: Factors to be considered in the review at COP18 in Enclosure F includes “(n) any factors relevant to, subject to national circumstances, the feasibility on a case-by-case basis of the voluntary extension of the multilateral mechanism to genetic resources at a later date” so was in the end included.

Openings to review and adapt elements: As many of the details have not been sufficiently discussed and do not reflect consensus among Parties, several openings have been negotiated in the text to allow review and studies of various elements.

- Studies will be prepared/commissioned (para 6 Preamble) on
 - national and international standards for the identification of small, medium and large entities;
 - contribution rates, including implications for revenue generation and economic competitiveness.

- options for making DSI publicly available and accessible in a transparent and accountable manner
- Views from Parties and stakeholders will also be requested on
 - the modalities of the MLM; and
 - potential new tools for data transparency (paras 3 and 4 of Preamble)

These will be considered in the Subsidiary Body on Implementation (SBI)

- Thresholds and contribution rates will be established at COP17, and periodically reviewed.
- A fund allocation formula will be determined at COP17 based on the findings of an Ad Hoc Technical Expert Group on allocation methodology (para 19).
- The effectiveness of the MLM and the fund, will be reviewed at COP18 and every second subsequent COP against the principles established in decision 15/9 (para 29). This will take into consideration the factors in enclosure F.