



**PROMOTING LAWS FOR BIODIVERSITY – CBD COP 12
Experts' Retreat: Defining Priorities, Actions and Partnerships**

Break out theme 2: Mainstreaming and Economics of Biodiversity

Mainstreaming biodiversity across sectors and society and recognizing the value of ecosystem services is one of the main challenges faced by CBD Parties as they work towards the implementation of the Strategic Plan. Actions to be taken include mainstreaming biodiversity in the sustainable development agenda as well as in national poverty reduction and development strategies (Aichi Target 2), further recognition of the economic value and benefits of biodiversity for society (Aichi Target 3), and securing new and additional financing sources (Aichi Target 20).

Countries and organizations worldwide are taking action to achieve these goals: putting in place the right economic incentives and financing mechanisms, including fostering a creative/green economy and sustainable businesses; promoting more synergies on international financing, such as linking biodiversity and climate change mitigation; applying (legal or voluntary) biodiversity safeguards to financing; economic valuation of ecosystems and biodiversity, and natural capital accounting. The lack of supportive governance and legal frameworks can create roadblocks to progress in these efforts, while coherent legal and policy measures can catalyze and make them more effective.

Given the broad scope of these issues, progress to date has been limited, but the moment is timely to advance. A recent UNEP-FNI review of NBSAPs shows that little progress is being reported by countries to meet Strategic Goal A, thus options and new solutions are urgently needed. Furthermore, WGRI 5 recently defined modalities and milestones for the achievement of Aichi Target 3, proposing steps at national levels to identify harmful incentives for elimination, phase out or reform, and implementation of positive incentives.¹ National/sub-national policies enshrined in law and made effective through legal approaches have much to contribute to these processes. In fact, lessons learned are emerging from IDLO programming and research with country experiences² which demonstrate that, among other issues:

- Countries can use a range of legal measures to mainstream biodiversity considerations across sectors, including environmental (or other forms of) impact assessments, taxation and revenue laws, access to information, land planning and others;
- Establishing enabling legal frameworks can build confidence and buy-in for the creation of mechanisms such as payment for Ecosystem Services (PES), biodiversity offsets, fiscal and market based approaches for biodiversity, as well as unlock opportunities for promoting a green economy and sustainable businesses;
- Defining clear legal mandates for institutions at national and local levels can overcome impasses, spread awareness and empower authorities to mainstream biodiversity considerations across sectors and enforce implementation of legal measures;
- Legal empowerment of people, especially the most vulnerable populations and those that depend on biodiversity for their livelihoods, can lead to more sustainable use of biodiversity and a better integration of biodiversity concerns in economic activities.

¹ WGRI 5 Document UNEP/CBD/WGRI/5/4/Add.1.

² IDLO, Legal Aspects of Aichi Biodiversity Target 3: a Scoping Study, 2014.

The above suggests that biodiversity laws and adequate governance structures can play an important role by providing the certainty and incentives for governments and people to work together towards building a green economy and promoting sustainable development. While there is no one-size-fits-all solution, the exchange of experiences among countries and organizations is of uttermost importance to identify what has been successful and could be replicated, what are the most pressing challenges, and what partnerships could be forged to provide coherent support to countries. The questions below provide initial guidance for discussions.

Questions for consideration

- What actions is your country/organization taking to mainstream biodiversity in the sustainable development agenda and/or national development and poverty reduction strategies? Has an assessment of the gaps and opportunities in the legal and institutional frameworks been undertaken to understand their potential impact in leveraging the economic value of biodiversity?
- How will the proposed WGRI 5 modalities and milestones for T3 and approaches across sectors to mainstream biodiversity be reflected in NBSAPs, and what are promising legal options that can contribute to their implementation?
- What specific laws and regulations in your country act as barrier to promoting a green economy and the creation of sustainable businesses, and other incentives? What is the role of legal approaches across sectors and at sub-national levels to act as enablers of such opportunities, such as (among others) tax, contract, land, property and corporate regulations?
- Which ministries and/or institutions have jurisdiction over biodiversity and/or economic incentives (e.g. Finance, Development Trade, Environment, Agriculture, or specific Biodiversity authorities)? What are promising efforts to define clearer institutional mandates or enhance cross-ministerial collaboration for biodiversity?
- What are the best approaches for offering legal assistance or building legal capacity to CBD Parties to address these legal challenges and share and leverage on the wide range of emerging legal solutions? How can this legal support be best incorporated into broader programs to assist CBD Parties?
- What actions and partnerships can be built among actors involved in this field to effectively assist CBD Parties to build legal support in mainstreaming biodiversity into key economic sectors and putting in place the right economic incentives for biodiversity?

Session Structure

The discussion will be led by expert moderators that will provide a general overview on the themes and key questions for consideration. Participants will be invited to express their views on the core themes and suggested questions. Key points discussed during the thematic breakout session will be reported back to the plenary session with the aim to identify the promising legal tools and supportive partnerships needed to assist CBD Parties to make meaningful progress on building legal frameworks to achieve Aichi Biodiversity Targets 2, 3 and 20.

What is expected?

The session aims at providing a roadmap, identifying the most pressing issues, what successful and innovative actions could be replicated in this field, and what partnerships and new programming are needed to provide support for legal preparedness for mainstreaming and providing the right economic incentives and financing for biodiversity.