

## COP27 round-up—16 November 2022 (Biodiversity Day)

On 16 November 2022, the focus at COP27 shifted to issues relating to biodiversity, paving the way for the UN Biodiversity Conference (COP15) which is due to take place between 7 and 19 December 2022 in Canada. Key developments of the day included the launch of the Enhancing Nature-based Solutions for Climate Transformation initiative which hopes to close the finance gap for nature-based solutions across seven areas, the publication of the High-Quality Blue Carbon guidance, and the UK committing £30m to the Big Nature Impact Fund and £12m for the Ocean Risk and Resilience Action Alliance. The EU and Egypt also signed a Memorandum of Understanding on a strategic partnership on renewable hydrogen and a joint statement under which the EU will provide €35m for Egypt's Energy Wealth Initiative, and the Beat the Heat: Nature for Cool Cities Challenge was launched. Penny Simpson, partner at Freeths LLP, Zaneta Sedilekova, associate at Clyde & Co and Biodiversity Risk Advisor at Commonwealth Climate and Law Initiative, Ben Standing, partner at Browne Jacobson LLP, and Dean Hickey, associate at Slaughter and May, share their thoughts on Biodiversity Day.

This analysis was first published on Lexis®PSL on 16 November 2022 and can be found [here](#) (subscription required).

### Enhancing Nature-based Solutions for Climate Transformation initiative

The COP27 Presidency, the International Union for Conservation of Nature and the German Government [launched](#) the Enhancing Nature-based Solutions for Climate Transformation (ENACT) initiative, designed to drive collective action across climate, biodiversity and desertification to help close the finance gap for nature-based solutions. The initiative aims to protect at least 1 billion vulnerable people from the impacts of climate change, secure up to 2.4 billion hectares of healthy natural and sustainable agricultural ecosystems, and increase global mitigation efforts by protecting, conserving and restoring carbon-rich terrestrial, freshwater and marine ecosystems.

ENACT will focus on seven areas—food security and land productivity, adaptation and disaster risk reduction, oceans and sustainable blue economy, urban resilience, green-grey infrastructure, nature-based solutions in national and subnational mitigation strategies, mobilising private investment in nature-based solutions, and health, climate and nature-based solutions. An annual State of Nature-based Solutions report will also be produced on the implementation of nature-based solutions commitments.

Simpson says that the Freeths LLP Environment Team is 'especially inspired' by the launch of the ENACT partnership. She commented: 'It is great that COP27 is, today, on Biodiversity Day, talking about nature-based solutions and the role that these can play in enhancing the resilience of ecosystems and the societies that depend on them, in supporting adaptation to climate hazards, and in delivering significant biodiversity benefits. Nature-based solutions are already front and centre of the UK's environmental policy as a means of addressing and mitigating impacts from development. The UK Government's most ambitious example of such policy is the new "Biodiversity Net Gain" legal duty on developers in England. Under the adopted [Environment Act 2021](#), developers will be required to deliver a mandatory "at least 10%" biodiversity net gain from every development which receives [Town and Country Planning Act 1990](#) planning permission from November 2023, with a similar requirement

coming into force for [Planning Act 2008](#) consents (Nationally Significant Infrastructure Projects) from 2025.

Other policies include: the “Nutrient Neutrality” mitigation approach that Natural England has advised many local planning authorities across England to adopt when determining development applications which risk harming sensitive natural habitats through nutrient pollution (nitrates and phosphates), the emerging “Water Neutrality” approach from Natural England to protect water-stressed protected habitats, and the emerging Environmental Land Management Schemes through which farmers and other land managers may enter into agreements to be paid for delivering clean water and air, protection from environmental hazards and thriving plants and wildlife.

Freeths LLP hope that the ENACT Partnership and the focus of COP27 on the importance of nature and the uptake of nature-based solutions will galvanise the UK government to continue to develop their thinking on these important initiatives and policies which are at the heart of sustainable development.’

Sedilekova added: ‘This is a significant development, which is likely to translate into the final text of the COP27 agreement. Governments should also expect to face an increasing pressure to incorporate nature-based solutions into their national climate commitments and provide estimates on how these will allow them to meet their climate targets. A word of caution is well placed here – some nature-based solutions which address climate changes exacerbate biodiversity loss (biofuel monoculture being an often cited example) and COP27 negotiators should be careful not to commend these in the final agreement.’

Hickey observed: ‘There was a recognition from delegates of the need to ramp-up investment in Nature-Based Solutions to both mitigate the impacts of climate change and to prevent further biodiversity decline. Realising nature’s potential as an “investible proposition” has long since been a goal for investors and civil society alike. The discussion today at COP suggests that there is growing political will to make this a reality. Nature-Based Solutions have long been touted as key in delivering climate resilience for vulnerable communities across the globe. They also have a significant potential for use in carbon sequestration and bolstering the green economy. The credentials of Nature-Based Solutions were given a significant boost only last week with the Biden Administration’s announcement of its “Nature-based solutions Roadmap”. Attention will now turn to next month’s COP15 summit in Montreal to see whether an agreement can be reached on a new Global Biodiversity Framework to replace the undelivered Aichi goals.’

### **UK’s pledges during Biodiversity Day**

On Biodiversity Day at COP27, the UK government has [committed](#) £30m of seed finance to the Big Nature Impact Fund, which aims to facilitate private investment into woodland creation projects, peatland restoration and habitat creation. It also pledged an additional £12m for the Ocean Risk and Resilience Action Alliance, £6m to enable developing countries to increase their commitment to nature and nature-based solutions under the Paris Agreement, and a contribution of £5m toward the Inter-American Development Bank’s Multi-Donor Trust Fund for the Amazon, which tackles deforestation through community-led projects and provides business opportunities to Indigenous Peoples.

In addition, the UK endorsed the Mangrove Breakthrough, launched at COP27 on 10 November 2022 under the Breakthrough Agenda to preserve coastal mangrove forests, and expressed its continued support for the Global Ocean Decade Programme for Blue Carbon.

### **High-Quality Blue Carbon Principles and Guidance**

[Guidance](#) on high-quality blue carbon, intended to assist with the development and purchasing of high-quality blue carbon projects and credits, was [published](#) by Conservation International, Salesforce and a global coalition of ocean leaders. The guidance is based on five principles—safeguarding nature, empowering people, employing the best information

and carbon accounting principles, operating contextually and locally, and mobilising high integrity capital.

### **EU-Egypt Memorandum of Understanding on a strategic partnership on renewable hydrogen**

The European Commission signed a bilateral [Memorandum of Understanding](#) (MoU) with Egypt's Minister for Petroleum, Tarek El Molla, and Minister for Electricity and Renewable Energy, Mohammed Shaker El-Markabi, on renewable hydrogen. Following the [joint statement](#) issued by the Commission's President, Ursula von der Leyen, and Egypt's President, Abdel-Fattah El-Sisi, on 9 November 2022, the MoU is intended to serve as a framework to support long-term conditions for the development of a renewable hydrogen industry and trade across the EU and Egypt. It will also support the EU's REPowerEU plan of reaching 20 million tonnes of renewable hydrogen consumption by 2030, as well as facilitate investment in renewables and boost the decarbonisation process in Egypt.

### **EU-Egypt joint statement on Energy Wealth Initiative**

The Commission's Executive Vice-President, Frans Timmermans, and Commissioner for Energy, Kadri Simson, also signed a [joint statement](#) with the European Bank for Reconstruction and Development and the Egyptian Minister of International Cooperation, Rania El Mashat, in which it was announced that the EU will provide €35m for the Energy Wealth Initiative pillar of Egypt's Nexus Water, Food and Energy initiative. The Energy Wealth Initiative aims to close down 5,000 MW of existing and inefficient gas-based power generation capacity and support the installation of 10,000 MW of new renewable energy capacity. The funding will be provided via EU's Economic and Investment Plan for the Southern Neighbourhood.

### **Team Europe Initiative on Climate Change Adaptation and Resilience in Africa**

A new Team Europe Initiative on Climate Change Adaptation and Resilience in Africa was [announced](#), as part of the EU-Africa Global Gateway Investment Package. The initiative will collate the €1bn of existing and new climate change adaptation programmes to improve co-ordination and reinforce policy dialogue on adaptation between the EU and the African Union. It is structured alongside four pillars—reinforcing early warning systems, developing and implementing Climate and Disaster Risk Finance and Insurance tools and mechanisms, increasing public sector readiness and supporting mechanisms to mobilise international climate finance on adaptation, and supporting climate risk data collection, aggregation and analysis.

### **Beat the Heat: Nature for Cool Cities Challenge**

The Beat the Heat: Nature for Cool Cities Challenge was [launched](#), which asks for pledges to increase the implementation of nature-based solutions in urban areas by 2030. Participants will be asked to demonstrate urban nature-based solutions' ability to mitigate the urban heat island effect, avoid emissions, and reduce energy demand, drive finance for replication and upscaling, and send a demand signal to project developers and financiers. Grants will be provided to participating cities in low and lower-middle income countries, and winners will be supported with matching finance for implementation based on the value of investment committed, tiered by the income level of the country.

### **Comment**

Standing remarked: 'The COP27 presidency has tweeted that over the course of the day three pillars – Present, Hope and Vision – will set the context for the nexus between biodiversity and climate change, as delegates share solutions and define pathways to scale up urgent action that addresses biodiversity loss and climate action.

We have heard various speakers, including government ministers and representatives from international institutions, NGOs and environmentalists discussing the importance of conserving biodiversity (with a topical session on coral reefs in the Red Sea). Failing to meet

our climate change targets is having serious knock-on impacts for the very ecosystems we depend on to continue functioning as sinks for greenhouse gases. Failing to halt and reverse damage to high carbon ecosystems such as forests serves only to accelerate global warming.

In the context of accelerating climate change and continuing biodiversity and habitat loss, and increasingly extreme weather events, it is imperative that the political discussions at COP27 are translated into action on the ground. Regulatory and financial frameworks have a vital role to play in incentivising and supporting this action, and demonstrating a long-term political commitment to progress.

Whilst no deal has yet been reached, the COP27 President is optimistic that a deal on loss and damage can be agreed this week, despite the fact that the issue of how development nations should compensate developing countries for climate change related disasters they had little role in causing only being on the agenda for the first time.

It is positive that over 120 heads of state have attended and engaged with COP27 – however the challenge remains on how to convert these agreements and convert these agreements into action.'

Sedilekova further reflected on the Biodiversity Day developments and their impact on the upcoming COP15, stating: 'The Biodiversity Day of COP27 also saw a statement from the architects of the 2015 Paris Agreement urging the world leaders to conclude a similar agreement for nature in December 2022, when they meet again in Montreal, Canada for international biodiversity negotiations – so-called COP15. Although the phrase "Paris-style agreement on biodiversity" is not new, this is the first time the term has been used in the international settings. No one can dispute that we are in dire need of such agreement. However, it is important to emphasise the need for tailor-made content of such an agreement given that biodiversity differs from climate in significant respects. Unlike climate change, which is caused by accumulation of greenhouse gases in the earth's atmosphere, biodiversity loss is caused by multiple drivers. In addition, while it is hard to trace greenhouse gases to their local source once they are dispersed in the atmosphere (although significant progress is being made to that end in attribution science), drivers of biodiversity loss are often location-specific. These differences need to be given high priority in COP15 negotiations, which should follow the 'framework' rather than the 'letter' of the Paris Agreement. My hope is that we will see states committing to submit nature conservation and restoration targets at COP15 and provide regular reports on progress towards them until 2030. Regular measurements provide grounds for increased accountability and put pressure on government to do better. This could motivate civil society to scrutinise biodiversity impacts of both states and corporate actors, potentially through litigation.

Moreover, Brazil's president-elect, Luiz Inácio Lula da Silva, joined COP27 on the Biodiversity Day to reinforce his promise to fight illegal deforestation in the Amazon and expressed his wish to hold the 2025 climate negotiations in Brazil. Although most of us understand why preservation of the Amazon is relevant for climate (the rainforest effectively traps climate-warming greenhouse gases), many may feel that from a biodiversity perspective, the Amazon is too remote from their daily reality. This is where I would like to point to the relevance of value chains in the biodiversity content. In global trade, value chains connect the place where biodiversity loss occurs with the place where the benefits of the loss are reaped, often, by multinational corporations. From a liability perspective, value chains can allow liability for biodiversity loss to be traced to its perpetrator 'in chief' and bypass complex corporate structures that historically have distanced parent companies from liability for their overseas subsidiaries' conduct.

Finally, while nature-based solutions are important for achieving climate targets, COP15 negotiators should be careful not put too much emphasis on climate. As I mentioned before, biodiversity loss is caused by five distinct drivers. Land and sea use change is by far the greatest driver of biodiversity loss, followed by overexploitation of organisms and pollution.

Climate change comes fourth and introduction of invasive species last. It is imperative that COP15 negotiators ensure that all these drivers are addressed in the final agreement of the conference.'

*Written by Barbora Kozusnikova*

Sources:

- [Biodiversity Day](#)
- [COP27: Day 9](#)
- [COP27: EU and Egypt step up cooperation on the clean energy transition](#)

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