

# Lessons for Cancun

## Why biodiversity negotiations at Nagoya succeeded where Copenhagen failed

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**In Cancun, world leaders will once again meet under the UN umbrella to discuss climate change. In recent years, stalemates at UN Climate Convention have left many fearing that the UN system cannot produce results. And who, if not the UN, can protect global public goods such as the atmosphere and biological riches? In terms of protecting global biological resources, hope was buoyed with the successful conclusion of international negotiations hosted by Japan in October 2010. The Nagoya Protocol, the result of the tenth meeting of the UN Convention on Biological Diversity, includes landmark agreements on access and benefit sharing.**



The UN Convention on Biological Diversity (CBD) has long been living in the shadows of its better-known twin, the UN Climate Convention. Both were conceived in the run-up to the 1992 Rio Earth Summit and face the same conflicts surrounding North-South equity, burden sharing, and financing. Expectations for the Nagoya Conference were therefore modest, and success was not assured early. Breakthrough on three central issues was only achieved in a dramatic last night session. Nonetheless, the victory holds important lessons—not least for the Cancun Climate Convention meeting—on how UN negotiations should be run, how traditional North-South controversies can be overcome, and the role the EU should play to make this happen.

### Three major outcomes from Nagoya

There are three central outcomes of Nagoya. Although negotiated separately, they were passed as a package, as together they form a subtle balance of interests between developed and developing countries.

First is the Nagoya Protocol. After six years of negotiations, the Convention adopted a protocol on “access and benefit sharing” (ABS) for genetic resources. This decision sets out the framework by which countries grant access to their genetic resources, regulate and license “bio-prospecting” and export of genetic materials, and dictate revenue-sharing from potential commercialization of products derived from those genetic resources. Developing countries have been pushing the ABS Protocol for years. Its acceptance opened the door to compromise

in other areas of the Convention, most notably the strategic plan and a longer-term resource mobilization strategy.

Second is the Strategic Plan. The conference adopted a new Strategic Plan with a global goal of halting the loss of biodiversity by 2020. The plan strives to ensure that ecosystems are resilient to climate change and able to continue to provide essential benefits and services for people. This represents a significant reframing of the biodiversity agenda around both climate change and the role of ecosystem services for economic and social development. Specific targets were adopted for terrestrial and marine ecosystems, as well as for the sustainable management of fish, livestock and agricultural land. Although those targets obviously represent soft law only, they provide important guidance for future national development planning and the reform of sectoral policies like fisheries.

Third is the Resource Mobilization Strategy. The Biodiversity Convention also adopted a “resource mobilization strategy”, recognizing that the new targets included within the Strategic Plan cannot be reached without a substantial increase in funding for biodiversity conservation. Assessment processes over the course of the coming two years will now look at financing from “all sources”—recognizing the need for both public and private resources for conservation, as well as both domestic and foreign aid funding in developing countries. A decision on new and additional funding will have to be taken at the next UN biodiversity summit, scheduled for October 2012 in New Delhi, India.

In addition, 40 other COP decisions were made. There was also a lot of buzz around the publication of a landmark report on “The Economics of Ecosystems and Biodiversity (TEEB)”. Much of the discussion in Nagoya was about the value of ecosystem services that biological diversity provides, as well as about market mechanisms that internalize their value within the economic system, rather than just nature conservation objectives alone.

### **What made success in Nagoya possible?**

What made the success in Nagoya possible and which lessons should be drawn for other multilateral processes, in particular the stalling UN climate talks?

First, and this might be a difficult truth to face; negotiations were simplified by not having the US at the table. The US belongs to a small group of countries including Somalia, Andorra and the Holy See, who have not ratified the CBD. As the agreement had a clear impact on US economic interests and was unlikely to have been approved by the Senate, President Clinton never submitted it for ratification. At the end of the day though, the US does not get an exception: if ABS rules are implemented in most countries around the world, US multinational companies will have to comply. The absence of the US at the negotiating table made it possible for the EU to effectively coordinate positions within the camp of OECD countries and speak with one voice when seeking compromise with developing nations.

Secondly, the EU got its act together, negotiated as a united bloc and built bridges to strategic partners. In Copenhagen, the European Union turned out to be divided and had a strategy that failed to resonate with partners. Most importantly, developing countries perceived the EU to align too closely with the US in the negotiations, therefore preferring to negotiate with Obama directly rather than talking with the junior partner. In addition, before Nagoya, the EU had systematically reached out to key emerging economies, most notably to Brazil. In fact, the EU and Brazil had pledged to each other to negotiate a bilateral agreement on the crucial issues of ABS should the multilateral deal in Nagoya have fallen through.

Thirdly, a new model of leadership emerged within the camp of developing countries. The “Group of 77 (G77) and China” in which developing countries normally align themselves within the UN system has shown serious internal frictions over the last 20 years. One reason for the failure of Copenhagen was the inability for the G77 to negotiate as a bloc and deliver the “vote” of the developing world. The interests of big emerging economies, that are now members of the G20 on the one side, least developed nations from Africa and small island nations on the other side, as well as special interest groups like the oil producing nations within OPEC, have drifted apart. In Nagoya, the new BASIC alliance that was formed before Copenhagen between Brazil, South Africa, India and China, was able to offer a new model for leadership within the Group of 77. Brazil, who was the most vocal in leading towards an agreed outcome in Nagoya, also made sure that countries aligned within the anti-capitalist ALBA alliance, notably Bolivia, Venezuela, Cuba and Ecuador, stopped short before derailing the process in the last hour, accepted the consensus document, and remained satisfied in adding some rhetorical points within protocol notes to the final document.

There were also complementing factors that distinguished Nagoya from Copenhagen. The presence of Heads of government complicated policy coordination in Copenhagen and led to parallel negotiating processes between heads of delegation and their principals. The Ministers and senior public servants who concluded the Nagoya agreements were more productive.

The host country, Japan, played the role of COP Presidency in Nagoya with great success. Environment minister Matsumoto has to be complemented for shepherding the almost-finished package through the dramatic last hours of negotiations, when countries of the ALBA coalition tried to exert last minute compromises. Japan as a chair was supported by the tag team of the European Union and Brazil who had agreed on the outlines of a compromise package and were both able to deliver their respective camps in the closing hours of the conference.

Non-governmental organizations, who had their share of blame for creating the polarizing environment that derailed negotiations in Copenhagen, also played a much more constructive role during biodiversity talks in Nagoya. Most importantly, potent ideological conflicts around the representation of indigenous peoples or “bio-piracy” were both successfully addressed within the ABS Protocol and social safeguard rules in a separate decision left little room for anti-capitalist protests to gain traction.

In summary, the Nagoya talks displayed a number of functioning negotiating coalitions, most importantly the OECD countries aligned with the European Union and the G77 led strategically by the new BASIC coalition. The absence of the US begs the question whether future compromise on climate change can only be reached by having the EU and leading emerging economies like China and India reaching out to each other and creating some waiting space for the US outside official UN structures.

## **The road ahead**

The success of Nagoya bodes well for two intense years of international environmental negotiations. After the Cancun climate summit in December 2010, negotiations for a comprehensive global climate regime will resume ahead of the next UN climate conference in Durban, South Africa in late 2011. If agreement in Durban remains elusive, the 20th anniversary conference of the 1992 Earth Summit in Rio 2012 will provide another opportunity. Rio 2012 will also see efforts to overhaul today’s dysfunctional global

environmental governance structure, as well as a roadmap for transformation towards “green economy” models.

Biodiversity will be back on the agenda at the next CBD conference in 2010 in India’s capital New Delhi. By then ratification of the ABS Protocol should be underway and new financial resources—based on the analysis assembled by then—will be on the agenda.

Durban, Rio, New Delhi—all key upcoming environmental summits will be held in emerging economies, thereby underlining the increased importance of the newly formed BASIC coalition. Before Nagoya, one heard many a quiet whisper about a UN Climate and Biodiversity stalemate. However, there may now be new rumors forecasting that the global climate deal—that has been thus far so difficult to achieve—may be signed at a summit in Beijing later this decade.

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<http://www.ip-global.org/2010/12/06/why-nagoya-succeeded-where-copenhagen-failed/>

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