



Assembly of First Nations (AFN)

Advancing First Nations-led Conservation at COP-16

Position Paper





Assembly of First Nations (AFN)

Advancing First Nations-led Conservation at COP-16

Position Paper

Assembly of First Nations

The Assembly of First Nations (AFN) is a national advocacy organization that works to advance the collective aspirations of First Nations individuals and communities across Canada on matters of national or international nature and concern. The AFN hosts at least two Assemblies each year where mandates and directives for the organization are established through resolutions directed and supported by the First Nations-in-Assembly (elected Chiefs or proxies from member First Nations). In addition to the direction provided by Chiefs of each member First Nation, the AFN is guided by an Executive Committee consisting of an elected National Chief and Regional Chiefs from each province and territory. Representatives from five national councils (Knowledge Keepers, Youth, Veterans, 2SLGBTQIA+ and Women) support and guide the decisions of the Executive Committee.

Work undertaken by First Nations in international fora and on international mechanisms supports and affirms the ongoing work of First Nations domestically. The AFN is mandated by the First Nations-in-Assembly to advocate for several priorities, including the protection of First Nations rights and the promotion of First Nations leadership in the conservation of terrestrial and marine biodiversity, as outlined in AFN Resolutions 52/2024 *Full and Effective Participation of First Nations in Canada's Nature Agenda*, 03/2019 *The Convention on Biological Diversity*, and 07/2019 *First Nations Oceans Priorities at the Convention on Biological Diversity*, amongst others

1. Introduction

In December 2022, the AFN participated in the 15th Conference of the Parties (COP) to the UN Convention on Biological Diversity (CBD) to ensure that First Nations rights, governance, and knowledge systems would be reflected in new biodiversity targets and goals. The adoption of the Kunming-Montreal Global Biodiversity Framework (GBF) included the recognition of the contributions of Indigenous Peoples to nature, an affirmation of the rights of Indigenous Peoples, and a commitment to uphold those rights in ambitious efforts to halt and reverse biodiversity loss. This was a significant milestone that indicated a necessary shift towards socially-just conservation governance,^{1,2} and away from the colonial conservation paradigm that has historically harmed Indigenous Peoples.³

During the adoption of the GBF, Parties acknowledged the need to be ambitious to drive success, as effectively addressing the global decline of nature will require a diversity and intensity of conservation actions.⁴ All actions under National Biodiversity Strategies and Strategic Action Plans should embody this drive and advance actions that transcend existing colonial processes, which have and continue to contribute to the climate and biodiversity crises. First Nations, as original stewards of their lands and waters, are best positioned to lead

- 1 S.T. Garnett, N.D. Burgess, J.E. Fa, Á. Fernández-Llamazares, Z. Molnár, C.J. Robinson, J.E.M. Watson, K.K. Zander, B. Austin, E.S. Brondizio, N.F. Collier, T. Duncan, E. Ellis, H. Geyle, M.V. Jackson, H. Jonas, P. Malmer, B. McGowan, A. Sivongxay, I. Leiper. 2018. A spatial overview of the global importance of Indigenous lands for conservation. *Nat. Sustain.*, 1, p. 369
- 2 H.D. Jonas, V. Barbuto, H.C. Jonas, A. Kothari, F. Nelson (2014). New steps of change: looking beyond protected areas to consider other effective area-based conservation measures. *Parks*, 20, pp. 111-128
- 3 F. Moola, R. Roth. 2018. Moving beyond colonial conservation models: indigenous Protected and conserved Areas offer hope for biodiversity and advancing reconciliation in the Canadian boreal forest. *Environ. Rev.*, 27 (2), pp. 200-201.
- 4 P.F. Langhammer et al. 2024. The positive impact of conservation action. *Science*, 384 (6694).



Assembly of First Nations (AFN)

Advancing First Nations-led Conservation at COP-16

Position Paper

these efforts, and must be adequately supported to do so. These efforts include Indigenous Protected and Conserved Areas (IPCAs) and guardian programs, both of which are examples of Indigenous-led governance mechanisms for achieving effective conservation.⁵

This position paper is shared in advance of the 16th Conference of the Parties (COP 16) in Cali, Columbia, with the aim to emphasize the AFN's priorities at the CBD, including: a) uphold First Nations rights, governance, knowledge systems; b) support First Nations-led conservation within sub-national, national, and international biodiversity policy; and c) ensure the full and effective participation of Indigenous Peoples. The recommendations in this position paper pertain to the following decision points at COP 16: i) new Programme of Work and institutional arrangements on Article 8(j), ii) implementation and preparation of National Biodiversity Strategies and Action Plans including the Monitoring Framework and, iii) the development of a multilateral mechanism for benefit sharing from the use of digital sequence information of genetic resources. The AFN strongly encourages Canada and other parties to adopt the recommendations provided in this paper at COP 16.

2. AFN Key Priority Areas at COP 16

The contributions made by First Nations, and Indigenous Peoples more broadly, to the protection of biological and cultural diversity must be recognized, respected, and supported to enable the urgent and transformative change to reverse the decline of biodiversity by 2030. The following recommendations are proposed for COP 16.

2.1 New Programme of Work and Institutional Arrangements on Article 8(j)

First Nations' deep holistic knowledge and understanding of the root-causes of the biodiversity and climate crises position First Nations as active leaders in conservation actions, both domestically and internationally. Our rights, title, and responsibilities are all based on an interdependent relationship with our natural world. This relationship is further realized through our rights and responsibility to nurture biodiversity, which have been a core function of our existence for countless generations.⁶

At COP 15, Parties agreed that the Kunming-Montreal GBF must be implemented with a human rights-based approach and with a particular respect for the rights and knowledge of Indigenous Peoples in accordance with the United Nations Declaration on the Rights of Indigenous Peoples (UN Declaration). In this regard, we assert that the standards and obligations within the UN Declaration must be woven throughout the fabric of the entire GBF and be upheld throughout its implementation.

This means including Indigenous Peoples in decision-making processes regarding matters that would affect their rights through representatives chosen by themselves in accordance with their own procedures (Article 18), including rights to their lands, territories, waters, coastal seas, and other resources, as well as the requirement to give legal recognition and protection to these lands and resources (Article 26). Furthermore,

5 K.A. Artelle, M. Zurba, J. Bhattacharyya, D. E. Chan, K. Brown, J. Housty, F. Moola. 2019. Supporting resurgent Indigenous-led governance: A nascent mechanism for just and effective conservation. *Biological Conservation*, Volume 240, 108284.

6 For further information on recommendations to support Indigenous-led Conservation in Canada, see Indigenous Leadership Initiative's report: Good for the Land Good for the People Good for the Economy



Assembly of First Nations (AFN)

Advancing First Nations-led Conservation at COP-16

Position Paper

including these minimum standards involves consulting and cooperating in good faith to obtain the free, prior, and informed consent of Indigenous Peoples before implementing measures that may affect them (Article 19). The AFN is encouraged to see many of these elements within the language of the GBF and look forward to the implementation of this work.

The AFN supports the recommendation of the Ad-hoc Technical Expert Group on the new programme of work and institutional arrangements on Article 8(j) to establish a permanent subsidiary body on Article 8(j). Establishing a permanent subsidiary body gives due respect to the depth of work by the Working Group on Article 8(j). A permanent subsidiary body is the best option that provides an effective structure to carry out the new programme of work on Article 8(j), to recognize the contribution of Indigenous Peoples to the conservation of biodiversity, and to better support the integration of work on matters relevant to Indigenous Peoples in all areas of the CBD. Further, a permanent subsidiary body will help advance the full and effective participation of Indigenous Peoples in the implementation of the Convention, especially in the ambitious and transformative GBF.

The creation of a new subsidiary body and its modus operandi, and a new programme of work on Article 8(j) provides a unique opportunity to reflect on past work, build upon successes, and find areas for improvement through lessons learned. To that end, it is necessary to review and update the [Voluntary Glossary of Key Terms and Concepts Within the Context of Article 8\(j\) and Related Provisions](#) to ensure continued alignment with international standards and practices, including the UN Declaration. In our view, this task of revisiting and updating the glossary is aligned with the COP Decision to adopt this document in 2018.⁷ It is time that the CBD updates its terminology on Indigenous Peoples, as [recommended by the three UN targeted mechanisms on the rights of Indigenous Peoples](#), similar to changes made in other International multilateral environmental agreements (e.g. UN Framework Convention on Climate Change, the UN Convention on the Law of the Sea on the Conservation and Sustainable Use of Marine Biological Diversity of Areas Beyond National Jurisdiction, and the Minimata Convention, among others).

The terminology “indigenous peoples and local communities” (IPLC) within the CBD draws comparisons between the biocultural approaches that Indigenous Peoples, as well as local communities may share especially in the context of environmental multi-lateral agreements. However, it is necessary to distinguish between the two groups and for each to advocate for and to represent themselves and their distinct rights, interests, and priorities. The broad concept of “local communities embodying traditional lifestyles” could be applied to a variety of groups that may live in proximity to Indigenous Peoples who may have different rights and/or directly opposing interests. Falsely equating the groups under the “IPLC” terminology also serves to undermine the full and effective participation and a meaningful understanding of the issues and interests of Indigenous Peoples as well as local communities.

Fundamentally, Indigenous Peoples, and local communities, must be able to represent themselves. Our intention is not to minimize the needs and priorities of those that identify as local communities, rather, it is to end the harm to both groups with the continued use of this terminology. Going forward, self-determination

⁷ See COP Decision XIV/3, para 3: The Conference of the Parties “requests the Ad Hoc Open-ended Working Group on Article 8(j) and Related Provisions to keep the glossary in mind in its future work, as a living resource and reference, and to revisit and update the glossary, when necessary, as may be appropriate as part of the post-2020 arrangement.”



Assembly of First Nations (AFN)

Advancing First Nations-led Conservation at COP-16

Position Paper

and self-representation will be crucial, in the same way as Indigenous Peoples have organized over decades to be recognized as a constituency under intergovernmental organizations.⁸ To that end, the workings of the proposed permanent body on Article 8(j) (i.e. the modus operandi) should also reflect and respect the processes determined by Indigenous Peoples and the organizations that they have chosen to represent them in each of the seven socio-cultural regions, in line with Article 18 of the UN Declaration.^{9,10}

As such, the AFN strongly recommends the following:

- 2.1.1. *Support the establishment of a permanent subsidiary body on Article 8(j) and other related provisions of the CBD, as a mechanism to facilitate the contributions of Indigenous Peoples in the preservation of traditional knowledge and the implementation of the Kunming-Montreal Global Biodiversity Framework.*
- 2.1.2. *Support a New Programme of Work on Article 8(j), including reviewing and updating the Glossary of Relevant Key Terms and Concepts within the Context of Article 8(j) and Related Provisions, to be in line with international instruments, including the UN Declaration on the Rights of Indigenous Peoples.*
- 2.1.3. *Recognize and respect processes determined by Indigenous Peoples and the organizations they have chosen to represent them in each of the seven sociocultural regions in the modus operandi of the permanent subsidiary body on Article 8(j) and other related provisions.*
- 2.1.4. *Implement the use of capital letters in all UN texts when referring to Indigenous Peoples, as well as Indigenous persons, Indigenous children, and Indigenous women, as adopted in December 2022 by the UN General Assembly (Resolution A/77/460).*
- 2.1.5. *Welcome the recommendations from the UN Permanent Forum on Indigenous Issues, the Special Rapporteur on the Rights of Indigenous Peoples, and the Expert Mechanism on the Rights of Indigenous Peoples, to separate “indigenous peoples and local communities” as a collective concept.*
- 2.1.6. *Reaffirm the distinct status and rights of First Nations as reflected in the UN Declaration on the Rights of Indigenous Peoples, upholding clear distinctions between “knowledge of Indigenous Peoples” and “local knowledge”.*

⁸ For more information on our position regarding the “IPLC” terminology, see AFN’s position paper: <https://afn.bynder.com/m/731677d1e91cd5b3/original/AFN-Position-Paper-on-the-Terminology-Indigenous-Peoples-and-local-communities.pdf>

⁹ UN Declaration on the Rights of Indigenous Peoples, Article 18: Indigenous Peoples have the right to participate in decision-making in matters that would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions.

¹⁰ Recalling with relevance, COP Decision V/16 on Article 8j and Related Provisions, Para 11. Invites Parties and Governments to support the participation of the International Indigenous Forum on Biodiversity, as well as relevant organizations representing indigenous and local communities, in advising the Conference of the Parties on the implementation of Article 8(j) and related provisions



Assembly of First Nations (AFN)

Advancing First Nations-led Conservation at COP-16

Position Paper



2.2 Implementation and Preparation of National Biodiversity Strategies and Action Plans including the Monitoring Framework

COP 16 marks the first opportunity for Parties to review and report on their progress in the implementation of the ambitious GBF. Within Canada, the AFN has emphasized that the implementation of the GBF should be buttressed by First Nations rights articulated under Canada's Constitution Act, the UN Declaration, as well as Canada's ongoing commitments to reconciliation through a renewed Nation-to-Nation relationship with First Nations. Bold measures, led by First Nations, are an essential part to charting this transformative path forward.

Since time immemorial, Indigenous Peoples have emphasized the importance of living in balance with Mother Earth and in harmony with nature. The deep interconnection between Indigenous Peoples and our environment must inform the implementation of biodiversity action. To meaningfully facilitate leadership by Indigenous Peoples in conservation, all levels of governments must address longstanding obstacles. This can be achieved by providing stable, predictable, and long-term funding, and developing and amending legislation, policies, and programs to improve the capacity and ability for Indigenous Peoples to participate as full partners in conservation. Working with Indigenous Peoples to collaboratively design, plan, and implement actions to meet biodiversity targets and goals will be the key for success. Parties should also develop national legislation that increases the accountability of governments to meet these ambitious targets and goals, and to ensure they respect the rights of Indigenous Peoples when undertaking biodiversity actions.

Additionally, capacity-building can occur in the form of investments (from state governments and non-state funders) to support Indigenous governance, which can have benefits for large-scale stewardship. For Indigenous Peoples, nature and culture are interdependent. Supporting Indigenous stewardship through Indigenous governance may seem beyond the scope of typical ecological conservation initiatives (e.g. initiatives on community health and well-being) but can be fundamental to effective stewardship.¹¹

Lastly, as instructed by COP Decision XV/5, much technical and scientific work has been done to further develop the GBF's monitoring framework and in particular, to review the indicators related to traditional knowledge. Four traditional knowledge indicators have been adopted by the COP:

- a) Trends in linguistic diversity and numbers of speakers of Indigenous languages;
- b) Trends in land-use change and land tenure in the traditional territories of Indigenous and local communities;
- c) Trends in the practice of traditional occupations; and
- d) Trends in the degree to which traditional knowledge and practices are respected through their full integration, safeguards and

These traditional knowledge indicators as essential to the monitoring framework and to hold Parties accountable to the human rights-based approach of GBF implementation. As well, these indicators are critical to promoting the holistic implementation of the GBF. We welcome the work of the Ad-Hoc Technical Expert Group on Indicators and their review of the indicators on traditional knowledge as well as the recommendations on

¹¹ K.A. Artelle, M. Zurba, J. Bhattacharyya, D. E. Chan, K. Brown, J. Housty, F. Moola. 2019. Supporting resurgent Indigenous-led governance: A nascent mechanism for just and effective conservation. *Biological Conservation*, Volume 240, 108284.



Assembly of First Nations (AFN)

Advancing First Nations-led Conservation at COP-16

Position Paper

this topic from the 26th meeting of the Subsidiary Body on Scientific, Technical, and Technological Advice (SBSTTA). In particular, the AFN supports the recommendation to include the indicator for measuring trends in land-use change and land tenure as a headline indicator for Target 22.¹²

Further, while work on this indicator has focused on land, it is widely understood that the tenure and rights of Indigenous Peoples exist over waters as well. To First Nations, lands and waters are interconnected and interdependent. Many First Nations have relied on oceans, freshwater lakes, and river systems for generations. These freshwater and marine ecosystems are a critical part of our traditional territories and are vital to our cultures, economies, and ways of knowing and being. We have longstanding relationships and responsibilities to our waters. Western colonial systems, whether through economic development or exclusionary conservation, have overlooked relationships between Indigenous Peoples and freshwater and marine ecosystems.¹³ Increasing research has highlighted the need to account for existing tenure and rights over marine and freshwater systems, which will also ensure more accurate assessment of the status of implementation towards relevant GBF targets and goals.¹⁴ National and sub-national governments should support further research to account for these systems of tenure and rights and encourage investigation of these methods and future development of indicators that measure changes in these systems.

As such, the AFN strongly recommends the following:

- 2.2.1 *Make long-term and stable investments in Indigenous-led conservation efforts, such as Indigenous Protected and Conserved Areas and Indigenous Guardian programs over lands and waters.*
- 2.2.2 *Facilitate Indigenous leadership in conservation by addressing current obstacles in legislation, policies, and programs, and collaborate on these initiatives with Indigenous Peoples.*
- 2.2.3 *Develop national legislation in collaboration with Indigenous Peoples, to ensure accountability in meeting GBF biodiversity targets and goals with clear timelines and ensure that biodiversity actions respect the rights of Indigenous Peoples.*
- 2.2.4 *Support and adopt the recommendations by the Subsidiary Body on Scientific, Technical, and Technological Advice (SBSTTA) relating to traditional knowledge indicators, specifically the inclusion of an indicator for trends in land-use change and land tenure as a headline indicator for Target 22.¹⁵*
- 2.2.5 *Support scientific and technical work to assess and account for the tenure and rights of Indigenous Peoples over freshwater and marine systems, which are essential to the effective implementation of many GBF targets and goals.*

¹² Support for these recommendations are contingent on AFN's recommendations regarding the change in the CBD's "IPLC" terminology and the need to distinguish between Indigenous Peoples as well as local communities embodying traditional lifestyles.

¹³ Luoma, C. Reckoning with conservation violence on indigenous territories: possibilities and limitations of a transitional justice response. *Int. J. Transl. Justice* 17, 89–106 (2023).

¹⁴ Tholan, B., Basurto, X., Cohen, P.J. et al. Accounting for existing tenure and rights over marine and freshwater systems. *npj Ocean Sustain* 3, 47 (2024). <https://doi.org/10.1038/s44183-024-00084-4>

¹⁵ See CBD document CBD/SBSTTA/26/INF/11: <https://www.cbd.int/doc/c/283e/eb7c/6a953a1e098b6c46e0f3be8d/sbstta-26-inf-11-en.pdf>



Advancing First Nations-led Conservation at COP-16

Position Paper



2.3 New Multilateral Mechanism for Benefit Sharing from the use of Digital Sequence Information of Genetic Resources

As Parties tackle the development of a new multilateral mechanism for benefit-sharing from the use of digital sequence information (DSI) of genetic resources, it is critical to remember the context in which this decision is to be made. With recent global reports reflecting the dire and deteriorating state of migratory species,¹⁶ as well as record-breaking sea surface temperatures,¹⁷ we must not lose sight of the urgent need to halt and reverse biodiversity loss within an actively changing climate. Additionally, any multilateral mechanism developed for the sharing of benefits must not maintain or exacerbate current inequities or further the exploitation of Indigenous Peoples - our lands and waters, and all that live on it - for the private profit of the wealthy few.

A key objective in the disbursement of the non-monetary and monetary benefits must go towards actions to address the biodiversity crisis. In recognition of the role of Indigenous Peoples as stewards of biodiversity, Indigenous Peoples, and Indigenous women and youth, who are critical to the preservation and transfer of Indigenous Knowledge, should receive these benefits.¹⁸ Accordingly, Parties should also ensure that, in line with an equitable approach that accounts for the needs of developing countries, Indigenous Peoples from all seven socio-cultural regions should be able to receive these benefits. It is important to note that analyses demonstrate that most publicly available genetic sequence data is derived from genetic resources in developed countries. Further, Indigenous Peoples must be able to access or receive these monetary benefits directly to realize our rights to self-determination.

The long history of the global exploitation of Indigenous Peoples have resulted in a deep mistrust of researchers and academic institutions. It is critical that while supporting biodiversity research and development, Parties respect the free, prior, and informed consent of Indigenous Peoples in accordance with the UN Declaration, especially with regards to the collection, use, and sharing of our knowledge and intellectual property. Parties must support Indigenous data sovereignty and data strategies led by Indigenous Peoples. Considerable work has also been done to develop community-led approaches such as biocultural labels and notices to ensure this is so, as well as biocultural community protocols to provide context on the scope of how the information should be used. Nonetheless, the appropriate use of measures such as biocultural labels should be determined by Indigenous Peoples whose territories the genetic resources are originally taken from.

As such, the AFN strongly recommends the following:

2.3.1 Support the establishment of a multilateral benefit-sharing mechanism from the use of DSI under the CBD that is respectful of the rights of Indigenous Peoples, such as that outlined in the UN Declaration on the Rights of Indigenous Peoples.

16 UNEP-WCMC, 2024. State of the World's Migratory Species. UNEP-WCMC, Cambridge, United Kingdom.

17 Cheng, L., Abraham, J., Trenberth, K.E. et al. New Record Ocean Temperatures and Related Climate Indicators in 2023. Adv. Atmos. Sci. 41, 1068–1082 (2024). <https://doi.org/10.1007/s00376-024-3378-5>

18 As set out in CBD COP Decision XV/9 para 10: "Recognizes that the monetary and non-monetary benefits arising from the use of digital sequence information on genetic resources should, in particular be used to support conservation and sustainable use of biological diversity and, inter alia, benefit indigenous peoples and local communities"



Assembly of First Nations (AFN)

Advancing First Nations-led Conservation at COP-16

Position Paper

- 2.3.2 *Uphold Indigenous data sovereignty, respecting First Nations data governance principles of Ownership, Control, Access, and Possession, and encourage the use of biocultural labels in the use of DSI of genetic resources.*
- 2.3.3 *Support the participation of Indigenous Peoples in the governance structure of the multilateral benefit-sharing mechanism from the use of DSI under the CBD, including the development of guidance on DSI data governance, and the global fund to be established.*
- 2.3.4 *Support Indigenous Peoples from all regions to be direct recipients of monetary and non-monetary benefits through the DSI multilateral mechanism, which should be reflected in the development of an allocation formula or the guidance on this matter.*

3. Conclusion

In closing, Indigenous Peoples' ways of knowing and being offer a critical pathway toward addressing the climate and biodiversity crises and to re-balance our relationships with Mother Earth for future generations. COP 16 is an important opportunity for Parties to fulfil the ambitious commitments made at COP 15, especially those to recognize the important roles of Indigenous Peoples in conserving biodiversity. It is time to act accordingly.



**50 O'Connor
Street, Suite 200
Ottawa, Ontario
K1P 6L2
Tel: 613.241.6789
Fax: 613.241.5808**

