

Target 15: Business

What the scope of the target should be

- Ensuring liability, legal responsibility and accountability of business

Hold business and the finance industry legally accountable for any negative impacts on biodiversity and human rights and apply the polluter pays principle.

- Installing a governmental regulatory framework

Such a framework should ensure that all business and economic activities are sustainable and are in line with the needs of biodiversity and human rights.

Addressing elements in the right order

- The central element in this target must be governmental responsibility through rules, regulations.

Businesses are not obligated to change their behaviour because the CBD says so, as they are not actors under international law, but they are if governments regulate them. And the role of the CBD is to ensure governments cooperate on this.

- Take legal responsibility for infractions.

The placing of this element in the current text implies that businesses are the ones to take legal responsibility. It must be Governments and regulators who impose legal consequences upon businesses if and when they do not comply with environmental legislation.

- Human Rights

It is the duty of governments to ensure that businesses respect human rights. However, the position of the phrase human rights in the target implies that business will be responsible for their implementation. Unfortunately, businesses that promised to respect human rights in the past have been responsible for numerous violations.

Elements to be replaced:

- “Reducing biodiversity-related risks to businesses and financial institutions” by “reducing business-related risks to biodiversity”

The risks to businesses and financial institutions should not be the concern of the CBD, but the risks to biodiversity are at the core of the work of the CBD.

- “Eliminate” instead of “reduce” negative impacts

Human impacts on biodiversity have already surpassed planetary boundaries, particularly the biodiversity boundary. We urgently need to return to living within planetary boundaries. This requires stopping the impacts since merely reducing them actually means that negative impacts continue, which is not acceptable.

- “Take legal responsibility for infractions” by “be held legally responsible for their actions”

The difference is that in “take responsibility”, corporations can choose for themselves how they fulfil this responsibility, whereas “being held responsible” implies a policy framework that defines the implications of those responsibilities and related liabilities.

Elements that should be part of the target

- Operate within planetary boundaries

Several planetary boundaries have already been breached with severe and inequitable impacts. Stopping this must be the basis for planning and regulating all business activity.

- Legal, administrative and policy measures

The target must be based on all types of implementable regulatory measures issued by governments at all levels. It should also take into account the ongoing negotiations on a legally binding UN Treaty on Corporate Accountability.

- Penalties for infractions and liability and redress

Environmental regulation for business must be binding and implemented. This includes penalisation for infractions of environmental regulation, both nationally and internationally. Also, green labelling for products with negative environmental and social impacts must be penalised.

- Address conflicts of interest

Businesses with an economic interest in the outcome of regulations or environmental decision-making should not have a say in these regulations or decisions. A clear conflict of interest policy needs to be established. This applies to local, national and UN decision spaces. The independence of public institutions must not be compromised through their dependence on private sector financial support.

- Monitor and regulate all processes and activities of business

States must identify and monitor all processes and activities of business and finance which have adverse impacts on biodiversity

- Especially large and economically significant businesses

Large businesses work internationally, so international coordination of regulation is needed due to their size, power and transboundary characteristics. Large businesses have significantly more impact than small ones and have a greater capacity to implement measures than small ones.

- Those with significant impacts on biodiversity

Industrial agriculture, livestock farming, mining, and forestry are significant causes of biodiversity loss and thus require robust regulation.

- Ensure full transparency of business activities and their impacts

Governments must follow up on business activities and their impacts. Citizens have the right to have verifiable information.

- Respect human rights

Business should be fully accountable for human rights violations, including Indigenous Peoples' and women's rights, throughout their product chains.

- Protect environmental defenders

Most environmental defenders whose rights are violated were resisting corporate projects in defence of nature. Protecting the life and rights of environmental defenders is intrinsically important, and their work is essential for ecosystem conservation.

- Telecoupling

A comprehensive analysis of the socioeconomic and environmental impacts of remote, coupled human and natural systems' interactions is required, as highlighted in the IPBES global assessment report.

- Cross-border responsibility regarding environmental impact

According to paragraphs 3 and 4b of the Convention, countries must take responsibility for damage to biodiversity in other countries, including through their production and consumption, and thus through regulating their businesses. Any overstepping of countries' fair and equitable footprint causes damage to other countries. This obligation is fundamental with regard to supply chains and telecoupling.

Based on CBD articles 3, 4b, 7c, 8 l, 14.1d & 22.1, it follows that developed country CBD parties with many transnational corporations under their jurisdiction are obliged to control them and to prevent adverse impacts. This includes halting trade in products that violate the CBD and the SDGs and providing resources for developing countries to regulate such TNCs (CBD articles 8m, 11, 14 and 20). Countries should also fully support elaborating a strong international legally binding instrument to regulate transnational corporations and other companies concerning human rights.

Elements that should NOT be part of the target

- Business self-responsibility and self-reporting

Self-regulating and self-reporting have, in the past, not proven to be effective measures to improve environmental protection or human rights compliance. Even if governments “regulate that business must self-regulate”, this doesn't change the underlying problem of self-regulation. It also involves a direct conflict of interest.

- Subordinating implementation to the WTO or other trade agreements

Other agreements, such as the WTO, cannot be cited to avoid obligations to protect biodiversity within states and areas beyond national jurisdiction. Otherwise, the environment will forever be subordinated to economic interests.

- Sustainability of extraction

To become sustainable, extraction and production must be reduced without delay to end the breaching of planetary boundaries.

Businesses must verifiably, publicly and independently prove that their extraction and production processes are not causing biodiversity destruction.

- **Encourage** business and financial institutions

Measures which just “encourage” will not be sufficient in scope and impact to revert the significant impact of business on the environment. A much more profound change is needed.

- Biodiversity-positive practice

Biodiversity-positive is not a well-defined term, but it seems to imply the adding upsum of negative impacts and supposed positive ones. More often than not, this is greenwashing.

- Provide information needed to consumers to enable the public to make responsible consumption choices

Governments need to ensure that businesses produce products compliant with environmental standards; they cannot leave this to the responsibility of consumers.

Buying certified sustainable products is an option available only to the middle classes in the global North, and many certification schemes suffer from a lack of independent verification and conflicts of interest in general.

- Increase positive impacts

Businesses and production processes have inherent negative impacts. The references to “positive impacts” are mainly references to offsetting techniques. What needs to be ensured is to diminish the negative impacts without seeking to compensate them with so-called positives.

- Reduce biodiversity-related risks to business

The main issue is to reduce or avoid the risk business poses to biodiversity, not the other way round. Reducing the risk of declining biodiversity on business is an issue for business planning, possibly even for economy ministries, but NOT for the GBF. Unfortunately, the Taskforce on Nature-related Financial Disclosures (TNFD) is proposed as an indicator for target 15, even though it does not require companies to report on their biodiversity impacts, their human rights risks and negative impacts; the transparency of their supply and investment chains; complaints or grievances; or their lobby activities.

- Consistent and in harmony with [...] other international obligations

Environmental obligations must have priority over other international obligations, particularly such as WTO agreements and Free Trade Agreements. If such international obligations undermine environmental legislation or action, they should be changed to avoid this. The CBD must also call for such changes.