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COP28:
STEPS TO NET ZERO

COP28: Rise of Nature-based Solutions and Prospects for Biodiversity Markets

Nature-based solutions will be at the forefront of negotiations at COP28, given the growing uptake and reputation of nature-based solutions globally. Biodiversity markets focussed on solutions for nature can be implemented at scale to provide opportunities to finance measurable biodiversity outcomes, particularly if these markets are integrated with carbon markets. For corporates, investing in biodiversity credits simultaneously or in addition to carbon credits can act as an effective means to reach targets to arrest biodiversity decline and combat climate change.

Biodiversity and the Paris Agreement

Biodiversity is not the focus of the Paris Agreement and is dealt with primarily under the Convention on Biological Diversity (CBD). However, there is increased recognition throughout international climate change negotiations that biodiversity and climate change are “interlinked global crises”. The COP27 cover decision – the Sharm el-Sheikh Implementation Plan – emphasises the importance of protecting, conserving and restoring nature and ecosystems that act as sinks and reservoirs of greenhouse gas emissions. It also encourages countries to take ocean-based action in their national climate goals and to slow, halt and reserve forest cover and carbon loss as part of their mitigation and adaptation plans. Separately, the Kunming-Montreal Global Biodiversity Framework – agreed at the CBD COP15 in December 2022 – highlights the role of biodiversity markets and nature finance in arresting ecosystem decline, protecting and restoring nature, and helping to address the interrelated challenges of climate change.

COP28 should see negotiations around the delivery of new forms of finance for nature, including calls for private sector investment in nature-based solutions to increase dramatically. For our private sector clients including banks, asset managers and other financial service providers, land managers, and a range of other corporates, this will mean a greater focus on supporting and delivering finance to mitigate nature-related risks and contributing to conservation and restoration efforts. This could also facilitate considerable opportunities for organisations seeking to engage in biodiversity projects and markets.

Nature dependency and the case for biodiversity markets

Our economies and societies are embedded within, and reliant on, nature. This is supported by the UN Environment Programme’s State of Finance for Nature Report (2022) which found that finance flows to nature-based solutions are currently at USD 154 billion per year – only a third of the investment needed by 2030 to limit global temperature rise to below 1.5°C compared to pre-industrial levels, halt biodiversity loss and achieve land degradation neutrality. Mobilising capital towards nature is not only essential, but it may also bring about positive socio-economic benefits for landowners, countries economically depending on nature and indigenous communities around the world.

We are seeing a significant shift in institutional, corporate, and stakeholder attitude towards nature. For example, a number of global institutional investors with over USD 3 trillion under management collectively have joined the Nature Action 100 (**NA100**), which intends to focus on tackling biodiversity decline through the private sector. Organisations are under increasing pressure to assess and disclose impacts and dependencies on nature and the associated financial risks across their supply chain in line with the Recommendations of the Taskforce on Nature-related Financial Disclosures published in September 2023. Voluntary initiatives on disclosure are also being widely adopted by companies, such as adherence to the campaign Make It Mandatory, from Business For Nature.

The introduction of reporting and disclosure standards, alongside pressure from regulators and shareholders, is likely to necessitate increased private sector engagement with its environmental impacts. In that scenario, and to fulfill corporate commitments and targets, investment in biodiversity credits and projects can reflect a genuine intent by the private sector to contribute to the protection and restoration of nature, in addition to mitigating nature-related impacts and dependencies.

Considerations for voluntary sector participants

Biodiversity markets have the potential to grow in size and shape in a similar way to the carbon markets, particularly in light of the near-universal support by countries who have set, and will seek to achieve, the targets of the Kunming-Montreal Global Biodiversity Framework. Already, various biodiversity credit methodologies are under development and projects are geared up to pilot these methodologies. Meanwhile, national governments in Australia and New Zealand are consulting on the establishment of a domestic, voluntary biodiversity markets.

We are seeing a range of different approaches for accounting and crediting under these schemes. Choosing the appropriate methodology for the ecosystems sought to be regenerated is a key question companies seeking to engage with biodiversity markets. It is also important to evaluate opportunities to channel investment into nature-based solutions that simultaneously contribute to climate change mitigation and adaptation, as well as biodiversity. For example, nature-based projects may be able to generate both carbon and biodiversity credits, which can de-risk investments, or biodiversity credit methodologies could be used to verify the biodiversity co-benefits of a carbon credit project. In terms of cooperative approaches under the Paris Agreement, the introduction of the Article 6.4 mitigation mechanism and the removals methodology in particular (i.e., to enhance biological sinks such as forests) would provide opportunities for restoration that delivers benefits for both biodiversity and climate change.

Companies looking to participate in biodiversity markets will need to consider the best model of engagement for their business and risk appetite. This may include decisions about host country risk in terms of introducing regulations that impact voluntary markets, engagement with local communities to foster sustainable development, and even whether to invest directly in projects or project development companies. In each case, companies will need to undertake due diligence to understand and mitigate transaction risks (e.g., project, counterparty, market, legal and reputational risks).

> With a long-standing history of participation and involvement at COP events, Baker McKenzie is leading on the development of both international and domestic climate change markets and climate finance. As the only law firm ranked Band 1 - Climate Change Global Market Leaders Chambers for 15 consecutive years, we have unrivalled knowledge and expertise in climate change law and climate finance, which we are applying seamlessly to assist our clients with navigating biodiversity markets and nature finance.
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> We are currently engaged on multiple levels advising governments, companies and other entities on the implementation of the Paris Agreement, emerging compliance and disclosure regimes and innovative approaches to biodiversity markets and nature finance transactions, in addition to and alongside carbon markets and climate finance. Our team will be on the ground in Dubai for COP28 and look forward to engaging in ground-breaking discussions with all key stakeholders to share insights and continue to offer cutting-edge advice to our clients.
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> We are also supporting clients to channel alternative forms of finance for nature, such as green bonds or debt-for-nature swaps. Most prominently, Baker McKenzie acted on the world's largest debt-for-nature swap to facilitate marine conservation to protect the Galápagos Islands in Ecuador, announced in May 2023.[1]

1 https://www.bakermckenzie.com/en/newsroom/2023/05/worlds-largest-debt-conversion-for-marine-conservation