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How the Sustainable Development Goals can complement existing legal instruments: The case of biodiversity and forests

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1 Introduction

A growing body of evidence suggests a rapidly globalising economy and fast-changing consumption patterns have taken a heavy toll on biodiversity. According to the Worldwide Fund for Nature (WWF), approximately 28 percent of the world's biodiversity declined between 1970 and 2012. Other estimates underline that 5.2 million hectares of the world's forests—home to 80 percent of terrestrial biodiversity—were lost annually between 2000 and 2010 (Natural Environmental Strategy Division, Nature Conservation Bureau, Ministry of the Environment, 2015; WWF, 2015). With the world's population on track to reach nine billion people by 2050 (UNFPA), these trends could intensify, posing a grave threat to the sustainability of global ecosystems and to life itself. This chapter focuses on how the Sustainable Development Goals (SDGs) can reinforce the concerted global effort needed to maintain the multiple benefits of healthy ecosystems.

The SDGs will carry forward the achievements of the Millennium Development Goals (MDGs). The new goals will help to support implementation in areas that have so far received limited policy attention, such as sustainable consumption and production (SCP) (see Box on SCP in Chapter 9). But what additional value the SDGs can offer for areas already covered by existing international agreements, such as biodiversity, is less clear. At worst, the interplay between two sets of agreements focusing on the same issue may create unnecessary disruptions, possibly siphoning away resources from ongoing implementation efforts. However, contrary to such concerns, this chapter argues that SDGs are uniquely positioned for stimulating “synergistic interactions” between existing legal instruments (Gehring, 2006). Capturing these complementarities will necessitate recognising the multiple benefits of integrating biodiversity into the SDGs as well as due attention to consistency between targets, national planning and policies, multi-stakeholder engagement, and reporting and review mechanisms. The remainder of the chapter is divided into four sections. The next section outlines why a global approach to preserving ecosystems is necessary. The third section discusses the benefits of integrating biodiversity into the SDGs and the main steps that need to be taken to capture complementarities. A concluding section reiterates main arguments and suggests a biodiversity SDG can strengthen implementation of also other goals.

2 Preserving biodiversity: The need for a global approach

Biodiversity and ecosystem services are indispensable to the health and well-being of the planet and its people. The Millennium Ecosystem Assessment (MEA) defines ecosystem services as the benefits people obtain from ecosystems. It categorises those services into four groups: 1) provisioning services such as food, water, timber and fibre; 2) regulating services that affect climate, floods, disease, wastes and water quality; 3) cultural services that provide recreational, aesthetic and spiritual benefits; and 4) supporting services such as soil formation, photosynthesis and nutrient cycling (Millennium Ecosystem Assessment, 2005). The MEA assessment, which is written from an anthropocentric vantage point, concludes that preserving biodiversity is essential to humankind for numerous reasons. However, biodiversity can be regarded as having values beyond services provided for humans; an eco-centric perspective, which is espoused by many people, suggests that biodiversity and forests should be preserved for the survival of all living organisms.

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A global approach to biodiversity preservation is warranted on several grounds. The first is related to international flows of goods and services. For example, people in Japan nowadays regularly consume fruits harvested in Latin America. Income earned from those exports could potentially be used to purchase computer components manufactured from rare metals mined in a country such as Mongolia. Those computers could then be used to make online purchases for furniture in Indonesia. In a globalised economy, consumer demand and rapid movements of goods and services can place heavy strains on biodiversity.

No country can successfully manage biodiversity conservation on its own. Perhaps the most visible illustrations of any such constraints are rare species and fauna that cross territorial boundaries. Fish and birds regularly move from one country to another. Plants and microorganisms also cross borders with relative ease. Moreover, often protected animal and plants are found in the shared property of the international community such as the high seas and polar regions.

Arguably the area related to biodiversity that has gained the most notoriety at the international level is forests. Like biodiversity in general, forests offer a range of ecosystem services, including providing food, medicine, daily commodities and recreation. Forests also help deliver other environmental amenities, including clean air, clean water and fertile soil. However, the main reason that protecting forests has become a global concern is that approximately 17 percent of the world's greenhouse gases (GHG) are due to deforestation. Protecting forests is critical to prevent global climate change; this was recognised with the creation of a mechanism that allocates climate finance to help reduce emissions from deforestation and forest degradation (REDD+) (IPCC, 2007). A global approach to preserving biodiversity is thus essential. The next question is how this was pursued prior to the SDGs.

3 Existing legal instruments – Convention on Biodiversity and Aichi Targets

Numerous goals on biodiversity and forests have been enacted but implementation has often proved disappointing. The Earth Summit produced the Convention on Biological Diversity (CBD) in 1992. After coming into effect the following year, the membership of the CBD has now grown to 193 parties and thus achieved quasi-universal status; the United States is the lone major non-member. The CBD has three main objectives: 1) conservation of biological diversity; 2) sustainable use of its components; and 3) fair and equitable sharing of benefits from genetic resources. Global targets have been developed twice under the auspices of the CBD: the 2010 Target (formulated in 2002) and Aichi Targets (formulated in 2010). The 2010 Target was based on a pledge “to achieve by 2010 a significant reduction of the current rate of biodiversity loss at the global, regional and national level as a contribution to poverty alleviation and to the benefit of all life on Earth.” (The Convention on Biological Diversity, 2015).

Since 2010, CBD parties have reported their progress in achieving these targets. The CBD Secretariat also prepared the Global Biodiversity Outlook 3 (GBO3) as a review of targets. The GBO3 shows that approximately 170 countries have national biodiversity strategies and action plans. It further clarifies that the 2010 Target “has helped to stimulate important action to safeguard biodiversity.” On the other hand, assessments to date suggest that nine of the 15 assessment indicators

exhibited a worsening trend (Secretariat of the Convention on Biological Diversity, 2010). When examined overall, results show that the goal to reduce the rate of biodiversity loss—the principal objective of the 2010 Target—has fallen short. Not surprisingly, increasing the protected areas without effective management does not help preserve biodiversity. Furthermore, while official development assistance (ODA) for biodiversity is growing, there is a lack of clarity on what funds are allocated to which purposes, thereby casting doubt on their actual use and effectiveness. Although measures such as formulating national biodiversity strategies and expanding protected areas have made some progress, the current status reveals considerable room for improvement.

Table 7.1 Status of agreed subsidiary objectives for the 2010 biodiversity targets

Goal 1. Promote the conservation of the biological diversity of ecosystems, habitats and biomes		
	1.1: At least 10% of each of the world's ecological regions effectively conserved.	Not achieved globally, but more than half of terrestrial eco-regions meet the 10% target. However, management effectiveness is low for some protected areas. Marine and inland water systems lack protection, though this is increasing.
	1.2: Areas of particular importance to biodiversity protected.	Not achieved globally, but an increasing proportion of the sites of importance for conserving birds, and those holding the last remaining populations of threatened species, are being protected.
Goal 2. Promote the conservation of species diversity		
	2.1: Restore, maintain, or reduce the decline of populations of species of selected taxonomic groups.	Not achieved globally as many species continue to decline in abundance and distribution. However, some efforts have resulted in the recovery of targeted species.
	2.2: Status of threatened species improved.	Not achieved globally, as species are on average at increasing risk of extinction. However some species have moved to lower risk categories as a result of actions taken.

Source: Secretariat of the Convention on Biological Diversity (2010)

Based on the synopsis of the GBO3 and to continue the unfinished business of biodiversity conservation, a new strategic plan to meet targets for 2011 to 2020 (Aichi Targets) was agreed upon in 2010. This includes a target stating “By 2015 each Party has developed, adopted as a policy instrument, and has commenced implementing an effective, participatory and updated national biodiversity strategy and action plan” (The Convention on Biological Diversity, 2010, target 17). As mentioned previously, the setting of targets and drafting of action plans will be necessary but insufficient; rather, it is essential to strengthen implementation through monitoring and assessment to follow up results (discussed later in the chapter).

Biodiversity was also covered under the MDG 7 in order to “Ensure Environmental Sustainability.” However, MDG 7 is commonly regarded as one of the two least effective MDGs. In the cases of biodiversity, its ineffectiveness was partially due to the issue being bundled in an *ad hoc*

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manner with multiple environmental concerns. There was also limited regard for linkages between biodiversity and other targets. The overall picture that emerges is thus one where substantial effort was expended but limited progress was made in protecting biodiversity at the global level. The question is whether and how integrating biodiversity into the SDGs could enhance the efficacy of future preservation efforts.

4 Integrating biodiversity into the SDGs: Synergies or disruption?

The SDGs have become part of the Post-2015 Development Agenda, adopted at the UN General Assembly in September 2015. To formulate the goals, the Intergovernmental Open Working Group (OWG) was established in March 2013. Representatives from over 70 nations participated and negotiations continued for over a year. The process produced a document with 17 goals and 169 targets in July 2014. The protection and sustainable use of forests and biodiversity are addressed in a separate goal, as are targets related to marine life.

The inclusion of biodiversity in the SDGs help the preservation of ecosystems. But the advantages of integrating biodiversity into the SDGs are not as straightforward as they may seem. There is a growing literature that suggests the possibility of both disruptive and synergistic interactions between multiple international institutions (Gehring, 2006). Some of this literature has cautioned of the possible problems from “treaty congestion” (Weiss, 1993). Others have pointed to particular instances where incentives for tree planting created by the Kyoto Protocol led to monocultural tree planting and worked against goals in the CBD to make ecosystems more diverse (Pontecorvo, 1999). From cases like these, others have called for “clustering” multilateral environmental agreements (Oberthür, 2002) or creating supra-organisations that would coordinate across fields and reduce possible duplication (Biermann & Bauer, 2005).

In the case of the SDGs and biodiversity, several goal-conflicts could emerge. One possible drawback is unnecessary duplication that could ultimately hinder the implementation of both the SDGs and other relevant agreements, especially the CBD and the Aichi Targets. A related hurdle is that the SDGs could be weaker and less comprehensive than past agreements, effectively allowing governments to backtrack on past commitments. An even larger possible stumbling block is that the SDGs may divert human and financial resources from implementing existing efforts. These concerns have been articulated among UN Member States on how to design SDG goals and targets on biodiversity and ensure consistency with existing ones (Open Working Group, 2014). The remainder of the chapter outlines why the benefits of including biodiversity under the SDGs could outweigh the costs. It then explains what will be needed to capture complementarities to realise these benefits.

4.1 The benefits of a biodiversity SDG

The first such set of benefits is that the SDGs are expected to receive attention from a broader range of stakeholders than the existing biodiversity targets. This is partially because the process to draft the SDGs has been significantly more participatory than other global efforts; this is exemplified by a series of consultations and compiled views from over seven million people across the world (United Nations Development Group, 2013). The SDGs involve goal-setting on a global scale that happens once every 15 years. As such, they also represent an unprecedented opportunity to raise awareness and inject momentum into preservation efforts at multiple levels. Put differently, issues not incorporated into the SDGs may receive little attention in international planning agendas and national government budgets. The attention given nationally and internationally to HIV/AIDS, malaria and other diseases that were incorporated into the MDGs, for instance, made a considerable difference while in comparison much less progress was made on other transmittable diseases.

The SDGs, as part of the post-2015 development agenda, will be adopted at a high level politically and as such, they can help advance action on biodiversity by reconfirming government commitments. With the exception of perhaps climate change, the SDGs are expected to generate more attention than past efforts at international environmental diplomacy. The goal-setting stage at the international level will conclude at the UN

Summit in September 2015 with participation from the heads of states and other ministerial level delegates. Should the Aichi Targets be reconfirmed through the SDGs, their realisation may be accelerated and strengthened. This is hence a golden opportunity to reinforce commitments from countries and other stakeholders to work collectively on the issue.

The SDGs are also intended to promote more inclusive approaches to implementation. As such, they could be designed to continually raise awareness on biodiversity and forests among policymakers and other stakeholders. This could even involve reaching out to ordinary citizens who could play a pivotal role by altering consumption patterns and requesting governments to account for policy decisions which may be detrimental to biodiversity, thereby strengthening implementation. The SDGs can also shine a fresh light on the current status of implementation of other international targets. This could open eyes to where progress has been slow and draw financial and other means of implementation (MOI) to make up shortfalls.

Yet another set of benefits involves the proposed simplicity in the design of the SDGs. To be effective awareness-raising tools, the SDGs need to be concrete, concise, easy-to-understand, and consistent with existing laws and commitments. When Agenda 21 was adopted at the 1992 Earth Summit as an action plan to realise sustainable development, it was also intended to raise awareness and catalyse action. But Agenda 21 consisted of 40 chapters and over 350 pages that even experts struggled to digest. As the MDGs were eight concise goals, they were reputedly successful in providing an easy-to-follow vision for raising global concern on poverty eradication. The 17 goals and 169 targets of the SDGs will likely be part of an agreement including a political declaration, a set of MOI, and mechanisms for review and follow-up. It remains to be seen whether the whole package of the post-2015 development agenda will be concise enough to be effectively communicated and taken up around the world—but simplicity and clarity of purpose seem likely to underpin the SDGs.

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4.2 Realising complementarities between the SDGs and existing legal instruments

The next question is how complementarities between the SDGs and existing legal instruments can be realised. The first step is to formally reiterate the potential for synergies. The importance of biodiversity, and of implementing the CBD and the Aichi Targets, for sustainable development were repeatedly stated by Member States during the OWG 8 meeting, which discussed Forest and Biodiversity (IISD Reporting Services, 2014). SDG 15.1 could be understood to summarise the overall objective of the CBD as conserving biological diversity. It thus needs to be understood that the SDG on biodiversity, and the CBD and Aichi Targets are complements and not substitutes. Ensuring complementarity between these two agreements will be essential for achieving consistency on targeting, national implementation strategies, multi-stakeholder engagement, and reporting and monitoring.

4.2.1 Targeting

An important aspect to consider in capturing complementarities is the coverage of the two agreements. The Aichi Targets consist of 20 targets, which are clustered as five strategic goals. The SDG on biodiversity includes 12 targets, three of which are MOI. Consequently, SDG targets are less comprehensive and deal with fewer issues compared with the Aichi Targets. Two such issues are Target 3 of the Aichi Targets, which states “By 2020, at the latest, incentives, including subsidies, harmful to biodiversity are eliminated, phased out or reformed in order to minimize or avoid negative impacts...” and Target 15, stating that “By 2020, ecosystem resilience and the contribution of biodiversity to carbon stocks has been enhanced, through conservation and restoration...” There are also numerical targets contained in the Aichi Targets, such as “restoration of at least 15 per cent of degraded ecosystems”, that have not been included in the draft SDGs. The Aichi Targets can therefore help fill some of the gaps left by the SDGs; and policymakers at different levels should interpret them as such.

On a related note, due attention should be paid to the different time scales of the targets. The target year for most of the existing Aichi Targets is 2020, so they will remain in effect after 2015 with the adoption of the SDGs. These targets were agreed upon following a long and difficult

negotiation process. Since the SDGs' target is 2030, it is necessary to harmonise the Aichi Targets and the SDGs. The Co-Facilitators of the Post 2015 Intergovernmental Negotiations suggested to rectify different target years and increase the level of consistency by keeping the same target year of 2020 but adding the phrasing 'take further action as needed by 2030' (Co-Facilitators of Post 2015 Development Agenda Negotiations, 2015). In this way, the consistency and the same ambition level as the Aichi Targets could be maintained. It will take time and patience to structure and implement both SDGs and Aichi Targets, but it will not be impossible.

4.2.2 National plans and policies

The formulation of relevant national plans and policies is also a process that must be considered in strengthening complementarities. The 2010 Targets and the Aichi Targets called for the formulation and implementation of national strategies and action plans on the part of participating nations. To link the SDGs to implementation, there must be a similar devolution of targets to the national level and the formulation of targets and strategies by each country. This process is also essential to increase the motivation of countries and suitably reflect their various circumstances and priorities. Fortunately, some countries have already had some success with the transposition of international agreements down to national and local levels for implementation with the CBD. Others have experienced challenges that could provide lessons and hopefully lead to improvements.

Japan is one country that has generally enjoyed success with the CBD process. After becoming party to the CBD, Japan established the first National Biodiversity Strategy in 1995 and revised the content of the legislation several times. In 2008, it adopted the Basic Act on Biodiversity to deal with biodiversity in a more holistic manner than the existing patchwork of laws. It is noteworthy that the law was developed in full consultation with civil society organisations and clarifies responsibilities for multiple stakeholders including national governments, businesses and citizens. This participatory process of law-making is a result of a global trend manifested by the Rio process (see Chapter 3). The Japanese government is required to report on the status of biodiversity and its measures for conservation and sustainable use annually. As such, prefectural as well as local strategies are developed, reflecting unique local circumstances on ecosystems.

Indonesia, on the other hand, has faced more challenges than Japan with the transposition process. To implement the CBD, the Indonesian government has been carrying out the Indonesian Biodiversity Strategy and Action Plan (IBSAP) since 2003 and plans to continue implementation until 2020. The National Development and Planning Agency (BAPPENAS) reviewed its implementation in 2012. In the review, several shortcomings were identified such as lack of understanding and political support for biodiversity conservation, lack of human resources with relevant knowledge, the absence of monitoring and evaluation institutions (Ministry of Environment and Forestry of Indonesia, 2014). Another challenge is that IBSAP is not a legal document and its implementation is entirely voluntary. Additionally, no institution was given a clear mandate to review and implement IBSAP.

It goes without saying that governments have the role of drafting the necessary laws and policies to facilitate the creation of sustainable societies. In Japan, this process of transposition went relatively smoothly; in Indonesia, the process was more challenging. However, both cases illustrate the need for due attention to national contexts. Unlike the MDGs that targeted developing countries, agreement has been reached that the SDGs are to cover all countries. This coverage, of course, raises questions about how the SDGs will be implemented in any particular country. The problems and priority issues in each country are diverse, making it difficult to establish common targets that are appropriate and acceptable for all

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nations. Most relevant to this chapter is that the reduction of forest area is not a problem everywhere. While forests in tropical regions of South America, Africa and Southeast Asia are rapidly decreasing, forest area has been on a slight increase in parts of Europe and East Asia. The SDGs could be universal in coverage while offering flexibility for tailored approaches in implementation at national level.

The experience of Japan and Indonesia with the CBD also highlights the fact that it is virtually impossible to implement biodiversity targets relying solely on governments. Actions from the part of the private sector and citizens are indispensable. As mentioned above, the Act on Biodiversity in Japan stipulates responsibilities of stakeholders but some of these stakeholders are not aware of their responsibilities. To fill this kind of gap

in the context of the new SDGs, governments will need to make every effort to raise the awareness of citizens and the private sector.

4.2.3 Multi-stakeholder engagement

SDGs are expected to spur citizens' awareness on the environment and sustainability as well as encourage corporate actions. Some companies have already adopted goals for their operations to be more sustainable. For instance, Procter and Gamble (P&G) has established a mid-term target to "procure 100% of wood fibre, excluding recycled material, from third-party certified sources by 2015", and was able to raise its rate of third-party certified procurement to 97% in 2013. In the area of renewable energy, P&G set a target to "raise the rate of renewable energy use to 30% in factories by 2020" and a rate of 7.5% was realised as of 2013 (P&G, 2014). This is just one example of the kind of steps taken by influential multinational companies for sustainable development. Actions like these are expected to be encouraged by the SDGs.

Another unique action was the New York Declaration on Forests made in 2014 at the UN Climate Summit. This Declaration aims to "cut natural forest loss in half by 2020, and strive to end it by 2030". This is markedly different from similar major declarations in the past due to the fact that major multinationals and NGOs joined forces to create a "non-legally binding political declaration that grew out of dialogue among governments, companies and civil society" (United Nations, 2014). This

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also reflects a recent trend for the international community to recognise the importance of multi-stakeholder collaboration. It is also significant that 34 multinational companies with activities having major impacts on the world forests and biodiversity such as Johnson & Johnson, Kellogg's, L'Oreal and Marks & Spencer joined this declaration.

Ideally the SDGs will encourage the setting of similar types of targets and implementation on the part of multiple stakeholders such as the private sector, local governments and other citizen groups. "Coalitions of the willing"—groups of corporations or citizens that independently set sustainability targets and work toward

their implementation—may become helpful additions to government policy. Some notable examples are the Consumer Goods Forum, with the participation of the world's leading companies in the distribution industry and daily goods manufacturing, and the Global Electricity Initiative, with members including major global corporations. Ideally the SDGs will strengthen this trend and inject much needed momentum to work on biodiversity. This is particularly important since many of the forces that pose a threat to biodiversity lie outside the influence of national governments.

4.2.4 Reporting mechanisms

A final aspect that requires attention to capture complementarities involves reporting mechanisms. The CBD has 193 state parties, out of which 170 countries have adopted National Biodiversity Strategies and Action Plans. The CBD also requires each state party to report “on measures which it has taken for the implementation of the provisions of this Convention and their effectiveness in meeting the objectives of this Convention” (Article 26). This reporting system has not been without challenges; late or low rates of submission, and difficulty in assessing the overall situations and the effectiveness of measures taken have been observed (Convention on Biological Diversity, 2003). Even when state parties submit their reports, the quality of reports has varied and information presented was sometimes of limited use.

Learning from these experiences and recognising the limited capacity of developing countries, the Global Environmental Facility (GEF), the financing entity for the CBD, has funded activities to prepare national reports. So far, 143 countries submitted their fifth national reports (Convention on Biological Diversity, 2015). These reports have been used to prepare the Global Biodiversity Outlooks and contain valuable information on the status of biodiversity around the world, which can also be used to measure the effectiveness of the CBD and the Aichi Targets. Such reports already resemble an established reporting mechanism and should not be duplicated but rather strengthened and complemented by the SDGs.

It will be critical to avoid duplication of reporting mechanisms as many government officials in charge of drafting and compiling these reports, including those of developed countries, expressed concerns over the current cumbersome reporting requirements. Overburdening

government officials might risk the reports being written for the sake of reporting rather than improving performance. Importantly, existing agreements already have reporting and monitoring mechanisms in place to track progress. There is no need to reinvent the wheel for reporting and monitoring mechanisms for the SDGs.

5 Conclusion

Some may argue that including biodiversity in the SDGs is unnecessary duplication which could ultimately compromise the implementation of both the SDGs and other relevant agreements, especially the CBD and the Aichi Targets. This concern has been voiced in discussions among UN Member States on how to design SDG goals and targets on biodiversity and ensure consistency with existing ones.

This chapter recognises such concerns but argues there is more to be gained from complementing existing legal instruments with the SDGs. This is partially because the SDGs are designed to communicate the importance of sustainability to much broader audiences than those traditionally concerned with CBD and its Aichi Targets. It also suggests that the rapid decline of biodiversity necessitates an integrated approach with other goal areas as well as the elevated status that the SDGs could potentially achieve. Echoing messages in other parts of this book, the chapter underlines that there are possible complementarities between the compliance-driven approach of the CBD and the more collaborative approach of the SDGs. It is important to integrate the essence of the CBD into the SDGs without undermining the CBD's content and respecting variations between the two agreement's implementation mechanisms. In doing so, it is especially important to consider how the agreements are translated into national plans and strategies, what stakeholder groups they are likely to engage, and how the systems for monitoring, evaluation and follow-up can work together.

It is hoped that the global community will be able to address the challenges of biodiversity loss based on a spirit of cooperation rather than competition

It is not easy for countries at differing levels of development to share common goals. There is significant potential for negotiations to reach impasses on controversial issues such as finance. However, it is hoped

that the global community will be able to address the challenges of biodiversity loss based on a spirit of cooperation rather than competition. To guarantee the earth's sustainability, measures are required from multiple perspectives. From the destruction of biodiversity, poverty and corruption, to the preservation of biodiversity and adaptation to climate change, it is no exaggeration that all human activities are interrelated.

An easy-to-understand example of such synergistic linkages is when renewable energy, which replaces fossil fuels, leads not only to lower GHG emissions but also to cleaner air, thereby yielding benefits for both human and ecological health. But there are also instances where objectives can conflict, such as when building infrastructure for renewable energy such as hydroelectric power dams destroys local habitats for fauna and flora. Linkages can also be more complex; for example, it is not intuitive how efforts to preserve biodiversity and actions aimed at reducing poverty interact. The preservation of biodiversity is not merely the protection of animals, but the maintenance of a better living environment for humans. In other words, preserving biodiversity is an MOI for other goals.

SDGs aim to illustrate the overall picture of sustainable development ranging from poverty eradication to SCP, and biodiversity sits at the centre of that picture. This positioning demonstrates to policy makers and citizens alike the interlinkages between different sectors and the need to carefully assess them when pursuing sustainable development. In illustrating correlations among numerous goals and issues, a biodiversity SDG could help forge new norms around integration and give rise to the governance arrangements needed to realise them.

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