# [***Global Resilience Partnership: Biodiversity Loss, Litigation and Value Chain Risk***](https://advance.lexis.com/api/document?collection=news&id=urn:contentItem:64KF-T361-JC11-126H-00000-00&context=1516831)

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**Body**

(TNSOps) -- The Global Resilience Partnership issued the following news:

***Biodiversity*** ***loss*** is ranked by the World Economic Forum (WEF) as a severe risk to humanity in the next decade. Register your interest below to receive the Clyde & Co/Global Resilience Partnership joint paper on ***biodiversity*** litigation and value chain risk.

The World Economic Forum in the 17th edition of its Global Risks Report, published on 11 January 2022, has yet again shone a spotlight on ***biodiversity*** risk. Along with climate action failure and extreme weather, ***biodiversity*** ***loss*** ranks as one of the three most potentially severe risks for the next decade. The 2020 and 2021 WEF reports ranked ***biodiversity*** ***loss*** and ecosystem collapse as one of the top five threats humanity will face in the next ten years.

The crisis is ever more urgent. ***Biodiversity*** is declining faster than at any time in human history. Current extinction rates are 100 to 1,000 times higher than the baseline rate, and they are increasing.

We depend on ***biodiversity***, not only for its intrinsic and cultural value but for provisioning services - for products we make and consume - and regulating and maintenance services - for the water we drink, the air we breathe, to decompose waste and to protect against erosion, storm or the spread of disease.

The global economy depends on a healthy biosphere. It has been estimated that more than half of the world's economic output - US$44tn of value - is moderately or highly dependent on nature. ***Biodiversity*** risk is increasingly going to be on the corporate radar as part of ongoing work to mitigate climate change risk (and support nature-based solutions) and broader initiatives on ESG. At the same time accounting and reporting standards for ***biodiversity***-related risks and impacts are taking shape.

Accounting for ***biodiversity*** risks

In 2021 HM Treasury published its Final Report on the Economics of ***Biodiversity*** led by Professor Sir Partha Dasgupta. Running to over 600 pages, the Dasgupta Review advocates for accounting for both dependencies and impacts on nature through measurement and disclosure of nature-related financial risks.

It is evident that ***biodiversity*** will be following the climate change playbook, with a high-level international task force called the Taskforce on Nature-Related Financial Disclosures or TNFD exploring a disclosure framework for corporates in identifying and assessing ***biodiversity*** risks.

As with climate, some financial institutions themselves are pushing for adoption of more rigorous and standardised methodologies and criteria to assess and disclose ***biodiversity*** risks. 84 companies have signed the Finance for ***Biodiversity*** Pledge, together they represent over Eur12.6trn in assets. The Pledge includes a commitment to, by 2025, report annually about significant positive and negative contributions to global ***biodiversity*** goals linked to those companies' financing activities and portfolio investments.

Ecosystems are complex and so the means of measurement are even more challenging than for carbon accounting, but various systems of measurement exist and more will be developed and refined. In the coming years, the value of natural capital and ecosystem services and the financial risks of ***biodiversity*** ***loss*** will increasingly be identified and evaluated by financial institutions.

***Biodiversity*** litigation risk

As a result of increased scrutiny of both the dependencies and impacts that companies have on ***biodiversity***, and the increasing harms caused by ***biodiversity*** ***loss***, we will begin to see an uptick in litigation risk. Added to this picture is the growing use of data from remote sensing and in supply chain management which will permit a better understanding of where ***biodiversity*** ***loss*** is occurring and who may be responsible.

There may be cases brought for the direct impact of companies on ecosystems or particular species, or for the deprivation of ecosystem services to communities or companies that depend on them. Liability risks can also arise from a failure to adequately or faithfully report on ***biodiversity***-related risks, or misrepresenting nature-positive credentials.

Importantly, the advent of ***biodiversity*** litigation risk comes at a time of (1) greatly enhanced value chain due diligence requirements, and (2) courts' preparedness to recognise the rights of nature as a legal person with alongside humans and corporations.

1. Value chain due diligence

Under a 2017 French Corporate Duty of Vigilance law French companies with more than 5,000 employees must undertake due diligence of their supply chains (including group companies, suppliers and subcontractors) for possible violations of human rights and environmental standards. In March 2021, leveraging this law, an international coalition of NGOs sued the French supermarket chain Casino for its alleged involvement in cattle industry-caused deforestation of the Amazon in Brazil and Colombia. On 10 March 2021, the European Parliament approved an outline proposal for an EU Directive on Mandatory Human Rights, Environmental and Good Governance Due Diligence. Although publication of the draft legislation by the European Commission has been delayed, value chain due diligence legislation is a growing trend in Europe: similar legislation exists in Germany and is in development in Belgium, Austria, and the Netherlands. Legislation in the UK, Norway and Switzerland require due diligence in respect of specific human rights harms, such as slavery and child labour.

2. Environmental personhood

In most legal systems humans and corporates are considered legal subjects, with rights before the law. There is a growing trend to grant personhood to natural features or ecosystems. In 2017 New Zealand became the first country to grant a river legal personhood. In 2019 Bangladesh's Supreme Court recognised that all the country's rivers have legal rights including the right to life. Following the ruling, anyone accused of damaging rivers can be taken to court by a government-appointed National River Conservation Commission. In 2021 the Muteshekau Shipu (Magpie River) in Canada was granted personhood by local authorities and given nine rights including the right to flow, to be safe from pollution, and to have standing before the Courts. Nature has been granted legal rights in other jurisdictions including India, Colombia and Ohio.

These developments look set to increase litigants' ability to bring ***biodiversity***-related claims to Court in the near future.

A new global framework for managing nature through 2030

2022 is a key year for ***biodiversity*** action, with a landmark UN conference COP15 taking place in Kunming China in April-May to agree global goals for nature in the next decade by agreeing the Post-2020 global ***biodiversity*** framework. The Framework comprises 21 targets and 10 'milestones' for 2030. Key targets include:

\* Ensure that at least 30 per cent of land and sea globally are conserved

\* Reduce nutrients lost to the environment by at least half, pesticides by at least two thirds, and eliminate discharge of plastic waste

\* Use ecosystem-based approaches to contribute to mitigation and adaptation to climate change

\* Reduce incentives harmful to ***biodiversity*** by at least $500 billion per year

\* Increase financial resources to at least US$ 200 billion per year

With increasing global policy action and legislation to make these international commitments effective, companies and other actors will inevitably face greater legal obligations to act in a nature-positive manner.

Along with the work of TNFD and a deepening understanding of material climate risk in the corporate world, the 2022 WEF report underlines the importance of moving away from "business as usual" in how the economy interacts with nature.

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