



## **Convention on Biological Diversity**

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### **CENTRAL AND EASTERN EUROPEAN REGIONAL WORKSHOP ON THE NAGOYA – KUALA LUMPUR SUPPLEMENTARY PROTOCOL ON LIABILITY AND REDRESS TO THE CARTAGENA PROTOCOL ON BIOSAFETY**

Ljubljana, Slovenia, 16-17 June 2011

### **REPORT OF THE WORKSHOP**

#### **INTRODUCTION**

1. The Central and Eastern Europe Regional Workshop on the Nagoya – Kuala Lumpur Supplementary Protocol on Liability and Redress was held in Ljubljana, Slovenia on 16 and 17 July 2011. It was held in the Agricultural Institute of Slovenia.
2. The workshop was attended by 10 participants from 10 country Parties to the Cartagena Protocol on Biosafety and one representative from CripeLife International, a biotechnology industry group.
3. The following countries were represented: Belarus, Croatia, Georgia, Hungary, Latvia, Lithuania, Republic of Moldova, Serbia, Slovenia and The Former Yugoslav Republic of Macedonia.
4. The objective of the workshop was to increase awareness and understanding of the Nagoya – Kuala Lumpur Supplementary Protocol with the ultimate goal to expedite the signature and ratification of the Supplementary Protocol and its implementation by Parties to the Cartagena Protocol on Biosafety. The workshop was also intended to provide a forum to follow up on the implementation of the decisions of the fifth meeting of the Conference of the Parties serving as the meeting of the Parties to the Cartagena Protocol on Biosafety, in particular the decision on the Strategic Plan, and on the submission of second national report by each Party on the implementation its obligations under the Cartagena Protocol on Biosafety.

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## **ITEM I. OPENING OF THE WORKSHOP**

5. The workshop was opened by Mr. Martin Batic, Head of the Biotechnology Unit in the Ministry of Environment and Spatial Planning of Slovenia. Mr. Batic welcomed the participants. He thanked the Government of Japan for making funds available for the workshop and the Agricultural Institute of Slovenia for providing the venue and necessary facilities. He also thanked the Secretariat of the Convention on Biological Diversity for organizing the workshop. He noted that the workshop would provide a good opportunity for representatives of countries to increase their understanding about the Nagoya – Kuala Lumpur Supplementary Protocol and to examine the needs for implementing it at the domestic level. Mr. Batic wished the participants fruitful discussions and a good stay in Slovenia.

6. Mr. Worku Damena Yifru of the Secretariat of the Convention on Biological Diversity thanked the participants for coming and the Government of Slovenia for generously accepting to host the workshop. He introduced the objectives for the workshop and provided an overview of the programme for the workshop.

7. Mr. Batic invited participants to introduce themselves and to indicate their expectations for the workshop.

## **ITEM 2. THE NAGOYA – KUALA LUMPUR SUPPLEMENTARY ON LIABILITY AND REDRESS**

### ***2.1. Basic Concepts and facts relevant to liability and redress***

8. Mr. Worku Damena Yifru of the Secretariat of the Convention on Biological Diversity made a presentation under this item. Mr. Yifru highlighted some of the basic concepts that are relevant to the subject of liability and redress. He outlined the general description of the concept of “liability”; the concept of damage and the traditional types of damage and the emerging types of damage; broad categories of liability or types of liability; standards of care or liability; issues or elements that are commonly addressed in a liability regime; and general purposes of liability rules. He also indicated some of the international environmental liability instruments, the different approaches adopted by these instruments in defining damage and providing for liability rules, and their status.

9. Participants raised some questions and discussed some relevant points.

### ***2.2. An overview of the Supplementary Protocol***

10. Mr. Worku Damena Yifru of the Secretariat of the Convention on Biological Diversity made a presentation on the provisions and core requirements of the Supplementary Protocol on Liability and Redress. Mr. Yifru described the background to the Cartagena Protocol on Biosafety and the Nagoya – Kuala Lumpur Supplementary Protocol; the objective of the Supplementary Protocol, which ultimately is to contribute to the conservation of biological diversity and the sustainable use of the components of biological diversity, aims that are also underlined in the objectives of the Convention as well as the Protocol on Biosafety; the Scope of the Supplementary Protocol; the definition of damage; response measures to damage - what measures and by who; and finally implementation requirements and the application of civil liability rules in the context of the Supplementary Protocol.

11. At the end of the presentation, participants raised questions and made comments.

### ***2.3. Stakeholders’ perspective on the Significance of the Supplementary Protocol***

12. Under this item, Mr. Thomas Carrato, Chair, Global Industry Coalition Steering Committee and Executive Director Emeritus, Compact made presentation, on behalf of biotechnology industry. Mr. Carrato outlined the ratification and implementation of the Nagoya – Kuala Lumpur Supplementary Protocol from the point of view of industry. He said that the Global Industry Coalition fully supports the ratification of the Supplementary Protocol because it is consistent with the guiding principles advocated by industry during the negotiations on liability and redress. He mentioned that those guiding principles

are now embodied in the Compact, a contractual mechanism for response in the event of damage to biological diversity caused by the release of a living modified organism.

13. Ms Angela Lozan of Moldova made presentation reflecting on her experience as one of the representatives from the CEE region who participated in the negotiations on liability and redress, in particular in the Group of Friends of the Co-Chairs. Ms. Lozan recapped the issues addressed during the different stages of the negotiations. She outlined some points that countries in the region may wish to take into account in their efforts to implement the Supplementary Protocol.

14. After the two presentations, participants raised questions and made comments.

15. Following the presentations and discussions held throughout the day, participants were asked to undertake some exercises in the form of hypothetical cases that depict different scenarios of damage and potential cases of liability. The purpose of the exercise was to enable participants relate the provisions of the Supplementary Protocol to different specific situations and to measure their understanding of the Supplementary in the context of its possible application or implementation at the domestic level.

16. Accordingly, participants formed three small groups and each group was assigned with a case. After discussions within the small groups, each group presented, through its rapporters, its views and suggestions on how the issues highlighted in the cases might be resolved.

#### **2.4. *Experience/approaches within the region in providing rules on liability and redress***

17. Under this item, participants made presentation on their relevant national experiences and the status of their domestic laws that have relevance to liability and redress in general and liability and redress for damage caused by living modified organisms in particular. Participants took note of the compilation prepared by the Secretariat on “Domestic biosafety or environmental laws and regulations which include provisions on liability and redress” (document UNEP/CBD/BS/L&R/RW/CEE/1/2). Several participants have recognized that the information that was made available through the BCH earlier by their respective countries was not up-to-date. They agreed to update or facilitate the updating of the information available in the BCH on their domestic laws and regulations.

18. Participants noted the distinction between liability clauses that exist in domestic biosafety laws, which provide for liability for violation of the provisions of these domestic laws, and liability for damage as defined the Supplementary Protocol.

#### **2.5. *Signature and ratification***

19. Mr. Yifru of the Secretariat of the Convention on Biological Diversity made a presentation on the procedure and legal significance of signature, and ratification, approval, acceptance or accretion to international agreements. He updated participants with the status of signature of the Supplementary Protocol. He has also outlined some possible advantages and significance that may result from signing and ratifying the Nagoya – Kuala Lumpur Supplementary Protocol.

### **ITEM 3. IMPLEMENTATION OF OTHER DECISIONS ADOPTED BY THE FIFTH MEETING OF THE CONFERENCE OF THE PARTIES SERVING AS THE MEETING OF THE PARTIES TO THE CARTAGENA PROTOCOL ON BIOSAFETY**

#### **3.1. *Strategic Plan***

20. Under this item, Ms. Paola Scarone of the Secretariat of the Convention on Biological Diversity made a presentation on the Strategic Plan for the Cartagena Protocol on Biosafety (2011-2020) and on the multi-year programme of work annexed to the Strategic Plan adopted by the fifth meeting of the Conference of the parties serving as the meeting of the Parties to the Protocol.

21. Ms. Scarone drew the attention of participants to decision BS-V/16 of the fifth meeting of the Parties to the Biosafety Protocol. She highlighted the vision, mission and the strategic objectives of the Strategic Plan. She presented the structure, purpose and relationship among the strategic objectives,

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expected impacts, operational objectives, outcomes and indicators specified in the Strategic Plan. She mentioned the schedule and purpose of the mid-term evaluation of the Strategic Plan and emphasized the importance of national reports in providing the information necessary to measure achievements or identify limitations in the implementation of the Strategic Plan.

### **3.2. *Second national report***

22. Ms. Scarone also made a presentation on the obligation of Parties to the Protocol on Biosafety to submit their second national report which is due by the end of September 2011 in accordance with Article 33 of the Protocol and decision V/14 of the fifth meeting of the Parties to the Protocol. She recapped the important elements of decisions made by the meeting of the Parties to date as regards national reporting, and the rate of submission by Parties of their first national report. Ms. Scarone reminded parties of the objective of national reporting in general and the specific purposes of second national reports in particular. She informed participants that some funds are made available by the Global Environment Facility to support eligible Parties in the preparation of their second national report on the implementation of their obligations under the Biosafety Protocol and that countries needed to proceed expeditiously in order to benefit from the funding support and fulfil their reporting obligation in time.

## **ITEM 4. CONCLUSIONS AND EVALUATION OF THE WORKSHOP**

23. At the last session of the workshop, the participants considered and adopted the following points as conclusions. Participants of the Central and Eastern European regional workshop on the Nagoya – Kuala Lumpur Supplementary Protocol on Liability and Redress to the Cartagena Protocol on Biosafety:

- (a) Noted that the workshop has made a significant contribution in raising their understanding of the requirements of the Nagoya – Kuala Lumpur Supplementary Protocol.
- (b) Underlined the importance of such regional workshops in providing them with the opportunity to share information on experiences in regulatory approaches and best practices in implementing biosafety related policy, legal and administrative measures;
- (c) Considered that a number of countries in the region have some general or specific laws in place, such as the Environmental Liability Directive of the European Union, which may form a good basis to internalize the approach adopted and the rules envisaged by the Nagoya – Kuala Lumpur Supplementary Protocol for the purpose of addressing damage and providing for response measures.
- (d) Encourage their Governments to sign and ratify the Supplementary Protocol at their earliest opportunity;
- (e) Agreed to initiate the implementation of the Supplementary Protocol by commencing the review of their existing domestic laws with a view to determine the adequacy of such laws to address damage to biological diversity and to provide for response measures as defined in the Supplementary Protocol;
- (f) Considered that some of the commonalities that exist in the region may provide opportunity for a regionally harmonized approach with regard to: (i) baselines of the type and distribution of biological diversity or environmental resources, (ii) mechanisms or indicators for monitoring changes, including those changes that may be caused by climate change, (iii) establishing guidelines or criteria that could be used to determine the “significance” of biodiversity damage or to measure biodiversity loss, as well as techniques for valuation of biodiversity;
- (g) Agreed to update or facilitate the updating of their national laws and regulations in the Biosafety-Clearing House by making available, without any delay, all new laws and amendments relevant to the implementation of the Cartagena Protocol on Biosafety;
- (h) Agreed to expedite the preparation and timely submission of their second national report on the implementation of their obligations under the Protocol on Biosafety recognizing that information

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from national reports is fundamental in the implementation of other decisions taken by the Conference of the Parties serving as the meeting of the Parties to the Protocol;

- (i) Emphasized the importance of the Strategic Plan adopted by COP-MOP 5 in guiding actions by Parties, both at the national and international level, with regard to the implementation of the Cartagena Protocol on Biosafety on the one hand and national biosafety laws on the other;
- (j) Thanked the government of Slovenia for hosting the workshop and the warm hospitality they received; the Government of Japan for providing the financial resources that enabled them to participate in the workshop; and the Secretariat for organizing and conducting the workshop.

24. Participants also completed an evaluation of the workshop. The results of the evaluation are summarized in annex I.

#### **ITEM 5. CLOSURE OF THE WORKSHOP**

25. In his closing remarks, Mr. Martin Batic said that the workshop met all the objectives and expectations indicated at the beginning. He thanked participants for their active participation. He also thanked the Secretariat for the workshop materials, the presentations and for facilitating the workshop.

26. After exchange of courtesies, the workshop was closed at 4 p.m. on Friday, 17 June 2011.

*Annex I*

**WORKSHOP EVALUATION**

1. At the end of the workshop, the participants were asked to complete a workshop evaluation form. They were asked to rate, on a scale of 1 to 6, the extent to which the workshop had improved their understanding of: (1) the Nagoya – Kuala Lumpur Supplementary Protocol on Liability and Redress; and (2) other COP-MOP 5 decisions – in particular decisions on Strategic Plan and second national report. The participants were also invited to provide an overall assessment of the workshop in terms of how well it was organized and conducted and the extent to which it had met their expectations. The results of the evaluation are summarized in the table below.

<b>Part 1: Nagoya – Kula Lumpur Supplementary Protocol on Liability and Redress</b>	<b>Average rating</b>	<b>Rating</b>	<b>Satisfaction (%)</b>
(i) Improving your understanding of the issues relevant to liability and redress?	5	Very useful	83%
(ii) Improving your understanding of the Nagoya – Kuala Lumpur Supplementary Protocol on Liability and Redress?	5	Very useful	83%
(iii) Improving your understanding of the context in which the Supplementary Protocol might be applicable?	5	Very useful	87%
(iv) Improving your understanding of the existing approaches and rules adopted by other countries concerning liability and redress?	5	Very useful	80%
(v) Improving your understanding of the advantages and significance of the Supplementary Protocol?	5	Very useful	82%
(vi) Improving your understanding of the signature and ratification, approval, acceptance or accession processes/procedures?	5	Very useful	82%
<b>Part 2 Other COP-MOP decisions: Strategic Plan, Second National report</b>			
(i) Improving your understanding of the decisions from the fifth meeting of the Parties to the Biosafety Protocol?	5	Very useful	80%
(ii) Improving your understanding of the capacity needs to fulfil the requirements of the decisions?	5	Very useful	82%
(iii) Improving your understanding of how to seek financial or technical support from available sources in preparing your country's second national report?	5	Very useful	75%
(iv) Improving your understanding of the Cartagena Protocol on Biosafety?	5	Very useful	80%
(v) Improving your knowledge of the status of implementation of the decisions by other countries?	5	Very useful	77%

<b>Part 3: Overall workshop assessment</b>	<b>Average rating</b>	<b>Rating</b>	<b>Satisfaction (%)</b>
(i) Has the workshop met your expectations?	5	Fully	88%
(ii) How useful has the workshop been in improving your understanding of how your country could address damage resulting from living modified organisms?	5	Yes	80%
(iii) Has the workshop encouraged you to initiate a process or expedite any existing process towards the signature and ratification of the Supplementary Protocol by your Government?	5	Very useful	83%
(iv) How useful was the workshop for you as an individual?	5	Very useful	93%
(v) How well organised was the workshop?	5	Very well organized	96%
(vi) How did you find the balance between presentations and the discussions?	5	Very well balanced	88%
(vii) Overall, how would you rate the workshop?	5	Excellent	88%

2. In the written comments, a number of participants considered the following to have been the most helpful parts of the workshop:

A number of participants indicated that they found all the sessions in the workshop to be very useful. Still some others have identified the following:

- (i) Basic concepts and facts related to liability and redress;
- (ii) The small group exercises on hypothetical cases

3. One participant considered the following to be the least helpful aspects of the workshop:

The procedures/process of signature, ratification, acceptance, approval or accession

4. All participants responded “yes” to the question whether they would recommend to their Government to ratify the Supplementary Protocol.

5. One participant made the following suggestion for improving future workshops:

Find real cases of damage to biodiversity caused by living modified organisms for inclusion in the workshop group exercise on possible cases of damage and liability and redress.

*Annex II*

**WORKSHOP PROGRAMME**

Date and time	Agenda item	Facilitator/Presenter
<b>Thursday 16 June 2011</b> 9:30 a.m. – 9:45 a.m.	1. Opening of the workshop	<i>Facilitator:</i> Mr. Martin Batic (Slovenia)
9:45 a.m. – 10:15 a.m. 10:30 a.m. – 10:45 a.m.	2. The Nagoya – Kuala Lumpur Supplementary Protocol on Liability and Redress 2.1. Basic concepts and facts relevant to liability and redress  <i>Discussion</i>	<i>Facilitator:</i> Mr. Martin Batic (Slovenia)  <i>Presenter:</i> Mr. Worku Damena Yifru (SCBD)
10:45 a.m. – 11:15 a.m.	<i>Coffee/Tea Break</i>	
11:15 a.m. – 12:15 p.m. 12:15 p.m. – 1:00 p.m.	2.2. Overview of the Nagoya – Kuala Lumpur Supplementary Protocol on Liability and Redress  <i>Discussion</i>	<i>Presenter:</i> Mr. Worku Damena Yifru
1 p.m. – 2:30 p.m.	<i>Lunch Break</i>	
2:30 p.m. – 3:00 p.m. 3:00 p.m. – 3:30 p.m.	2.3. Stakeholders' perspective on the significance of the Supplementary Protocol 2.3.1 Biotech industry  <i>Discussion</i>	<i>Facilitator:</i> Mr. Martin Batic (Slovenia)  <i>Presenter:</i> Mr. Tom Carrato (CropLife International)
3:30 p.m. – 3:45 p.m.	<i>Coffee/Tea Break</i>	
3:45 p.m. – 4:15 p.m. 4:15 p.m. – 4:30 p.m. 4:30 p.m. – 5:00 p.m.	2.3.2. Non-governmental organizations Discussion 2.3.3. Group exercise on scenarios of damage and cases of liability	<i>Presenter:</i> representative of relevant NGOs  <i>All workshop participants</i>



<i>Date and time</i>	<i>Agenda item</i>	<i>Facilitator/Presenter</i>
<b>Friday 17 June 2011</b> 9:30 a.m. – 11:00 a.m.	2.3.3 Group exercise on scenarios of damage and cases of liability	<i>Facilitator:</i> Mr. Worku Damena Yifru (SCBD) <i>Group reporters</i>
11:00 a.m. – 11:15 a.m.	<i>Coffee/Tea Break</i>	
11:15 a.m. – 12:30 p.m. 12:30 p.m. – 1:00 p.m.	2.4 Experience/approaches within the region in providing rules on liability and redress 2.5 Signature and ratification	<i>Facilitator:</i> Mr. Martin Batic (Slovenia) <i>Presenters:</i> Participants <i>Presenter:</i> Mr. Worku Damena Yifru (SCBD)
1 p.m. – 2:30 p.m.	<i>Lunch Break</i>	
2:30 p.m. – 3:30 p.m.  3:30 p.m. – 4:00 p.m.	3. Implementation of other decisions adopted by the fifth meeting of the Conference of the Parties serving as the meeting of the Parties to the Cartagena Protocol on Biosafety  3.1. Strategic plan 3.2. Second national report <i>Discussion</i>	<i>Facilitator:</i> Mr. Martin Batic (Slovenia)  <i>Presenter:</i> Ms. Paola Scarone (SCBD) <i>Presenter:</i> Ms. Paola Scarone (SCBD)
4:00 p.m. – 4:15 p.m.	<i>Coffee/Tea Break</i>	
4:15 p.m. – 4:50 p.m. 4:50 p.m. – 5:00 p.m.	<i>Agenda item</i> 4. Conclusions and evaluation of the workshop 5. Closure of the workshop	<i>Facilitator:</i> Ms. Paola Scarone (SCBD) Mr. Martin Batic (Slovenia)

*Annex III*

**LIST OF PARTICIPANTS**

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