



CONVENTION ON BIOLOGICAL DIVERSITY

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GROUP OF LEGAL AND TECHNICAL EXPERTS ON LIABILITY AND REDRESS IN THE CONTEXT OF PARAGRAPH 2 OF ARTICLE 14 OF THE CONVENTION ON BIOLOGICAL DIVERSITY

Montreal, 12-14 October 2005
Item 2 of the provisional agenda*

ANNOTATIONS TO THE PROVISIONAL AGENDA

Note by the Executive Secretary

INTRODUCTION

1. At its sixth meeting, the Conference of the Parties, in its decision VI/11, requested the Executive Secretary to convene a group of legal and technical experts composed of government-nominated experts based on a fair and equitable geographical representation and including observers from relevant international organizations, including non-governmental organizations and convention secretariats, and with the mandate to review information gathered in accordance with paragraph 2 of the decision, and conduct further analysis of pertinent issues relating to liability and redress in the context of paragraph 2 of Article 14 of the Convention, and in particular:

(a) Clarifying basic concepts and developing definitions relevant to paragraph 2 of Article 14 (such as the concept of damage to biological diversity, its valuation, classification, and its relationship with environmental damage, the meaning of “purely internal matter”);

(b) Proposing the possible introduction of elements, as appropriate, to address specifically liability and redress relating to damage to biological diversity into existing liability and redress regimes;

(c) Examining the appropriateness of a liability and redress regime under the Convention on Biological Diversity, as well as exploring issues relating to restoration and compensation;

(d) Analysing activities and situations that contribute to damage to biological diversity, including situations of potential concern; and

* UNEP/CBD/EG-L&R/1/1.

(e) Considering preventive measures on the basis of the responsibility recognized under Article 3 of the Convention.

2. The meeting of the Group of Legal and Technical Experts on Liability and Redress in the context of paragraph 2 of Article 14 of the Convention is being held in accordance with the aforementioned decision, and with the mandate to review information gathered in accordance with paragraph 2 of decision VI/11, and to conduct further analysis of pertinent issues relating to liability and redress in the context of paragraph 2 of Article 14 of the Convention.

3. In accordance with the established practice, the Executive Secretary requested Parties to nominate suitably qualified experts to be considered for selection as participants to the meeting. On the basis of the nominations received, the Executive Secretary selected participants for the experts meeting taking into consideration the following factors:

(a) Knowledge and experience of international environmental law, international law relating to liability and redress for transboundary harm, or issues concerning the conservation and sustainable use of biological diversity;

(b) Equitable geographical representation; and

(c) Gender balance.

4. In addition, in accordance with paragraph 1 of decision VI/11, representatives of international organizations, including non-governmental organizations, and Convention Secretariats were invited to participate in the meeting as observers.

5. A list of documents for the meeting is contained in the annex to the present note. Participants were informed in advance about the availability of the documents on the Secretariat's web site at <http://www.biodiv.org>.

6. The Secretariat has also distributed an information note for participants containing details of registration and logistical arrangements for the meeting, including information on travel visa requirements, accommodation and other matters.

ITEM 1. OPENING OF THE MEETING

7. The meeting will be opened by the Executive Secretary of the Secretariat of the Convention on Biological Diversity, Mr. Hamdallah Zedan, at 10 a.m. on Wednesday, 12 October 2005.

ITEM 2. ORGANIZATIONAL MATTERS

2.1. Election of officers

8. Participants will be invited to elect a Chairman and Rapporteur for the meeting.

2.2. Adoption of the agenda

9. The Group may wish to adopt its agenda on the basis of the provisional agenda proposed in document UNEP/CBD/EG-L&R/1, which has been prepared by the Executive Secretary.

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2.3. *Organization of work*

10. The language of the meeting will be English.
11. The Group may wish to carry out its work in plenary. A proposal for the organization of work for the meeting is contained in annex I below.

ITEM 3. REPORT ON DEVELOPMENTS WITHIN THE FRAMEWORK OF ARTICLE 27 OF THE CARTAGENA PROTOCOL ON BIOSAFETY

12. The Co-chairs of the Open-ended Ad Hoc Working Group of Legal and Technical Experts on Liability and Redress in the context of the Cartagena Protocol on Biosafety will be invited to provide a report on the ongoing negotiations pursuant to Article 27 of the Protocol.

ITEM 4. REVIEW OF INFORMATION GATHERED IN ACCORDANCE WITH PARAGRAPH 2 OF DECISION VI/11, AND FURTHER ANALYSIS OF PERTINENT ISSUES RELATING TO LIABILITY AND REDRESS IN THE CONTEXT OF PARAGRAPH 2 OF ARTICLE 14 OF THE CONVENTION

13. In its review of the information gathered in accordance with paragraph 2 of decision VI/11, and further analysis of pertinent issues relating to liability and redress in the context of paragraph 2 of Article 14 of the Convention, the group of legal and technical experts on liability and redress is invited to consider, in particular, the following issues:

- 4.1. Clarification of basic concepts and development of definitions relevant to paragraph 2 of Article 14 (such as the concept of damage to biological diversity, its valuation, classification, and its relationship with environmental damage, the meaning of “purely internal matter”);
- 4.2. Analysis of activities and situations that contribute to damage to biological diversity, including situations of potential concern;
- 4.3. Proposals regarding the possible introduction of elements, as appropriate, to address specifically liability and redress relating to damage to biological diversity into existing liability and redress regimes;
- 4.4. Examination of the appropriateness of a liability and redress regime under the Convention on Biological Diversity, as well as the exploration of issues relating to restoration and compensation;
- 4.5. Consideration of preventive measures on the basis of the responsibility recognized under Article 3 of the Convention.

14. In order to assist the group of legal and technical experts on liability and redress in its work, the Executive Secretary has prepared a note providing an analysis of pertinent issues relating to liability and redress in the context of the Convention (UNEP/CBD/EG-L&R/1/2). Three information documents have also been prepared. The first contains information on recent developments in sectoral and regional legal instruments as well as developments in private international law (UNEP/CBD/EG-L&R/1/INF/1). The second information note provides a summary of case-law and case-studies pertaining to transboundary

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environmental damage (UNEP/CBD/EG-L&R/1/INF/2). Finally, a synthesis report of submissions by Parties received by the Executive Secretary (UNEP/CBD/EG-L&R/1/INF/3) is also being made available.

15. In addition to these documents, participants may also wish to refer to the documents prepared for the Workshop on Liability and Redress in the context of the Convention on Biological Diversity, held in Paris, from 18 to 20 June 2001. In particular, document UNEP/CBD/WS-L&R/2 which reviews relevant international legal instruments on liability and redress and document UNEP/CBD/WS-L&R/3 which contains the final report of the Paris Workshop on Liability and Redress.

ITEM 5. OTHER MATTERS

16. Under this item, participants may wish to raise and discuss other matters related to the subject matter of the meeting.

ITEM 6. ADOPTION OF THE REPORT

17. The Group will consider and adopt its report.

18. The report of the meeting will be presented by the Chairperson to the Conference of the Parties at its eighth meeting.

ITEM 7. CLOSURE OF THE MEETING

19. The meeting is expected to be closed at 6 p.m. on Friday, 14 October 2005.

Annex I

**PROVISIONAL ORGANIZATION OF WORK FOR THE GROUP OF LEGAL
AND TECHNICAL EXPERTS ON LIABILITY AND REDRESS IN THE
CONTEXT OF THE CONVENTION ON BIOLOGICAL DIVERSITY**

<i>Plenary</i>	
<p><i>Wednesday</i> <i>12 October 2005</i> 10 a.m to 11 a.m.</p>	<p><i>Agenda item:</i></p> <ol style="list-style-type: none"> 1. Opening of the meeting.
<p>11 a.m to 1 p.m.</p>	<p><i>Agenda items:</i></p> <ol style="list-style-type: none"> 2. Organizational matters: <ol style="list-style-type: none"> 2.1. Election of officers; 2.2. Adoption of the agenda; 2.3. Organization of work. 3. Report on developments within the framework of Article 27 of the Cartagena Protocol on Biosafety. 4. Review of information gathered in accordance with paragraph 2 of decision VI/11, and further analysis of pertinent issues relating to liability and redress in the context of paragraph 2 of Article 14 of the Convention, including: <ol style="list-style-type: none"> 4.1 Clarification of basic concepts and development of definitions relevant to paragraph 2 of Article 14; 4.2 Analysis of activities and situations that contribute to damage to biological diversity, including situations of potential concern; 4.3 Proposals regarding the possible introduction of elements to address liability and redress for damage to biological diversity into existing Liability and Redress regimes; 4.4 Examination of appropriateness of a liability and redress regime under the Convention on Biological Diversity, and the exploration of issues such as restoration and compensation; 4.5 Consideration of preventive measures on the basis of the responsibility recognized under Article 3 of the Convention.
<p>3 p.m. to 6 p.m.</p>	<p><i>Agenda item 4 (continued).</i></p>

<p><i>Thursday</i> <i>13 October 2005</i> 10 a.m. to 1 p.m.</p>	<p><i>Agenda item 4 (continued).</i></p>
<p>3 p.m. to 6 p.m.</p>	<p><i>Agenda item 4 (continued).</i></p>
<p><i>Friday</i> <i>14 October 2005</i> 10 a.m. to 1 p.m. 3 p.m. to 6 p.m.</p>	<p><i>Agenda items:</i> 5. Other matters. 6. Adoption of the report. 7. Closure of the meeting.</p>

Annex II

**LIST OF DOCUMENTS FOR THE GROUP OF LEGAL AND TECHNICAL EXPERTS ON
LIABILITY AND REDRESS IN THE CONTEXT OF PARAGRAPH 2 OF ARTICLE 14 OF THE
CONVENTION ON BIOLOGICAL DIVERSITY**

Symbol	Title
<i>Working Documents</i>	
UNEP/CBD/EG-L&R/1/1	Provisional agenda
UNEP/CBD/EG-L&R/1/1/Add.1	Annotations to the provisional agenda
UNEP/CBD/EG-L&R/1/2	Liability and redress in the context of paragraph 2 of Article 14 of the Convention on Biological Diversity: an analysis of pertinent issues
<i>Information Documents</i>	
UNEP/CBD/EG-L&R/INF/1/1	Liability and redress in the context of paragraph 2 of Article 14 of the Convention on Biological Diversity: update on developments in relevant sectoral and regional legal instruments and developments in private international law
UNEP/CBD/EG-L&R/INF/1/2	Summary of case-law and case-studies pertaining to transboundary environmental damage
UNEP/CBD/EG-L&R/INF/1/3	Synthesis report of submissions by Parties received by the Executive Secretary
<i>Previous Documents</i>	
UNEP/CBD/WS-L&R/2	Liability and redress under the Convention on Biological Diversity: Review of relevant international legal instruments and issues for consideration
UNEP/CBD/WS-L&R/3	Final report of the Workshop on Liability and Redress under the Convention on Biological Diversity
