



Convention on Biological Diversity

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**Conference of the Parties to the Convention on
Biological Diversity serving as the meeting of the
Parties to the Cartagena Protocol on Biosafety
Twelfth meeting**

Yerevan, 19–30 October 2026

Item 17 of the provisional agenda*

**Nagoya-Kuala Lumpur Supplementary Protocol
on Liability and Redress**

Nagoya-Kuala Lumpur Supplementary Protocol on Liability and Redress

Note by the Secretariat

I. Introduction

1. The Nagoya-Kuala Lumpur Supplementary Protocol on Liability and Redress to the Cartagena Protocol on Biosafety was adopted by the Conference of the Parties serving as the meeting of the Parties to the Protocol at its fifth meeting, by decision [BS-V/11](#). The Supplementary Protocol entered into force on 5 March 2018.

II. Status of the Supplementary Protocol

2. The Supplementary Protocol is an international treaty to which only Parties to the Cartagena Protocol may become party (in accordance with Article 16, para. 3, of the Supplementary Protocol, and Article 32 of the Convention on Biological Diversity).

3. As at 21 July 2026, there were 55 Parties to the Supplementary Protocol, which represents one more Party (Malta) since the issuance of the previous report on the Supplementary Protocol.¹ The list of Parties to the Supplementary Protocol is provided below, by regional group:

(a) African States (12): Burkina Faso, Central African Republic, Congo, Democratic Republic of the Congo, Eswatini, Guinea-Bissau, Liberia, Malawi, Mali, Nigeria, Togo and Uganda;

(b) Asia-Pacific States (8): Cambodia, Democratic People's Republic of Korea, India, Japan, Mongolia, Syrian Arab Republic, United Arab Emirates and Viet Nam;

(c) Eastern European States (13): Albania, Bulgaria, Croatia, Czechia, Estonia, Hungary, Latvia, Lithuania, Republic of Moldova, Romania, Slovakia, Slovenia and Ukraine;

(d) Latin American and Caribbean States (5): Colombia, Cuba, Mexico, Peru and Venezuela (Bolivarian Republic of);

* [CBD/CP/MOP/12/1](#).

¹ [CBD/CP/MOP/11/11](#).

(e) Western European and other States (17): Austria, Belgium, Denmark, European Union, Finland, France, Germany, Ireland, Italy, Luxembourg, Malta, Netherlands (Kingdom of the), Norway, Spain, Sweden, Switzerland and United Kingdom of Great Britain and Northern Ireland.

III. Assessment and review of the Supplementary Protocol

4. Article 13 of the Supplementary Protocol provides that the review of the effectiveness of the Supplementary Protocol is to be undertaken by the Conference of the Parties serving as the meeting of the Parties to the Protocol five years after its entry into force and every five years thereafter, provided that information requiring such a review has been made available by Parties. Article 13 also provides that the review is to be undertaken in the context of the assessment and review of the Protocol, as specified in Article 35 of the Protocol, unless otherwise decided by the Parties to the Supplementary Protocol, and that the first review is to include a review of the effectiveness of Articles 10 and 12 of the Supplementary Protocol.

5. In its decision [CP-10/13](#), the Conference of the Parties serving as the meeting of the Parties to the Protocol decided that the first assessment and review of the effectiveness of the Supplementary Protocol would be undertaken in the context of the fifth assessment and review of the effectiveness of the Protocol, welcomed the inclusion of questions on the Supplementary Protocol in the format for the fifth national report and requested Parties to the Supplementary Protocol, and invited other Governments, to respond to those questions.

6. In its decision [CP-11/10](#), the Conference of the Parties serving as the meeting of the Parties to the Protocol invited Parties to share information on financial security mechanisms, together with other information on national measures for the implementation of the Supplementary Protocol, in their fifth national reports, and requested the Executive Secretary of the Convention to use that information when preparing the documentation for the first assessment and review of the effectiveness of the Supplementary Protocol. Parties were reminded of the invitation in notification No. [2026-002](#) of 5 January 2026.

7. The present document contains information on the implementation of the Supplementary Protocol, as provided by Parties thereto in the fifth national reports under the Protocol submitted by 1 June 2026, and information published by them through the Biosafety Clearing-House.

8. Goal A.10 of the implementation plan and the capacity-building action plan for the Protocol addresses the Supplementary Protocol. A report on progress towards Goal A.10 was included in the analysis of information for the fifth assessment and review of the effectiveness of the Protocol and the midterm evaluation of the implementation plan and the capacity-building action plan submitted to the Subsidiary Body on Implementation at its seventh meeting.² The Subsidiary Body adopted recommendation [7/5](#) on the assessment and review and the midterm evaluation, which contains a draft decision for consideration by the Conference of the Parties serving as the meeting of the Parties to the Protocol at its twelfth meeting.

9. Where relevant, the present document contains cross-references to the information provided in document [CBD/SBI/7/6/Add.1](#) to inform the first assessment and review of the effectiveness of the Supplementary Protocol by the Parties thereto.

10. Among the 44 Parties to the Supplementary Protocol that had submitted their fifth national reports under the Protocol by 1 June 2026, 64 per cent (28 Parties) reported that national measures for the implementation of the Supplementary Protocol were fully in place, 18 per cent (8 Parties) that measures were partially in place, 2 per cent (1 Party) that only temporary measures had been taken, 5 per cent (2 Parties) that only draft measures existed and 11 per cent (5 Parties) that no measures

² See [CBD/SBI/7/6/Add.1](#), sect. III.J. The description of progress was based on information from the fifth national reports submitted by 2 March 2026.

had been introduced.³ A regional breakdown of the adoption of measures for the implementation of the Supplementary Protocol was provided in paragraph 145 of document [CBD/SBI/7/6/Add.1](#).

11. Eighty-four per cent of Parties (37 Parties) reported that their administrative or legal instruments required that response measures be taken in case of damage resulting from living modified organisms, and 81 per cent (35 Parties) reported that their administrative or legal instruments required response measures to be taken in case of sufficient likelihood of damage if response measures were not taken.⁴

12. Of the Parties that reported that their administrative or legal instruments required that response measures be taken in case of damage resulting from living modified organisms, 36 provided further information on the requirements that their instruments introduced. Ninety-seven per cent of those Parties (35 Parties) reported that their instruments required that the operator must inform the competent authority of the damage, 72 per cent (26 Parties) that the operator was required to evaluate the damage, 92 per cent (33 Parties) that the operator was required to take response measures and 3 per cent (1 Party) that their instruments did not impose any requirements on the operator.⁵

13. All 35 Parties that reported that their administrative or legal instruments required that response measures be taken in case of sufficient likelihood of damage if response measures were not taken also reported that their instruments required the operator to take response measures to avoid such damage.⁶

14. Of the Parties that reported that their administrative or legal instruments required that response measures be taken in case of damage resulting from living modified organisms or in case of sufficient likelihood of damage if response measures were not taken, 36 provided further information on whether the instruments provided a definition of the term “operator”, 92 per cent of which (33 Parties) reporting that the instruments provided such a definition.⁷ Thirty-five Parties provided further information on which entities could be considered an operator in their legal or administrative instruments. Ninety-one per cent (31 Parties) reported that the permit holder could be considered the operator. Between 76 and 85 per cent reported that the operator could be any of the following: the person who placed the living modified organism on the market; the developer; the producer; the notifier; the exporter; the importer; the carrier; or the supplier. Eighteen per cent of the Parties (6 Parties) provided information on other entities that could be considered as the operator.⁸

15. Of the 43 Parties that responded to question 167 of the format for the fifth national report, 88 per cent (38 Parties) reported that a competent authority for carrying out the functions set out in the Supplementary Protocol had been identified. Ninety-seven per cent of those Parties (31 Parties) indicated the entity that had been designated, with some providing information on the legal basis for the designation.

16. In its decision [CP-9/15](#), the Conference of the Parties serving as the meeting of the Parties to the Protocol requested the Parties to the Supplementary Protocol to make the contact information of their competent authorities available on the Biosafety Clearing-House.⁹ As at 1 June 2026, only 14 Parties (25 per cent) had done so, which represents 37 per cent of the Parties (38 Parties) that reported in their fifth national reports that they had designated a competent authority.

17. The 38 Parties that reported that a competent authority had been designated also reported on the measures that the competent authority was allowed to take. A total of 95 per cent reported that the competent authority may identify the operator that caused the damage, 95 per cent that the competent authority may evaluate the damage, 97 per cent that the competent authority may

³ Format for the fifth national report, question 160.

⁴ Ibid., question 162.

⁵ Ibid., question 163.

⁶ Ibid., question 164.

⁷ Ibid., question 165.

⁸ Ibid., question 166.

⁹ Parties were subsequently reminded of that request in decisions [CP-10/13](#) and [CP-11/10](#).

determine response measures to be taken by the operator and 92 per cent that the competent authority may implement response measures. None reported that the competent authority may recover from the operator the costs and expenses of the evaluation of the damage and the implementation of any response measures. Three per cent (one Party) reported that the competent authority may take other measures.

18. Of the 43 Parties that responded to question 169, 21 per cent (9 Parties) reported that measures were in place to provide financial security for damage resulting from living modified organisms. In terms of the type of financial security measures in place,¹⁰ 76 per cent of those Parties (6 Parties) reported that the measure consisted of a requirement to provide evidence of a secure source of funding, 11 per cent (1 Party) that it consisted of mandatory insurance and 22 per cent (2 Parties) that it consisted of government schemes, including funds. None of the nine Parties selected more than one type of measures.

19. In free-text responses,¹¹ a few Parties provided additional information on financial security. Two Parties indicated that their current system for financial security for damage from living modified organisms was insufficient, with one specifying that a process was under way to assess the modalities of financial security mechanisms and identify entities that could provide financial security. One Party indicated that measures on financial security had not yet been introduced. Three non-Parties also provided further information on financial security measures. One of them described how the Government allocated funding in the national budget for claims and court awards and mentioned in that context that the national biosafety authority could be held liable for certain injury resulting from decisions that it had taken.

20. Of the 43 Parties that responded to question 171, 40 per cent (17 Parties) reported that rules and procedures on civil liability that addressed damage resulting from living modified organisms were provided in a civil liability instrument, 7 per cent (3 Parties) that such damage had been recognized in court rulings and 5 per cent (2 Parties) that such rules and procedures were provided in other instruments, for example, regulations on environmental damage. Forty-nine per cent (21 Parties) reported that they had neither instruments nor court rulings that recognized civil liability that addressed damage resulting from living modified organisms.

21. Thirty-eight Parties provided a free-text response to question 174. Several described the instruments in which civil liability measures were addressed or indicated that rules on civil liability were part of their broader environmental liability frameworks. Some specified that damage to the environment, persons and health, among other aspects, were covered under those rules. One Party indicated that its civil liability rules applicable to damage from living modified organisms were based on a determination of fault. Several Parties indicated that their legal system also included administrative liability provisions, and some mentioned that criminal law provisions could be applied to certain situations involving the use of living modified organisms. Several non-Parties also provided information in that regard in their free-text responses, some explaining that their current domestic frameworks already contained provisions on liability and redress. One specified that its biosafety legislation had introduced strict liability for damage from living modified organisms.

22. In response to question 172, one Party responded that it had experienced occurrences of damage resulting from living modified organisms and cited environmental damage, cultural damage and gene flow into native populations of crops. The Party concerned also reported that response measures had been taken,¹² and, in its description of the response measures, that several legal instruments had been adopted or amended since the occurrence, strengthening the process for consultations with indigenous peoples and local communities and incorporating in a more robust way the consideration of socioeconomic aspects in decision-making.

¹⁰ Format for the fifth national report, question 170.

¹¹ Ibid., question 174.

¹² Ibid., question 173.

23. Three non-Parties also reported that they had experienced occurrences of damage resulting from living modified organisms. One of them did not provide further information, while another reported that there had been a case of damage related to food quality, which had resulted in judicial proceedings. The third incident related to the unauthorized import of genetically modified courgette (zucchini) seeds in 2015 that had then been distributed. Courgettes descending from the unauthorized seeds were detected in 2023. A temporary prohibition on the sale of domestically grown courgettes was implemented, and all courgette farms were inspected nationwide. Compensation was granted for losses related to the recall and disposal of produce. Several further follow-up measures were taken, including mandatory plant quarantine certificates for small-quantity seed imports, strengthened penalties for unreported imports, and expanded testing targets for genetically modified organisms. Furthermore, compensation was granted to affected farmers and wholesale markets.

24. While the information above presents incidents of damage described by Parties and non-Parties in their fifth national reports, they may not constitute damage as defined in the Supplementary Protocol.

IV. Conclusions

25. With 55 Parties, the ratification of the Supplementary Protocol remains limited, even though, and as indicated in paragraph 143 of document [CBD/SBI/7/6/Add.1](#), many Parties to the Protocol reported having initiated a process to become party to the Supplementary Protocol, which is encouraging.

26. The information provided in the fifth national reports also shows progress in the implementation of the Supplementary Protocol, with about two thirds of Parties reporting that national legal and administrative measures are in place to implement its provisions, more than four fifths that they had introduced the requirement for response measures to be taken, with the onus for taking such measures placed, in almost all cases, on the operator, and almost all providing a broad definition of the operator.

27. Almost all Parties also reported having designated a competent authority for carrying out the functions set out in the Supplementary Protocol, but of those that have only about a third have made information about their competent authorities available through the Biosafety Clearing-House.

28. Many Parties have defined the responsibilities of operators and competent authorities, thereby contributing to the operationalization of liability and redress frameworks under the Supplementary Protocol. While almost all Parties reported that their competent authorities were allowed to identify the operator, evaluate the damage and determine the response measures to be taken by the operator, or execute response measures themselves, none reported that its competent authority may recover the costs and expenses associated with the evaluation of the damage and the execution of response measures.

29. The information received also points to variations in the extent of implementation across Parties and makes it possible to identify areas where further progress could strengthen implementation. Those areas include the submission through the Biosafety Clearing-House of information on the competent authority performing the functions outlined under Article 5 of the Supplementary Protocol, the development of and access to financial security, and the development of civil liability rules and procedures.

30. Last, limited experience was reported regarding the application of the liability and redress provisions of the Supplementary Protocol.

V. Draft decision

31. Taking into account the information provided above, the Conference of the Parties serving as the meeting of the Parties to the Protocol and further serving as the meeting of the Parties to the Supplementary Protocol may wish to adopt a decision along the following lines:

*The Conference of the Parties serving as the meeting of the Parties to the Cartagena Protocol and further serving as the meeting of the Parties to the Nagoya-Kuala Lumpur Supplementary Protocol,*¹³

Recalling Article 13 of the Nagoya-Kuala Lumpur Supplementary Protocol on Liability and Redress to the Cartagena Protocol on Biosafety,¹⁴

Recalling also Goal A.10 of the implementation plan¹⁵ and the capacity-building action plan¹⁶ for the Cartagena Protocol on Biosafety,¹⁷

Taking note of the information provided for the first assessment and review of the Nagoya-Kuala Lumpur Supplementary Protocol,

1. *Welcomes* the additional instrument of accession to the Nagoya-Kuala Lumpur Supplementary Protocol on Liability and Redress to the Cartagena Protocol on Biosafety that has been deposited since the adoption of decision [CP-11/10](#) of 25 October 2024;

2. *Invites* all Parties to the Cartagena Protocol that have not yet done so to deposit an instrument of ratification, acceptance, approval or accession to the Nagoya-Kuala Lumpur Supplementary Protocol as soon as possible;

3. *Welcomes* the fact that almost all Parties to the Nagoya-Kuala Lumpur Supplementary Protocol have reported the designation of a competent authority to perform the functions set out in Article 5 of the Supplementary Protocol, but expresses concern that relatively few Parties have made information on such authorities available through the Biosafety Clearing-House, and encourages Parties to update and maintain information on their competent authorities on the Biosafety Clearing-House;

4. *Welcomes* the information related to the implementation of the Nagoya-Kuala Lumpur Supplementary Protocol provided by Parties thereto and by other Governments in their fifth national reports under the Cartagena Protocol, which has informed the first assessment and review of the effectiveness of the Supplementary Protocol;

5. *Also welcomes* the steps taken by Parties to the Nagoya-Kuala Lumpur Supplementary Protocol towards its implementation, while recognizing that there are areas where implementation needs to be strengthened;

6. *Recognizes* that financial security measures relating to damage, as defined in the Nagoya-Kuala Lumpur Supplementary Protocol, remain limited among Parties thereto;

7. *Also recognizes* that many Parties to the Nagoya-Kuala Lumpur Supplementary Protocol rely on environmental, administrative or civil liability frameworks to address liability for damage resulting from living modified organisms;

¹³ In accordance with paragraph 1 of Article 14 of the Supplementary Protocol, and subject to paragraph 2 of Article 32 of the Convention on Biological Diversity, the Conference of the Parties serving as the meeting of the Parties to the Protocol serves as the meeting of the Parties to the Supplementary Protocol. Consequently, the present decision has been adopted by the Parties to the Supplementary Protocol.

¹⁴ Decision [BS-V/11](#), annex.

¹⁵ Decision [CP-10/3](#), annex.

¹⁶ Decision [CP-10/4](#), annex.

¹⁷ United Nations, *Treaty Series*, vol. 2226, No. 30619.

8. *Encourages* Parties to the Nagoya-Kuala Lumpur Supplementary Protocol to develop or facilitate access to financial security, in accordance with Article 10 thereof, and develop or apply civil liability rules and procedures addressing damage, in accordance with Article 12;
 9. *Also encourages* Parties to the Nagoya-Kuala Lumpur Supplementary Protocol to continue efforts towards the full implementation of the Supplementary Protocol;
 10. *Invites* Parties and other Governments to publish information on developments related to the implementation of the Nagoya-Kuala Lumpur Supplementary Protocol through the virtual library of the Biosafety Clearing-House, with a view to sharing experiences in that regard;
 11. *Invites* Parties, other Governments and relevant organizations to continue to support capacity-building activities in support of the effective implementation of the Nagoya-Kuala Lumpur Supplementary Protocol, and encourages donors to provide the necessary resources in that regard, with a view to meeting Goal A.10 of the implementation plan and the capacity-building action plan for the Cartagena Protocol;
 12. *Requests* the Executive Secretary to follow up with Parties to the Nagoya-Kuala Lumpur Supplementary Protocol that have reported the designation of a competent authority but that have not yet published its contact details through the Biosafety Clearing-House;
 13. *Also requests* the Executive Secretary to continue to promote the Nagoya-Kuala Lumpur Supplementary Protocol, with a view to supporting its ratification, and, subject to the availability to resources, undertake outreach and awareness-raising activities in relation to the Supplementary Protocol.
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