



CONVENTION ON BIOLOGICAL DIVERSITY

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TECHNICAL GROUP OF EXPERTS ON LIABILITY
AND REDRESS IN THE CONTEXT OF THE
CARTAGENA PROTOCOL ON BIOSAFETY
Montreal, 18-20 October 2004
Item 2 of the provisional agenda*

ANNOTATIONS TO THE PROVISIONAL AGENDA

Note by the Executive Secretary

INTRODUCTION

1. At the first meeting of the Conference of the Parties serving as the meeting of the Parties to the Cartagena Protocol on Biosafety (COP/MOP), the Parties, in their decision BS-I/8, requested the Executive Secretary in consultation with the Bureau, to convene a Technical Group of Experts on Liability and Redress, nominated by Parties to the Protocol and based on a fair and equitable geographical representation, to undertake preparatory work for the first meeting of the Open-ended Ad Hoc Working Group of Legal and Technical Experts on Liability and Redress. Following the financial contributions from the Government of United Kingdom and the European Community, the Technical Group of Experts will meet in Montreal, from 18 to 20 October 2004.

2. In accordance with the established practice, the Executive Secretary requested Parties to the Protocol as well as other Governments, relevant international organizations and other stakeholders to submit the names of suitably qualified experts to be considered for selection as participants at the Technical Meeting. On the basis of the nominations received, the Executive Secretary, in consultation with the Bureau of the Conference of the Parties serving as the meeting of the Parties to the Cartagena Protocol Biosafety, will select participants and observers for the meeting taking into account the following criteria:

- (a) Equitable geographical and stakeholder representation;
- (b) Knowledge and experience of international environmental law, international law relating to liability and redress for transboundary harm, or issues concerning LMOs; and
- (c) Gender balance.

* UNEP/CBD/BS/TEG-L&R/1/1.

ITEM 1. OPENING OF THE MEETING

3. The meeting of the Group of Experts will be opened by the Executive Secretary of the Convention on Biological Diversity on 18 October 2004.

ITEM 2. ORGANIZATIONAL MATTERS

2.1. Election of officers

4. Participants will be invited to elect a Chairperson(s) and a Rapporteur for the meeting.

2.2. Adoption of the agenda

5. The Technical Group of Experts may wish to adopt its agenda on the basis of the provisional agenda proposed by the Executive Secretary (UNEP/CBD/BS/TEG-L&R/1/1).

2.3. Organization of work

6. The language of the meeting will be English. The proposed organization of work for the meeting is contained in annex I below.

7. A list of documents for the meeting is contained in annex II below. In addition to normal distribution, documents are also available on the Secretariat's website at <http://www.biodiv.org>.

8. The Secretariat is also distributing 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 3. REVIEW OF INFORMATION RELATING TO LIABILITY AND REDRESS FOR DAMAGE RESULTING FROM TRANSBOUNDARY MOVEMENTS OF LIVING MODIFIED ORGANISMS

9. In its review of the information relating to liability and redress for damage resulting from transboundary movements of LMOs, the Technical Group of Experts may wish to recall the information gathered so far by the Executive Secretary for the Intergovernmental Committee for the Cartagena Protocol on Biosafety (ICCP) in preparation for the first meeting of the Conference of the Parties serving as the meeting of the Parties to the Cartagena Protocol Biosafety, which includes:

(a) Review of existing instruments on liability and redress. The review is focused on areas such as nuclear material, oil pollution, transport of dangerous goods and substances, and space objects, as well as in relation to ongoing activities under United Nations Environment Programme, the United Nations Compensation Commission, the International Law Commission, the Antarctic Treaty system, the European Community and the Convention on Biological Diversity (UNEP/CBD/ICCP/2/3). Subsequently, the information gathered was further updated and reflected in the an update on developments in national, international and regional legal instruments on liability and redress prepared for the first meeting of the Conference of the Parties serving as the meeting of the Parties to the Cartagena Protocol Biosafety (UNEP/CBD/BS/COP-MOP/1/9/Add.1);

(b) Examination of national/regional measures in the field of liability and redress for damage resulting from LMOs. Governments and stakeholders were invited to submit the information on their national and regional legislation on the subject matter, in the compilations of information on national, regional and international measures and agreements in the field of liability and redress for damage

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resulting from the transboundary movements of living modified organisms (UNEP/CBD/BS/COP-MOP/1/INF/5) and (UNEP/CBD/ICCP/3/INF/1). Elements that are covered under those legislations were analysed by the Executive Secretary in his note on Liability and redress for damage resulting from transboundary movements of living modified organisms (UNEP/CBD/ICCP/3/3);

(c) Responses to the questionnaire on liability and redress. Parties, Governments and organizations have submitted their initial understandings and views in response to a set of questions relating to scenarios of damage and elements of rules and procedures on liability and redress for damage resulting from transboundary movements of LMOs (UNEP/CBD/BS/COP-MOP/1/INF/6 and UNEP/CBD/BS/TEG-L&R/1/INF/1);

(d) The report of the Rome Workshop on Liability and Redress in the context of the Cartagena Protocol held from 2 to 4 December 2002 (UNEP/CBD/BS/COP-MOP/1/INF/8). The report contains views with respect to a number of issues including: understanding of Article 27 of the Protocol, types of activities or scenarios for damage covered by the Protocol, functions and objectives of a liability regime, definition of damage, channelling liability, financial security and forms of instrument.

10. In addition, the process under Article 14, paragraph 2, of the Convention on Biological Diversity has generated information that may be relevant to the discussion under the Protocol. This information can be found in documents the synthesis of submissions from Governments and international organizations in the response to a questionnaire on liability and redress under the Convention on Biological Diversity (UNEP/CBD/COP/5/16), the review of relevant international legal instruments and issues for consideration (UNEP/CBD/WS-L&R/2), the summary of submissions received by the Executive Secretary (UNEP/CBD/WS-L&R/INF/1), the update of synthesis report of submissions from Governments and international organizations (UNEP/CBD/COP/6/12/Add.1), and the report of the Workshop on Liability and Redress in the Context of the Convention on Biological Diversity (UNEP/CBD/COP/6/INF/5).

11. The Technical Group of Experts may wish to take stock of the information gathered to date and identify information gaps that would require further action in order to prepare for the first meeting of the Open-ended Ad Hoc Working Group of Legal and Technical Experts on Liability and Redress.

ITEM 4. CONSIDERATION OF ISSUES ON LIABILITY AND REDRESS PURSUANT TO ARTICLE 27 OF THE PROTOCOL

12. Under this item, the Technical Group of Experts may wish to focus the discussion on the following sub-items:

(a) Analysis of general issues relating to:

- (i) The potential and/or actual damage scenarios of concern that may be covered under the Protocol in order to identify the situations for which international rules and procedures referred to in Article 27 of the Protocol may be needed;
- (ii) The application of international rules and procedures on liability and redress to the damage scenarios of concern that may be covered under Article 27 of the Protocol;

(b) Elaboration of options for elements of rules and procedures referred to in Article 27 of the Protocol.

13. In accordance with decision BS-I/8 and ICCP recommendation 3/1, Parties, Governments, international organizations and stakeholders have submitted their views in response to a set of questionnaire, which will be compiled in an information document (UNEP/CBD/BS/TEG-L&R/1/INF/1). The Executive Secretary, as mandated by the first meeting of the Conference of the Parties serving as the

meeting of the Parties to the Cartagena Protocol Biosafety, will prepare a synthesis report of the views submitted (UNEP/CBD/BS/TEG-L&R/1/2).

14. The Technical Group of Experts is invited to consider issues raised in these documents, identify options and make recommendations for the consideration of the first meeting of the Open-ended Ad Hoc Working Group of Legal and Technical Experts on Liability and Redress.

ITEM 5. OTHER MATTERS

15. Under this item, the Technical Group of Experts may wish to raise and discuss other matters related to the subject matter of the meeting.

ITEM 6. ADOPTION OF THE REPORT

16. The Technical Group of Experts will consider and adopt its report, on the basis of a draft report of to be prepared and presented by the Rapporteur.

17. The final report of the Technical Group of Experts will be presented by the Chairperson to the first meeting of the Open-ended Ad Hoc Working Group of Legal and Technical Experts on Liability and Redress

ITEM 7. CLOSURE OF THE MEETING

18. It is expected that the meeting will be closed at 5 p.m. on Wednesday, 20 October 2004.

Annex I

**PROPOSED ORGANIZATION OF WORK FOR THE MEETING OF THE
TECHNICAL GROUP OF EXPERTS ON LIABILITY AND REDRESS IN THE
CONTEXT OF THE CARTAGENA PROTOCOL ON BIOSAFETY**

<i>Date and time</i>	<i>Agenda item</i>
18 October 2004 9.30 a.m. to 10 a.m.	1. Opening of the meeting.
10 a.m. to 12.30 p.m.	2. Organizational matters: 2.1. Election of officers; 2.2. Adoption of the agenda; 2.3. Organization of work. 3. Review of information relating to liability and redress for damage resulting from transboundary movements of living modified organisms
2 p.m. to 5 p.m.	4. Consideration of issues relating to Article 27 of the Protocol: 4.1. Analysis of general issues relating to: (a) The potential and/or actual damage scenarios of concern that may be covered under the Protocol; (b) The application of international rules and procedures on liability and redress to damage scenarios of concern that may be covered under Article 27 of the Protocol;
19 October 2004 9.30 a.m. to 12.30 p.m.	4. Consideration of issues relating to Article 27 of the Protocol: 4.2. Elaboration of options of elements of rules and procedures referred to in Article 27 of the Protocol.
2 p.m. to 5 p.m.	4. Consideration of issues relating to Article 27 of the Protocol: 4.2. Elaboration of options of elements of rules and procedures referred to in Article 27 of the Protocol (<i>continued</i>)
20 October 2004 9.30 a.m. to 12.30 p.m.	4. Consideration of issues relating to Article 27 of the Protocol: 4.2. Elaboration of options of elements of rules and procedures referred to in Article 27 of the Protocol (<i>continued</i>)
2 p.m. to 5 p.m.	5. Other matters. 6. Adoption of the report. 7. Closure of the meeting.

Annex II

LIST OF DOCUMENTS FOR THE MEETING OF THE TECHNICAL GROUP OF EXPERTS

<i>Symbol</i>	<i>Title</i>
UNEP/CBD/BS/TEG-L&R/1/1	Provisional agenda
UNEP/CBD/BS/TEG-L&R/1/1/Add.1	Annotations to the provisional agenda
UNEP/CBD/BS/WS-L&R/1/2	Synthesis report of the views submitted in response to questionnaire on liability and redress for damage resulting from the transboundary movements of living modified organisms
<i>Information documents:</i>	
UNEP/CBD/ BS/TEG-L&R/1/INF/1	Compilation of views submitted in response to questionnaire on liability and redress for damage resulting from the transboundary movements of living modified organisms
<i>Relevant documents prepared for the first meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol and meetings of ICCP</i>	
UNEP/CBD/BS/COP-MOP/1/9/Add.1	Update on developments in national, international and regional legal instruments on liability and redress
UNEP/CBD/BS/COP-MOP/1/INF/5	Compilation of information on national, regional and international measures and agreements in the field of Liability and redress for damage resulting from the transboundary movements of living modified organisms
UNEP/CBD/BS/COP-MOP/1/INF/8	Report of the Workshop on Liability and Redress in the Context of the Cartagena Protocol on Biosafety
UNEP/CBD/ICCP/3/3	Liability and redress for damage resulting from the transboundary movements of living modified organisms: note by the Executive Secretary
UNEP/CBD/ICCP/3/INF/1	Compilation of information on national, regional and international measures and agreements in the field of Liability and redress for damage resulting from the transboundary movements of living modified organisms
UNEP/CBD/ICCP/2/3	Liability and redress for damage resulting from the transboundary movements of living modified organisms – review of existing relevant instruments and identification of elements

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Relevant documents prepared for the process under Article 14, paragraph 2, of the Convention on Biological Diversity

UNEP/CBD/COP/5/16	Synthesis of submissions from Governments and international organizations in response to the questionnaire on liability and redress under the Convention on Biological Diversity
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/INF/1	Liability and redress under the Convention on Biological Diversity: summary of submissions received by the Executive Secretary
UNEP/CBD/COP/6/12/Add.1	Liability and redress (Article 14, paragraph 2): update of synthesis report of submissions from Governments and international organizations
UNEP/CBD/COP/6/INF/5	Report of the Workshop on Liability and Redress in the Context of the Convention on Biological Diversity
