



Liability and Redress

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The issue of liability and redress with regard to transboundary damage to biological diversity was one of the themes on the agenda during the negotiation of the Convention on Biological Diversity. Unable to reach any consensus regarding the details of a liability regime under the Convention, consideration of the issue was subsequently postponed.

The issue of liability and redress in the Convention's context raises many questions. What is damage to biological diversity? What techniques can be used to assess damage? Is it possible to restore biological diversity to its original condition after damage takes place? How do you calculate adequate compensation if the damage is irreversible and restoration impossible? Who should be responsible or liable for restoring the damage? Should there be a focus on State responsibility or State liability or both? Is a liability and redress regime under the Convention appropriate at all?

Why it is important:

- An essential mechanism for the compliance with and enforcement of environmental policies and standards established through multilateral treaties.
- Promotes compliance with international environmental norms and the implementation of both the precautionary approach and the prevention principle. Generally, the threat of incurring liability and the potential burden of redress measures acts as an incentive towards more precautionary approaches to economic activities resulting in the avoidance of environmental risk and damage.
- Serves a reparative function by shifting the costs of environmental damage from society at large to those responsible for the activity causing damage.
- Holding those responsible for environmental harm accountable for redressing it may act as a deterrent or at least lead to investment in preventive measures.

What the CBD is doing:

Article 14 of the Convention provides that: "The Conference of the Parties shall examine, on the basis of studies to be carried out, the issue of liability and redress, including restoration and compensation, for damage to biological diversity, except where such liability is a purely internal matter." The Convention's work on liability and redress is continuously progressing and Parties are collectively advancing their examination of the issue. At COP 9, the COP will review a synthesis report prepared by the Executive Secretary on defining and assessing damage to biological diversity, approaches to restoration and approaches to valuation of damage and decide on future work on this issue.

For more information:

Liability and Redress: www.cbd.int/liability/

COP decisions: www.cbd.int/liability/decisions.shtml





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Convention on Biological Diversity

