



Ref.: SCBD/BS/CS/XW/jh/42383

13 April 2004

**INVITATION TO SUBMIT VIEWS ON THE QUESTIONNAIRE ON LIABILITY AND
REDRESS FOR DAMAGE RESULTING FROM TRANSBOUNDARY MOVEMENTS OF
LIVING MODIFIED ORGANISMS**

Madam/Sir,

I refer to Decision BS-1/8 of the first meeting of the Conference of the Parties serving as the meeting of the Parties to the Cartagena Protocol on Biosafety held from 23 to 27 February 2004 in Kuala Lumpur, Malaysia.

In paragraph 5 of the Decision, Parties, Governments and international organizations and relevant stakeholders that have not done so to submit their views to the Executive Secretary on the questionnaire contained in the annex to recommendation 3/1 of the Intergovernmental Committee on the Cartagena Protocol on Biosafety (UNEP/CBD/ICCP3/10) were invited to do so no later than three months prior to the meeting of the Technical Group of Experts to be convened pursuant to paragraph 4 of the same decision.

Furthermore, the Secretariat was requested to compile the views submitted including those submitted for the purpose of the first meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol contained in document UNEP/CBD/BS/COP-MOP/1/INF/6, and to prepare a synthesis report of the submissions for consideration at the meeting of the Technical Group of Experts.

Accordingly, it will be appreciated if the views are submitted no later than 30 June 2004, in order to undertake the necessary preparations for the meeting of the Technical Group of Experts on Liability and Redress in a timely manner.

Thank you for your continued cooperation and support towards the work of the Cartagena Protocol on Biosafety.

Accept, Madam/Sir, the assurances of my highest consideration.

Hamdallah Zedan
Executive Secretary

Enclosure: Questionnaire

To: National Focal Points of Parties to the Cartagena Protocol on Biosafety and other Governments



QUESTIONNAIRE ON LIABILITY AND REDRESS FOR DAMAGE RESULTING FROM TRANSBOUNDARY MOVEMENTS OF LIVING MODIFIED ORGANISMS

Notes

Nothing in this questionnaire is intended to prejudge the decision of the Conference of the Parties serving as the meeting of the Parties with respect to the process to be adopted pursuant to Article 27 of the Protocol.

The list in this questionnaire is not exhaustive. Parties, Governments and relevant international organizations are invited to raise or answer any other questions or issues that are deemed appropriate.

Questionnaire

1. What types of activities or situations covered under the Protocol are perceived as most likely to cause damage in your country and what kind of criteria are helpful in assessing damage to biodiversity resulting from transboundary movements of LMOs?
2. What types of activities or situations should be covered under the international rules and procedures referred to in Article 27 of the Protocol?
3. How should the concept of “damage resulting from transboundary movements of LMOs” be defined, valued and classified, and should this be different from the definition, valuation and classification of damage within the framework of Article 14 paragraph 2, of the Convention on Biological Diversity?
4. To whom should liability for damage resulting from transboundary movements of LMOs be channelled?
5. What should be the standard of liability for damage resulting from transboundary movements of LMOs, that is, should it be fault-based, strict or absolute?
6. Should there be any exemptions from liability? If so, under what circumstances?
7. Should the liability be limited in time and, if so, to what period?
8. Should the liability be limited in amount and, if so, to what amount?
9. How would judgments given pertaining to liability and redress be recognized or enforced in another country/jurisdiction?
10. What would be the relevance of arbitration in settling disputes arising with respect to damage in the field of liability and redress?
11. What purpose would the notion of State liability and State responsibility serve in a liability and redress regime within the framework of the Cartagena Protocol?
12. Who should have the right to make claims for damage resulting from transboundary movements of LMOs?