



**CONVENTION ON
BIOLOGICAL DIVERSITY**

Please Check Against Delivery

STATEMENT BY

**HAMDALLAH ZEDAN
EXECUTIVE SECRETARY**

CONVENTION ON BIOLOGICAL DIVERSITY

TO

**THE WORKSHOP ON LIABILITY AND REDRESS IN THE
CONTEXT OF THE CONVENTION ON BIOLOGICAL DIVERSITY**

Paris, France, 18 – 20 June 2001

Distinguished Experts,
Ladies and Gentlemen,

I am pleased to welcome you to this Workshop on Liability and Redress in the Context of the Convention on Biological Diversity. Let me take this opportunity to thank the Government of France, on behalf of the Secretariat and the participants, for hosting and funding the Workshop.

With your permission, I would like to make a few brief remarks about the work of this Workshop.

The issue of liability and redress was the subject of lengthy discussion during the negotiation of the Convention on Biological Diversity. The negotiators were, however, unable to reach any consensus on the subject and consequently postponed the consideration of the issue to a future date. Thus, paragraph 2 of 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”.

At its fourth meeting, in 1998, the Conference of the Parties called on Governments and organizations to submit information on their experiences in the field of liability and redress so as to facilitate an informed consideration of the issue at its subsequent meetings. The information received was reflected in a synthesis report prepared for the fifth meeting of the Conference of the Parties, which is also available for information purposes at this Workshop. At its fifth meeting, the Conference of the Parties renewed the call for further information and decided to consider at its sixth meeting a process for reviewing paragraph 2 of Article 14. At the same time, the Conference of the Parties welcomed the offer of the Government of France to organize this inter-sessional Workshop on Liability and Redress in the Context of the Convention.

There can be no doubting the importance of the role of a liability and redress regime in the enforcement of environmental policies and standards agreed to by the

international community. First, it can act as an incentive for taking a more cautious approach to economic activities to avoid environmental risk and damage. Secondly, it can serve as an instrument for the implementation of the polluter pays principle. Lastly, it may deter potentially harmful activities or at least lead to investment in preventive measures. In sum, it is an incentive to States and non-State actors to avoid environmentally harmful conduct.

This Workshop has been convened in order to assist the Conference of the Parties in addressing this important issue in the context of the Convention at its fifth meeting. It may also be recalled that Article 27 of the Cartagena Protocol on Biosafety requires the Conference of the Parties serving as the meeting of the Parties to the Protocol to adopt, at its first meeting, a process for the elaboration of international rules and procedures in the field of liability and redress for damage resulting from transboundary movements of living modified organisms. The Intergovernmental Committee for the Cartagena Protocol (ICCP) is mandated to develop a draft recommendation on such a process for the consideration of the first meeting of the Parties to the Protocol. The issue is on the agenda of the second meeting of the ICCP, which will take place in Nairobi in October this year. The conclusions of this Workshop will therefore be important for the consideration of the issue not only in the context of the Convention but also under the Protocol.

The participants in the Workshop have been selected because of their wide-ranging expertise in the field of liability and redress. Cumulatively, you have the knowledge and experience to be able to address this issue from every possible angle. This is important as this Workshop is the first occasion on which the question of liability and redress is discussed in detail at the technical level under the Convention. As such, you have the opportunity to lay a firm basis for the future work of the Conference of the Parties – and any other body it might establish – and to shape the dialogue on the question within the Convention process.

As suggested in the revised annotations to the provisional agenda, this Workshop may wish to focus its deliberations on the following elements:

- Assessment of the status of existing national and international law;
- The scope of paragraph 2 of Article 14: concepts and definitions;
- Principal elements of a liability and redress regime to be developed on the basis of paragraph 2 of Article 14; and
- Means and process for the implementation of paragraph 2 of Article 14.

To assist participants in this task, the Secretariat has prepared a review of relevant international legal instruments, which also set forth a number of issues for consideration regarding the process for the review and the nature and content of a liability and redress regime. This review of relevant instruments will be supplemented by the introductory presentations that have been arranged for this morning by representatives of the Basel Convention, the European Community and IUCN, as well as by Ambassador Julio Barboza of Argentina, former Special Rapporteur of the International Law Commission on international liability for injurious consequences arising out of acts not prohibited by international law. We hope these presentations will help clarify some of the practical aspects of the issue.

You also have before you, as an information document, a summary of submissions received from Parties by the Executive Secretary since the fifth meeting of the Conference of the Parties. This document complements the synthesis of submissions prepared for that meeting. I would like to take this opportunity to thank all those who have submitted information and would urge those Governments that have not to do so as soon as possible, in line with the requests of the Conference of the Parties.

I thank you for your attention and wish you success in your deliberations.