

BONN / BIOSAFTY MEETING / LIABILITY

To your information

Summary

- Biosafety Meeting agreed to establish legally binding rules on damages caused by GMOs
- no rules before 2010
- polluter pays principle (the farmer), if not possible, producer of the GMO has to pay

Part 1 AGREEMENT REACHED TO WORK TOWARDS A LEGALLY BINDING INSTRUMENT ON LIABILITY AND REDRESS WITH REGARD TO GMOS

Part 2 UN BIOSAFETY CONFERENCE AGREES IN PRINCIPLE ON LIABILITY DEAL

Part 3 UN TALKS REACH CONSENSUS TO CREATE STRICT RULES FOR GMO DAMAGE

GENET - News

PART 1

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TITLE: AGREEMENT REACHED TO WORK TOWARDS A LEGALLY BINDING INSTRUMENT ON LIABILITY AND REDRESS WITH REGARD TO GMOS

SOURCE: Secretariat of the Convention on Biological Diversity, Canada

AUTHOR: Press Release

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AGREEMENT REACHED TO WORK TOWARDS A LEGALLY BINDING INSTRUMENT ON LIABILITY AND REDRESS WITH REGARD TO GMOS

Bonn, 16 May 2008 - After four years of intensive negotiation, the 2,000 participants attending the Bonn Biosafety Meeting, the largest ever gathering on biosafety, agreed to work towards **legally binding rules and procedures for liability** and redress for potential damage caused from the transboundary movements of living modified organisms (LMOs), commonly referred to as genetically modified organisms (GMOs). The meeting of the Parties to the Cartagena Protocol on Biosafety has agreed on a time-table and a framework for the negotiation of the rules and procedures. The legally binding instrument for liability and redress will be **discussed in October 2010** at the next meeting of

the Parties to the Cartagena Protocol on Biosafety, in Nagoya, Japan. To this end, the Parties agreed to convene up to two meetings to negotiate the details of the instrument. Malaysia and Mexico offered to host these meetings and Japan, the host of the next meeting of the Parties agreed to consider providing financial support. "The Bonn meeting has achieved its objectives and fulfilled a legally binding requirement of the Protocol. It is great news for the Cartagena Protocol on Biosafety," said Ahmed Djoghlaif, Executive Secretary of the Convention on Biological Diversity. Mr. Djoghlaif went on to say, "It is also a good news for the biodiversity family in its journey to Nagoya, Aichi prefecture, Japan, where it will assess, in 2010, the achievement of the Johannesburg target of substantially reducing the rate of loss of biodiversity, as well as adopt an international regime on access and benefit sharing." Speaking at the closing press conference, Ursula Heinen, Parliamentary State Secretary and Deputy Minister at the German Federal Ministry of Food, Agriculture and Consumer Protection, said, "After difficult negotiations, we have achieved a positive outcome. The legally binding rules and procedures for liability and redress will ensure the implementation of the Protocol in the next two years. I'm very satisfied with this result."

Jochen Flasbarth, Director-General of Germany's Federal Ministry for the Environment, Nature Conservation and Nuclear Safety, said, "I acknowledge the hard work done by the negotiators in the course of last week. I thank all those who first opposed a legally binding instrument, for their flexibility, and for announcing that they will engage in the last drafting exercise which will have to be conducted by legal experts after MOP 4."

He concluded by saying, "The positive outcome of the extremely hard negotiations on liability and redress in the context of biosafety is a great relief to me. The compromise we found here is promising. Though we experienced a first taste of difficult negotiations I am optimistic that we can carry over the spirit of compromise and flexibility to the negotiation within COP 9 in the next two weeks in particular when we have to take decisions on access and benefit sharing," he concluded.

The meeting also brought about agreement on a number of other issues which will complete the framework for future implementation of the Protocol. A compromise was reached on ways **to develop further guidance on risk assessment and risk management**. On the issue of **handling, transport, packaging and identification**, so-called Article 18, Parties decided to implement what was decided at MOP 3 and review it at MOP 6. Other decisions taken included: guidance to the compliance committee, funding of capacity-building initiatives, the Biosafety Clearing-House, socioeconomic considerations and subsidiary bodies under the Protocol.

Notes for Journalists

1. The Protocol entered into force on 11 September 2003 and to date 147 States as well as the European Community have ratified it, the latest to do so being: Guinea, Guyana, Myanmar and Suriname
2. Since the coming into effect of the Protocol on 11 September 2003, the governing body, Conference of the Parties serving as the meeting of the Parties (COP-MOP) has held three meetings— in Kuala Lumpur in February 2004; in Montreal in June 2005; in Curitiba, Brazil, in March 2006; and in Bonn, Germany 2008.
3. Article 27 of the Protocol states that: "The Conference of the Parties serving as the meeting of the Parties to this Protocol shall, at its first meeting, adopt a process with respect to the appropriate elaboration of international rules and procedures in the field of liability and redress for damage resulting from transboundary movements of living modified organisms, analysing and taking due account of the ongoing processes in international law on these matters, and shall endeavour to complete this process within four years."
4. The Ad Hoc Open-ended Working Group of Legal and Technical Experts on Liability and Redress in the context of Protocol held five meetings. The first four were held in Montreal, as follows: 25-27 May 2005, 20-24 February 2006, 19-23 February 2007 and 22-26 October 2007, and the fifth was held in Cartagena, Colombia, 12-19 March 2008.
5. Details about the fourth meeting of the Conference of the Parties serving as the meeting of the Parties including webcasting and press kits can be found at: <http://www.cbd.int/mop4/>

6. Additional information about the Protocol is available at the following websites:

CBD Web site: <http://www.cbd.int/biosafety>

and the Biosafety Clearing-House: <http://bch.cbd.int>.

Frequently asked questions are also available at: <http://www.cbd.int/biosafety/faqs.asp>

Media and Outreach: <http://www.cbd.int/biosafety/media.shtml>

PART 2

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TITLE: UN BIOSAFETY CONFERENCE AGREES IN PRINCIPLE ON LIABILITY DEAL

SOURCE: Earthtimes, India

AUTHOR: DPA News Agency, Germany

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UN BIOSAFETY CONFERENCE AGREES IN PRINCIPLE ON LIABILITY DEAL

Bonn - A UN conference on biosafety reached a preliminary agreement Friday on liability for environmental damage arising from the use of genetically modified organisms in farming. The accord initially provides for countries to claim **compensation from those directly responsible for environmental damage or from the manufacturers of the genetic products** that caused the damage.

But the conference was **unable to finalize an internationally legally binding agreement** that identifies those who should be held liable and who should pay compensation.

Further negotiations were needed to work out the details, said Ahmed Djoghlaif, executive secretary of the Convention on Biological Diversity, at the end of the five-day meeting in Bonn.

He said the negotiations would take place over the next two years and the result presented to the next biosafety conference to be held in Japan in 2010.

Ursula Heinen, the agriculture ministry secretary of state who represented Germany at the Bonn conference, called the outcome "a genuine success."

It was the first time in four years that the around 150 nations linked by the convention were able to agree in principle on rules for government liability and compensation, she said.

Environmental groups claimed the agreement did not go far enough.

Greenpeace's Doreen Stabinsky said the conference "has failed" because it did not agree on clear rules that would hold gene technology concerns accountable for damage.

The organization's biosafety expert, Jan van Aken, blamed Japan and Brazil for blocking a legally binding agreement.

The negotiations centred on who is liable for compensation caused by possible damage to the environment resulting from the use of genetically modified crops or plants.

The signatories to the Cartagena Protocol on Biosafety had set 2008 as the goal for reaching a binding agreement.

The world's leading gene technology companies wanted a voluntary agreement instead of binding rules but dropped this demand in Bonn, Heinen said.

There are no legally defined redress and liability elements in the Cartagena Protocol, making it difficult to determine who can claim and who has to pay for economic, health or environmental damage.

Less well-off developing countries are particularly keen on binding rules, otherwise they see little chance of success in damage claims involving biotechnology concerns.

PART 3

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TITLE: UN TALKS REACH CONSENSUS TO CREATE STRICT RULES FOR GMO DAMAGE

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AUTHOR: Press Release

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UN TALKS REACH CONSENSUS TO CREATE STRICT RULES FOR GMO DAMAGE

More **than 80 countries forms the group of "Like-Minded Friends"** to adopt an international binding regime on liability

Bonn, May 16. Friends of the Earth International **welcome the results** of the UN Talks on Genetically Modified Organisms (GMOs), which for the first time have reached consensus to create strict rules to tackle damage caused by GMOs.

"It is great news that Parties of the UN agreement that meet in Bonn have listened to the voices of the majority of developing countries that for more than ten years had been calling for strong rules on liability to protect their citizens from GMO damage", said Juan Lopez of Friends of the Earth International.

The agreement has been possible thanks to a group of over 80 like-minded countries that got together and pushed the rest of Parties to the UN Treaty towards achieving consensus. The group called "The Like-Minded Friends" is committed to the adoption of comprehensive rules on liability at the international level. The "Like Minded Friends" is the largest single negotiating group of Parties of the

UN Treaty on GMOs, and its formation constitutes a major breakthrough towards protecting the public and the environment from harm caused by GMOs.

The UN Treaty called the Biosafety Protocol has been joined by 147 Parties [1]. The Meeting of the Parties of the Biosafety Protocol was held this week in Bonn (May 12-16), and will guarantee a process that adopts a liability mechanism within the next two years.

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[1] <http://www.cbd.int/mop4/>