Biosafety: liability and redress. Nagoya - Kuala Lumpur Supplementary Protocol to the Cartagena Protocol

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PURPOSE: to approve, on behalf of the European Union, the Nagoya-Kuala Lumpur Supplementary Protocol on Liability and Redress to the Cartagena Protocol on Biosafety.

PROPOSED ACT: Council Decision.

BACKGROUND: the **Convention on Biological Diversity (CBD)**, which entered into force on 29 December 1993, is today's main international instrument for addressing biodiversity issues. The three objectives pursued by the Convention are the conservation of biological diversity, the sustainable use of its components, and the fair and equitable sharing of benefits arising from the use of genetic resources.

The Cartagena Protocol on Biosafety to the Convention on Biological Diversity was adopted on 29 January 2000 as a supplementary agreement to the CBD and entered into force on 11

September 2003. This international treaty provides a framework, based on the precautionary principle, for the safe transfer, handling and use of living modified organisms (LMOs) resulting from modern biotechnology that may have adverse effects on the conservation and sustainable use of biological diversity, or pose risks to human health.

In June 2007, the Council adopted a Decision authorising the Commission to participate in the liability and redress negotiations on behalf of the Union as regards matters falling within Union competence, in accordance with certain negotiating directives.

On 11 October 2010, **during the fifth Conference of the Parties** serving as the Meeting of the Parties to the Protocol in Nagoya, Japan, **the EU unanimously supported the final compromise reached on the Nagoya-Kuala Lumpur Supplementary Protocol on Liability and Redress**. On 15 October 2010, the final plenary of COP/MOP5 successfully adopted the

Nagoya-Kuala Lumpur Supplementary Protocol on Liability and Redress to the Cartagena Protocol on Biosafety. In accordance with Council Decision of 6 May 2011, the Nagoya-Kuala Lumpur Supplementary Protocol on Liability and Redress to the Cartagena Protocol on Biosafety was signed by the Union on 11 May 2011, subject to its conclusion at a later date.

The Supplementary Protocol contributes to the achievement of the objectives of the environmental policy of the Union. It is therefore appropriate that this Protocol be concluded on behalf of the Union as soon as possible.

IMPACT ASSESSMENT: no impact assessment was carried out.

LEGAL BASIS: Article 192 (1) TFEU, in conjunction with Article 218(6)(a) of the Treaty on the Functioning of the European Union (TFEU).

CONTENT: the Nagoya-Kuala Lumpur Supplementary Protocol on Liability and Redress to the Cartagena Protocol on Biosafety contributes to the conservation and sustainable use of biological

diversity, or pose risks to human health by establishing international rules and procedures in the field of liability and redress for damage resulting from transboundary movements of living modified organisms.

Any protocol to the Convention on Biological Diversity, pursuant to Article 34 thereof, is open for ratification, acceptance or approval by Member States and by regional economic integration organisations. In view of the above the Commission proposes that the Council authorizes the President to designate the person(s) empowered to deposit the instrument of approval of the Nagoya-Kuala Lumpur Supplementary Protocol on behalf of the Union and to confer on them the necessary powers thereto.

In accordance with Article 34, paragraph 3, of the Convention, regional economic integration organisations must declare the extent of their competence with respect to the matters governed by the relevant protocol. To fulfill this obligation, the Commission has prepared the Declaration annexed to the present proposal.