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

2012/0120(NLE) - 24/09/2012 - Legislative proposal

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: Article 27 of the Cartagena Protocol on Biosafety to the Convention on Biological Diversity provides that the Conference of the Parties serving as the Meeting of the Parties to the Protocol (COP/MOP) shall adopt, in its first meeting, a process with respect to the elaboration of international rules and procedures in the field of liability and redress for damage resulting from transboundary movements of living modified organisms.

In June 2007, the Council adopted a Decision authorising the Commission to participate in the negotiations concerning liability and redress in this field on behalf of the Union as regards matters falling within Union competence, in accordance with certain negotiating directives. That authorisation was extended in October 2008 to cover the final stages of the negotiations

During the fifth COP/MOP in Nagoya, Japan, the Union supported the final compromise reached on the Nagoya-Kuala Lumpur Supplementary Protocol on Liability and Redress to the Cartagena Protocol on Biosafety ("the Supplementary Protocol"), following consideration that it was within the limits of the agreed Union positions and negotiating directives addressed to the Commission. On 15 October 2010, the final plenary of the fifth COP/MOP adopted the Supplementary Protocol and it was then signed by the Union on 12 May 2011, subject to its conclusion at a later date.

It is now appropriate to approve the Supplementary Protocol on behalf of the Union.

IMPACT ASSESSMENT: no impact assessment was undertaken.

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

CONTENT: with this draft decision, it is proposed to approve on behalf of the European Union, the Nagoya-Kuala Lumpur Supplementary Protocol on Liability and Redress to the Cartagena Protocol on Biosafety.

The content of the Protocol is identical to that which was the subject of the Commission’s proposal of June 2012 (please refer to the summary dated 5 June 2012).

The draft decision also includes a declaration by the European Union in accordance with Article 34(3) of the Convention ion Biological Diversity in which it confirms that, in accordance with the Treaty on the Functioning of the European Union (Article 191), it is competent for entering into international agreements and for implementing the obligations resulting therefrom, which contribute to the pursuit of the following objectives:

- preserving, protecting and improving the quality of the environment;
- protecting human health;
- prudent and rational utilisation of natural resources;
- promoting measures at international level to deal with regional or worldwide environmental problems, and in particular combating climate change.

It also declares that it has already adopted legal instruments, binding on its Member States, covering matters governed by this Supplementary Protocol. The exercise of Union competence is by nature subject to continuous development. In order to comply with its obligations, **the Union will keep up to date the list of legal instruments already transmitted to the Biosafety Clearing House**.

BUDGETARY IMPLICATIONS: the proposal has no implications on the EU's budget.