



# Book - Unit 4 – The Nagoya – Kuala Lumpur Supplementary Protocol on Liability and Redress

Book - Unit 3 – The Nagoya – Kuala Lumpur Supplementary Protocol on Liability and Redress

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Course: Introductory Course to Cartagena Protocol on Biosafety

Book: Book - Unit 4 – The Nagoya – Kuala Lumpur Supplementary Protocol on Liability and Redress

# Table of contents

- 1. The Origins of the Supplementary Protocol
- 2. Core provisions

# 1. The Origins of the Supplementary Protocol

The Biosafety Protocol committed the first meeting of the Parties to put in place a process to elaborate rules and procedures on liability and redress for damage resulting from the transboundary movements of LMOs. An open-ended ad-hoc working group of legal and technical experts was established in 2004 to carry out the process within the 4 year timeframe envisaged in Article 27 of the Protocol. However, Parties were unable to meet the 2008 deadline. Consequently the COP-MOP 4 decided to convene a Group of Friends of the Co-Chairs to complete negotiations on an international regime on liability and redress.

The Nagoya – Kuala Lumpur Supplementary Protocol on Liability and Redress to the Cartagena Protocol on Biosafety (“Supplementary Protocol”) was finally adopted in October 2010 in Nagoya, Japan. For updated information on the status of ratifications of the Supplementary Protocol [click here](#).

## 2. Core provisions

The Supplementary Protocol establishes rules and procedures on liability and redress for damage caused by LMOs that find their origin in a transboundary movement. It specifies response measures that need to be taken in the event of damage by LMOs resulting in significant adverse effect to the conservation and sustainable use of biological diversity, taking also into account risks to human health.

In the event of damage, Parties must require the appropriate operator, to immediately inform the competent authority, evaluate the damage and take appropriate response measures. The competent authority must identify the operator with direct or indirect control of the LMO that has caused the damage, evaluate the damage and determine which response measures should be taken by the operator. The operator must also take appropriate response measures where there is sufficient likelihood that damage will result if timely action is not taken. The competent authority, itself may implement appropriate response measures, particularly in situations where the operator has failed or delayed to do so, and may recover from the operator the costs incurred.

Parties have an obligation to provide, in new or existing domestic law, for rules and procedures that address damage resulting from LMOs, including response measures to prevent or mitigate damage or to restore biological diversity. Parties are required to provide for rules and procedures that address damage resulting from LMOs in their existing general domestic law, including their domestic law on civil liability or apply or develop civil liability rules and procedures specifically for this purpose.

The COP-MOP to the Protocol shall serve as the meeting of the Parties to the Supplementary Protocol to keep under regular review its implementation and make the decisions necessary to promote its effective implementation. The CBD Secretariat serves as Secretariat of the Supplementary Protocol.