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3 July 2007

Dr. Ahmed Djoglaf  
Executive Secretary  
Convention on Biological Diversity  
World Trade Centre  
393 Saint-Jacques Street, Suite 300  
Montréal, Québec, Canada H2Y 1N9

To: [secretariat@bidiv.org](mailto:secretariat@bidiv.org) and fax +1 514 299 6588

**RE: Submission for 4<sup>th</sup> Liability Meeting**

Dear Dr. Djoghla

Please find enclosed a submission in preparation for the Fourth Meeting of the Ad Hoc Open-ended Working Group of Legal and Technical Experts on Liability and Redress in the context of the Cartagena Protocol in the form of operational text, as requested in SCBD/BS/WDY/jh/57796 of 20 March 2007.

Yours sincerely

for Doreen Stabinsky  
Campaigner  
Greenpeace International

Enclosure (1)

**Submission to the Co-Chairs of the Working Group**

Preparation for the Fourth Meeting of the *Ad Hoc* Open-ended Working Group of Legal and Technical Experts on Liability and Redress in the context of the Cartagena Protocol

4 July 2007

Ref: SCBD/BS/WDY/jh/57796

Following the third meeting of the Open-ended *Ad Hoc* Working Group of Legal and Technical Experts on Liability and Redress in the Context of the Cartagena Protocol on Biosafety (BSWG-L&R-3) held in Montreal from 19 to 23 February 2007,<sup>1</sup> the Executive Secretary invited<sup>2</sup> further views, in the form of operational text, in order to allow the Co-Chairs of the Working Group to undertake, with the assistance of the Secretariat, the necessary document preparations for the upcoming fourth meeting of the Working Group, by 5 July 2007.

Greenpeace International participated as an observer in the first, second and third meetings of the *Ad Hoc* Working Group, as well as the earlier meeting of the Technical Group of Experts on Liability and Redress, held in Montreal in October 2004.

Greenpeace International presents this supplementary submission for consideration by the Parties, other Governments, relevant international organizations and stakeholders. This submission is in addition to its earlier submissions to the Third meeting, which was comprised of a discussion of the essential elements of a liability regime, and a suggested draft protocol.

We look forward to seeing all participants at the fourth meeting of the Working Group.

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<sup>1</sup> Report of the Open-Ended Ad Hoc Working Group of Legal and Technical Experts on Liability and Redress in the context of the Cartagena Protocol on Biosafety on the Work of its Third Meeting, UNEP/CBD/BS/WG-L&R/3/3, 15 March 2007, at <http://biodiv.org/doc/meetings/bs/bswqlr-03/official/bswqlr-03-03-en.doc>.

<sup>2</sup> Notification of 20 March 2007, SCBD/BS/WDY/jh/57796, at <http://biodiv.org/doc/notifications/2007/ntf-2007-035-bs-en.pdf>.

### IV.3 Exemptions to or mitigation of strict liability

Reference: IV.3/p. 48

#### Add as an option:

In particular, (a) no mutation and no biological effect of any kind, including any change to an organism or an ecosystem whether due to evolution or otherwise and whether gradual or otherwise, shall be considered an Act of God or *force majeure*, and (b) no weather, meteorological disturbance or climatic occurrence or effect shall be considered Act of God or *force majeure*.

### III.A. Definition of Damage

Reference: III.A/p. 26

#### Add definitions of ‘environment’, ‘biological diversity’, ‘ecosystem’, ‘centres of origin’ and ‘centres of genetic diversity

1. ‘Environment’ includes all natural resources, including (i) air, water, soil, fauna and flora, and the interaction between the same factors, (ii) ecosystems and their constituent parts, (iii) biological diversity, (iv) amenity values, (v) indigenous or cultural heritage, and (vi) social, economic, aesthetic, and cultural conditions which are affected by the matters stated in paragraphs (i) to (v) of this definition.
2. “Biological diversity” means the variability among living organisms from all sources including, inter alia, terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are part; this includes diversity within species, between species and of ecosystems.
3. “Ecosystem” means a dynamic complex of plant, animal and micro-organism communities and their non-living environment interacting as a functional unit.
4. A “center of origin” means a geographical area where a species first developed its distinctive properties.<sup>3</sup>
5. A “centre of diversity” means a geographic area containing a high level of genetic diversity for species in *in situ* conditions.<sup>4</sup>

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<sup>3</sup> Definition adopted from International Treaty on Plant Genetic Resources for Food and Agriculture. <ftp://ftp.fao.org/ag/cgrfa/it/ITPGRRe.pdf>

<sup>4</sup> Definition adopted from International Treaty on Plant Genetic Resources for Food and Agriculture. <ftp://ftp.fao.org/ag/cgrfa/it/ITPGRRe.pdf>

