



**COUNCIL OF
THE EUROPEAN UNION**

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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: **COUNCIL DECISION** on the conclusion on behalf of the
European Union of the Nagoya-Kuala Lumpur Supplementary Protocol
on Liability and Redress to the Cartagena Protocol on Biosafety
COMMON GUIDELINES
Consultation deadline for Croatia: 3.10.2012

COUNCIL DECISION No .../2012/EU

of

**on the conclusion on behalf of the European Union
of the Nagoya-Kuala Lumpur Supplementary Protocol
on Liability and Redress to the Cartagena Protocol on Biosafety**

(Text with EEA relevance)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 192, in conjunction with Article 218(6)(a) thereof,

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament,¹

¹ Not yet published in the Official Journal.

Whereas:

- (1) Article 27 of the Cartagena Protocol on Biosafety to the Convention on Biological Diversity¹ ("the Protocol") 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.
- (2) 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.

¹ OJ L 201, 31.7.2002, p. 50.

- (3) 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.
- (4) On 15 October 2010, the final plenary of the fifth COP/MOP adopted the Supplementary Protocol.
- (5) On 20 December 2010, the Council welcomed the adoption of the Supplementary Protocol.
- (6) In accordance with a Council Decision of 6 May 2011¹, the Supplementary Protocol was signed by the Union on 11 May 2011, subject to its conclusion at a later date.
- (7) According to Article 34 of the Convention on Biological Diversity², any protocol to that Convention is subject to ratification, acceptance or approval by States and by regional economic integration organisations.

¹ Not yet published in the Official Journal.

² OJ L 309, 13.12.1993, p. 3.

- (8) The Union and its Member States should endeavour to deposit as soon as possible their instruments of ratification, acceptance or approval of the Supplementary Protocol.
- (9) The Supplementary Protocol contributes to the achievement of the objectives of the environmental policy of the Union.
- (10) The Supplementary Protocol should therefore be approved on behalf of the Union,

HAS ADOPTED THIS DECISION:

Article 1

The Nagoya-Kuala Lumpur Supplementary Protocol on Liability and Redress to the Cartagena Protocol on Biosafety is hereby approved on behalf of the Union.

The text of the Supplementary Protocol is attached to this Decision.*

Article 2

The President of the Council shall designate the person(s) empowered to deposit, on behalf of the Union, as regards matters falling within the Union's competence, the instrument of approval provided for in Article 18 of the Supplementary Protocol.¹ At the same time, these person(s) shall deposit the declaration set out in the Annex to this Decision, in accordance with Article 34(3) of the Convention on Biological Diversity.

* Delegations: see document st 13583/12.

¹ The date of entry into force of the Supplementary Protocol will be published in the *Official Journal of the European Union* by the General Secretariat of the Council.

Article 3

This Decision shall enter into force on the day of its adoption.

Done at Brussels,

For the Council

The President

ANNEX

DECLARATION BY THE EUROPEAN UNION IN ACCORDANCE WITH ARTICLE 34, PARAGRAPH 3, OF THE CONVENTION ON BIOLOGICAL DIVERSITY

"The European Union declares that, in accordance with the Treaty on the Functioning of the European Union, and in particular Article 191 thereof, 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 combatting climate change.

Moreover, the European Union adopts measures at Union level in the area of judicial cooperation in civil matters for the proper functioning of its internal market.

The European Union 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 under Article 20(3)(a) of the Cartagena Protocol on Biosafety to the Convention of Biodiversity, the Union will keep up to date the list of legal instruments already transmitted to the Biosafety Clearing House.

The European Union is responsible for the performance of those obligations resulting from this Supplementary Protocol which are covered by Union law in force."
