

Shortcomings of the Cartagena Protocol: Resolving the Liability Loophole at an International Level

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ABSTRACT

The global community has recognized the promise and peril of genetically modified organisms (GMOs). To address biodiversity and human health concerns without completely stifling the progress of biotechnology, international states ratified the Cartagena Protocol on Biosafety in 2003. The Protocol required informed consent between exporters and importers of genetically modified agricultural seeds and also planned to adopt a regime for liability and redress by 2007. To date, a liability regime for GMOs has not been adopted. This Comment explores why the Cartagena Protocol needs a binding method for redressing harm from GMOs and examines the lessons learned from predecessor civil liability regimes in other environmental contexts. Based on these evaluations, the Comment concludes that the best model for GMOs is mitigated-strict liability with a compensatory fund.

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