

Greenpeace International Explanatory Documents on the Biosafety Liability and Redress Negotiations

Preparation for the
Fifth 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

Supplementary Collective Compensation Arrangements

A Fund Mechanism for Damage Caused by LMOs: Need, Function and Structure

Introduction

This document¹ addresses basic questions concerning the need for and adoption of a fund mechanism to ensure compensation for victims and restoration of the environment/biodiversity in cases of damage caused by LMOs that cannot be otherwise guaranteed under rules and procedures developed by the Working Group on Liability and Redress. Existing mechanisms, both nationally and internationally are noted, followed by an explanation of basic essential elements of fund mechanisms. The Greenpeace suggested text for the establishment of a fund is then provided. Finally, this document provides options for inclusion of supplementary compensation in the form of a fund mechanism in a comprehensive international regime on liability and redress under the Cartagena Protocol on Biosafety.

Why a Fund Mechanism?

A fund mechanism would ensure compensation and restoration beyond the primary requirements of a civil liability regime or administrative system. If for any reason these systems or any financial security required cannot cover the extent of damage caused by an LMO, a fund mechanism would ensure that adequate measures are taken. Further, a fund mechanism would be more efficient and effective at addressing interim and preventative needs than found by following a lengthy claims process. Finally, a fund mechanism may ensure greater access to justice by providing assistance to claimants in bringing costly transnational claims under private international law. A fund mechanism would:

- Be a simple and efficient means of ensuring preventative, response and/or restoration measures;
- Guarantee compensation and restoration regardless of any unforeseen gaps in the application of rules and procedure on liability and redress;
- Ensure access to justice for claimants without sufficient financial backing;
- Provide for compensation and restoration costs beyond the available financial security or financial solvency of liable persons or entities.

¹ Written by Sarah F. Lawson-Stopps.

FUNCTIONS OF A FUND MECHANISM

As noted, the main functions of a fund mechanism would be to ensure compensation and restoration of damage in an efficient and effective manner, addressing the gaps and limitations of primary measures of liability and redress for damage. Such gaps and limitations addressed by a fund may include:

- Measures to prevent, mitigate, clean-up, reinstate or respond to damage exceeding any agreed financial limits;
- Discovery of damage/claim brought for damage beyond period of an established limitation in time;
- Liable person or entity cannot be determined;
- Person or entity otherwise liable is exonerated based on an agreed exemption;
- Liable person or entity is partially or wholly incapable of fulfilling their responsibility to compensate or otherwise restore damage due to insolvency or other reason;
- Financial security provided is less than the total cost of compensation or restoration of damage;
- Claimant affected by damage is unable to bring claim for some reason; or
- No person or entity has the standing to bring a claim on behalf of damage to environment/biodiversity at large.

EXISTING SUPPLEMENTARY COLLECTIVE COMPENSATION ARRANGEMENTS

Supplementary collective compensation arrangements exist for damage to the environment in the Antarctic and damage caused by nuclear installations, shipping of oil, carriage of hazardous and noxious substances, and the movement of hazardous wastes.² National legislation in the United States also exists creating a fund for damage related to hazardous wastes and their disposal.³

Further note should be taken of the Draft Principles of the International Law Commission on the allocation of loss in the case of transboundary harm arising out of hazardous activities. Principle 7 paragraph 2 states:

Such agreements should, as appropriate, include arrangements for industry and/or State funds to provide supplementary compensation in the event that the financial resources of the operator, including financial security measures, are insufficient to cover the damage suffered as a result of an incident. Any such funds may be designed to supplement or replace national industry-based funds.⁴

² *Supplementary Collective Compensation Arrangements in International Environment-Related Liability Instruments in preparation for the fourth meeting of the Ad Hoc Open-Ended Working Group on Liability and Redress in the Context of the Cartagena Protocol on Biosafety* UNEP/CBD/BS/WG-L&R/4/INF/3 (22 August 2007), at <http://www.cbd.int/doc/meetings/bs/bswglr-04/information/bswglr-04-inf-03-en.pdf> [hereinafter *WG-L&R/4/INF/3*].

³ Superfund, Basic Information, United States Environmental Protection Agency website, at <http://www.epa.gov/superfund/about.htm>.

⁴ Report of the International Law Commission, Fifty-Sixth Session (3 May- 4 June and 5 July- 6 August 2004), General Assembly Official Records, Fifty-ninth Session, Supplement No. 10 (A/59/10).

BASIC ELEMENTS OF A FUND MECHANISM

Existing fund mechanisms generally have two or three tiers of contributions, an assembly of contracting parties, an administrative body and a director. While each fund mechanism is slightly different in its compositions, these general elements remain.

Contributions

Contributions to the fund may be public or private. Contributions may be made by the private sector, including operators, exporters, or importers with a stake in the activities involving a hazardous or polluting substance or activity. Contributions may also be made by States that are parties to the fund mechanism. These contributions may be made as a collection of the contributions of private entities, or in relation to the State's stake in such activities including the movement, import or export of hazardous substances. All States Parties to the fund mechanism may be required to contribute a certain basic amount to the fund as well. States may fund such contributions by creating licensing schemes or import/export taxes.⁵

To this end, we include some financial data to give some idea of the financial environment.

⁵ WG-L&R/4/INF/3 *supra* note 2.

FINANCIAL DATA

According to the ISAAA, the global market value of genetically engineered crops in 2007 was US\$ 6.9 billion.⁶

*Monsanto*⁷

Monsanto total in US\$ million	2007	2006	2005
Net Sales	8,563	7,294	6,275
Gross Profit	4,286	3,519	2,995
Net Income	993	689	255
Monsanto Seeds and Genomics Segment			
Net Sales	4,964	3,978	3,233
Gross Profit	3,014	2,433	1,973
EBIT	905	794	374

Monsanto sales by region in 2007⁸	US\$ million
United States	4,845
Latin America	1,580
Europe-Africa	1,262
Asia-Pacific	552
Canada	324

⁶ ISAAA Brief 37-2007: Global Status of Commercialized Biotech/GM Crops: 2007; Executive Summary, last page.

⁷ According to Monsanto Annual Report 2007, Form 10-K. EBIT = earning before interest and taxes. Net income is calculated in Monsanto's Annual Report (Form 10-K) only for the total company, not on a segment basis.

⁸ Note that this is not sales within these areas, but by Monsanto entities in these areas, e.g., if Monsanto US sells something in Latin America, it is accounted here as US sales.

Syngenta⁹

Syngenta total in US\$ million	2006	2005	2004
Sales	8,046	8,104	7,269
Gross Profit	4,064	4,154	3,737
Net Income	634	622	460
Syngenta Seed Segment	2006	2005	2004
Net Sales	1,743	1,797	1,239
Gross Profit	849	857	629
Operating Income	44	17	(-20)

Syngenta sales by region in 2006	Seed products (US\$ million)	Total (US\$ million)
Europe, Africa & Middle East	690	2,973
NAFTA	838	2,972
Latin America	107	1,133
Asia Pacific	108	1,026

⁹ According to Syngenta Annual Report, 2007, From 20-F

Greenpeace Briefing on a Fund

Du Pont (Pioneer)¹⁰

DuPont total in US\$ million	2006	2005	2004
Net sales	27,421	26,639	27,340
Net income	3,148	2,056	1,780
Segment 'Agriculture & Nutrition' (US\$ million)¹²			
Sales	6,329	6,394	6,244
Pretax operating income	507	862	769

DuPont sales by region in 2006	US\$ million¹¹
United States	11,100
Europe	7,900
Asia Pacific	4,800
Canada & Latin America	3,600

¹⁰ According to Du Pont Annual Report 2006, Form 10-K

¹¹ The Du Pont Form 10-K provides a breakdown per country on page 53. These numbers are rounded in the original report, so do not completely coincide with the numbers in the left hand table.

¹² This includes Pioneer seed products, Du Pont pesticides, as well as food ingredients and food packaging systems.

Dow Chemicals Company¹³

Dow total in US\$ million		2006	2005	2004
Net sales		49,124	46,307	40,161
Net income		3,724	4,515	2,797
For Dow AgroSciences, which includes seeds and pesticides	Sales	3,399	3,364	3,368
	EBIT ¹⁴	415	543	586

¹³ According to Dow Chemicals Company Annual Report 2006, Form 10-K

¹⁴ Dow uses EBIT (defined as earnings before interest, income taxes and minority interests) as its measure of profit/loss for segment reporting purposes.

Bayer¹⁵

Bayer total in US\$ million ¹⁶	2006	2005	2004
Net sales	38,213	32,111	27,202
Income after taxes	2,014	1,786	811
For Bayer CropScience, Segment Crop Protection¹⁷ in million Euros			
Sales	4,644	4,874	4,957
Operating result	384	532	386
Segment BioScience only in million Euros ¹⁸			
Sales	342	328	311

Crop Protection by region in million Euros	2004	2005	2006
Europe	1,898	1,901	1,909
North America	979	1,076	996
Asia/Pacific	820	811	772
Latin America / Africa/Middle East	1,260	1,086	967

¹⁵ According to Bayer Annual Report 2006, Form 20-F

¹⁶ 2005 and 2004 numbers were converted from Euro to Dollar with a 1:1.3 exchange rate

¹⁷ Pesticides

¹⁸ Seeds, both conventional and genetically engineered

FUNDS: EXAMPLES OF TIERS

Tiers of contributions are differentiated by the type of contributor and the use of the funds pooled in each tier. The simplest fund will have only one tier as the fund is based on only contributions of Parties, or all contributions are pooled together.¹⁹ In the case of the Basel Convention, such a system is voluntary. Multi-tiered systems however, are more common. Each tier provides a certain level of supplementary compensation for a specific claim.

	1 st Tier	2 nd Tier	3 rd Tier
Nuclear ²⁰	Operator's financial security	Public fund by installation states based on nuclear capacity	Public fund provided by all Contracting Parties.
Oil ²¹	Civil liability	Private Fund with contributions from importers (for damage not covered under civil liability)	Public supplementary fund by all Contracting Parties (for damage beyond limits of liability and fund combined)
HNS ²²	Ship owners' Financial Security	Fund by all Contracting Parties	

COMPONENTS OF A FUND

Assembly

The States Parties to fund mechanisms will meet periodically, generally annually, to assess the implementation of the fund. This meeting, or Assembly, of the Parties will serve as the decision-making body deciding on rules of procedure for the operation of the fund, assessing the levels of contribution, assessing potential limits to compensation for each claim, appointing a director, and forming any necessary subsidiary bodies to address aspects of implementation of the mandate of the fund mechanism.

Administrative Body

An administrative body will oversee the basic regular functions of the fund. This body will collect and process contributions, handle reports of damage and requests for compensation or restoration, provide finances or legal aid to applicable claimants in need, recover any costs for preventative or interim measures taken by the fund mechanism, and organize meetings of the Assembly or any subsidiary bodies established.

Director

The director of a fund will generally oversee the administrative work of the fund and make key decisions. Important functions of a director include: overseeing the budget, mandating

¹⁹ WG-L&R/4/INF/3 *supra* note 2. See the *Antarctic Treaty and the Basel Convention Funds*.

²⁰ WG-L&R/4/INF/3 *supra* note 2. See the *Brussels Supplementary Convention (2004)*.

²¹ WG-L&R/4/INF/3 *supra* note 2. See the *three agreements on Oil Pollution: 'Civil Liability,' 'Fund,' and 'Supplementary Fund.'*

²² 'An Overview of the HNS Convention,' at <http://www.iopcfund.org>. And WG-L&R/4/INF/3 *supra* note 2. See the *HNS Convention*.

preventative or response measures, requesting payment to the fund by private persons or States, notifying Parties of annual contributions, and requiring a contributor to maintain financial security.

A FUND: AN INTEGRAL COMPONENT OF A COMPREHENSIVE INTERNATIONAL REGIME

A comprehensive international regime on liability and redress for damage resulting from the transboundary movement of LMOs is comprised of a number of essential components. The co-chairs of the Working Group have suggested that delegates consider a number of options comprised of combinations of binding and non-binding aspects of a regime to recommend for adoption by the COP-MOP. A fund is an integral aspect of any combination of rules and procedures making up an effective international regime. Some have argued that a fund mechanism may only be established on the basis of an established civil liability regime.²³ This, however, is not the case. The creation of a fund mechanism as a stand alone administrative body is a distinct and real possibility, although a fund would be most effective in combination with other measures. At minimum these measures should include harmonized rules and procedures for private international law (PIL) and requirement of financial security to be held by exporters. A comprehensive liability regime would cover these elements and provide binding rules and procedures on civil liability and possibly an administrative approach, as well.

²³ Dr. Katharina Kummer Peiry. *Paper No. 4 ESTABLISHMENT OF A COMPENSATION FUND: A COMPLEX AND COSTLY PROCESS*, Biosafety Protocol Process on Liability and Redress: Food for Thought on Key Issues. Kummer Eco Consult (27 February 2005), at www.ecoconsult.ch .

SUGGESTED TEXT FOR A FUND

V. Supplementary Compensation Scheme

B. Supplementary collective compensation arrangements

*Operational Text 5:*²⁴

Article 6 - Preventive, mitigating, restorative and reinstating measures required

Where the financial resources of an operator, including financial security measures, are insufficient to cover the damage suffered as a result of an incident, the Fund shall pay the costs of prevention, remediation, restoration or reinstatement of the environment where payment for such is not available under this Protocol.

Article 19 - Fund established

1. An International Fund for compensation for damage, to be named “The International Living Modified Organism Compensation Fund” and hereinafter referred to as “The Fund”, is hereby established with the following aims:

- (a) to provide compensation for and prevention, remediation or reinstatement of damage to the extent that the protection afforded by this Protocol is inadequate;
- (b) to provide legal aid to claimants;
- (c) to give effect to the related purposes set out in this Convention.

2. The Fund shall in each Contracting Party be recognized as a legal person capable under the laws of that State of assuming rights and obligations and of being a party in legal proceedings before the courts of that State. Each Contracting Party shall recognize the Director of the Fund (hereinafter referred to as “The Director”) as the legal representative of the Fund.

Article 20 - Applicability of the Fund

This Part shall apply with regard to compensation according to article 21 to damage caused in areas under the national jurisdiction of a Contracting Party or in areas beyond the limits of national jurisdiction, and to preventive measures taken to prevent or minimize such damage or for reinstatement or remediation of the environment following such damage.

Article 21 - Payment of Compensation and Remediation

1. The Fund shall pay compensation to any person suffering damage if such person has been unable to obtain full and adequate compensation for the damage under this Protocol, either:

- (a) Because no liability for the damage arises under this Protocol;
- (b) Because the party liable for the damage under this Protocol is financially incapable of meeting his obligations in full and any financial security that may be provided under this Protocol does not cover or is insufficient to satisfy the claims for compensation for the damage; a person being treated as financially incapable of meeting that person’s obligations and a financial security being treated as insufficient if the person suffering the damage has

²⁴ Revised Working Draft Of Proposed Operational Text on Approaches and Options Pertaining to Liability and Redress in the Context of Article 27 of the Biosafety Protocol in preparation for the fifth meeting of the Ad Hoc Open-Ended Working Group on Liability and Redress UNEP/CBD/BS/WG-L&R/5/2/Rev.1 (8 February 2008).

been unable to obtain full satisfaction of the amount of compensation due under this Protocol after having taken all reasonable steps to pursue the legal remedies available to him;

2. The Fund shall pay the costs of prevention, remediation or reinstatement of the environment where payment for such remediation or reinstatement was not available under this Protocol.
3. The aggregate amount of compensation and prevention, remediation and reinstatement payable by the Fund under this article shall in respect of any one occurrence be limited, so that the total sum of that amount and the amount of compensation actually paid under this Protocol for an occurrence, shall not exceed the amount specified in Annex IV.
4. Where the amount of established claims against the Fund exceeds the aggregate amount of compensation payable under paragraph 4, the amount available shall be distributed in such a manner that the proportion between any established claim and the amount of compensation actually recovered by the claimant under this Protocol shall be the same for all claimants.
5. The Assembly of the Fund (hereinafter referred to as “the Assembly”) may, having regard to the experience of incidents which have occurred and in particular the amount of damage resulting therefrom and to changes in the monetary values, decide that the amount referred to in paragraph 2, shall be increased; provided, however, that this amount shall in no case be decreased. The changed amount shall apply to incidents which occur after the date of the decision effecting the change.
6. The Fund shall, at the request of a Contracting Party, use its good offices as necessary to assist that State to secure promptly such personnel, material and services as are necessary to enable the State to take measures to prevent or damage arising from an occurrence in respect of which the Fund may be called upon to pay compensation under this Protocol.
7. The Fund may on conditions to be laid down in Regulations provide credit facilities with a view to the taking of preventive measures against damage arising from a particular occurrence in respect of which the Fund may be called upon to pay compensation under this Protocol.

Article 22 - Time limitations

Rights to compensation under article 21 shall be extinguished unless an action is brought thereunder or a notification has been made pursuant to Article 23, paragraph 6, within ten years from the date when the damage occurred or from when the damage is discovered.

Article 23 - Jurisdiction

1. Subject to the subsequent provisions of this article, any action against the Fund for compensation under article 21 of this Protocol shall be brought only before a court competent under article 8 of this Protocol in respect of actions against a person who is or who would be liable for damage caused by the relevant occurrence.
2. Each Contracting Party shall ensure that its courts possess the necessary jurisdiction to entertain such actions against the Fund as are referred to in paragraph 1.
3. Where an action for compensation for damage has been brought before a court competent under article 8 of this Protocol, such court shall have exclusive jurisdictional competence over any action against the Fund for compensation under the provisions of article 21 of this Convention in respect of the same damage.

4. Each Contracting State shall ensure that the Fund shall have the right to intervene as a party to any legal proceedings before a competent court of that State against a person who may be liable under article 4 of this Protocol.

5. Except as otherwise provided in paragraph 6, the Fund shall not be bound by any judgment or decision in proceedings to which it has not been a party or by any settlement to which it is not a party.

6. Without prejudice to the provisions of paragraph 4, where an action under this Protocol for compensation for damage has been brought before a competent court in a Contracting State, each party to the proceedings shall be entitled under the national law of that State to notify the Fund of the proceedings. Where such notification has been made in accordance with the formalities required by the law of the court seized and in such time and in such a manner that the Fund has in fact been in a position effectively to intervene as a party to the proceedings, any judgment rendered by the court in such proceedings shall, after it has become final and enforceable in the State where the judgment was given, become binding upon the Fund in the sense that the facts and findings in that judgment may not be disputed by the Fund even if the Fund has not actually intervened in the proceedings.

Article 24 - Enforcement

Subject to any decision concerning the distribution referred to in article 21, paragraph 4, any judgment given against the Fund by a court having jurisdiction in accordance with article 23, paragraphs 1 and 3, shall, when it has become enforceable in the State of origin and is in that State no longer subject to ordinary forms of review, be recognized and enforceable in each Contracting State on the same conditions as are prescribed in [article 12] of this Protocol.

Article 25 - Subrogation

1. The Fund shall, in respect of any amount of compensation for damage paid by the Fund in accordance with article 21, paragraph 1, of this Protocol, acquire by subrogation the rights that the person so compensated may enjoy under the Protocol against any person who may be liable under article 4 of this Protocol.

2. Nothing in this Convention shall prejudice any right of recourse or subrogation of the Fund against persons other than those referred to in the preceding paragraph. In any event the right of the Fund to subrogation against such person shall not be less favourable than that of an insurer of the person to whom compensation or indemnification has been paid.

3. Without prejudice to any other rights of subrogation or recourse against the Fund which may exist, a Contracting Party or agency thereof which has paid compensation for damage in accordance with provisions of national law shall acquire by subrogation the rights which the person so compensated would have enjoyed under this Protocol.

Article 26 - Assessment of Contributions

1. Contributions to the fund shall be made in respect of each Contracting Party by any person who, in the calendar year referred to in article 27, paragraph 1, as regards initial contributions and in article 28, paragraphs 2 (a) or (b), as regards annual contributions, has exported living modified organisms in total quantities exceeding the amount specified in Annex II.

2. For the purposes of paragraph 1, where the value of living modified organisms exported by any person in a calendar year when aggregated with the value of living modified organisms by any associated person or persons exceeds the amount specified in Annex II,

such person shall pay contributions in respect of the actual quantity received by him notwithstanding that that value did not exceed the amount specified in Annex II.

3. "Associated person" means any subsidiary or commonly controlled entity. The question whether a person comes within this definition shall be determined by the national law of the Party concerned.

Article 27 - Quantum of Contributions

1. In respect of each Contracting Party initial contributions shall be made of an amount which shall for each person referred to in article 26 be calculated on the basis of a fixed sum proportionate to the value of the living modified organisms exported during the calendar year preceding that in which this Convention entered into force for that State.

2. The sum referred to in paragraph 1 shall be determined by the Assembly within three months after the entry into force of this Protocol. In performing this function the Assembly shall, to the extent possible, fix the sum in such a way that the total amount of initial contributions would, if contributions were to be made in respect of 90 per cent of the quantities of living modified organisms exported throughout the world, equal ____ million SDR.

3. The initial contributions shall in respect of each Contracting Party be paid within three months following the date at which the Protocol entered into force for that Party.

Article 28 - Budget

1. With a view to assessing for each person referred to in article 26 the amount of annual contributions due, if any, and taking account of the necessity to maintain sufficient liquid funds, the Assembly shall for each calendar year make an estimate in the form of a budget of:

(i) Expenditure;

(a) Costs and expenses of the administration of the Fund in the relevant year and any deficit from operations in preceding years;

(b) Payments to be made by the Fund in the relevant year for the satisfaction of claims against the Fund due under article 21, including repayment on loans previously taken by the Fund for the satisfaction of such claims, to the extent that the aggregate amount of such claims in respect of any one incident does not exceed the amount specified in Annex I;

(ii) Income;

(a) Surplus funds from operations in preceding years, including any interest;

(b) Initial contributions to be paid in the course of the year;

(c) Annual contributions, if required to balance the budget;

(d) Any other income.

2. For each person referred to in article 26 the amount of his annual contribution shall be determined by the Assembly and shall be calculated in respect of each Contracting Party.

3. The sums referred to in paragraph 2 above shall be arrived at by dividing the relevant total amount of contributions required by the total amount of living modified organisms exported by all Contracting States in the relevant year.

4. The Assembly shall decide the portion of the annual contribution which shall be immediately paid in cash and decide on the date of payment. The remaining part of each annual contribution shall be paid upon notification by the Director.

5. The Director may, in cases and in accordance with conditions to be laid down in the Regulations of the Fund, require a contributor to provide financial security for the sums due from him.
6. Any demand for payments made under paragraph 4 shall be called rateably from all individual contributors.

Article 29 - Assessment of Contributions

1. The amount of any contribution due under article 28 and which is in arrear shall bear interest at a rate which shall be determined by the Assembly for each calendar year provided that different rates may be fixed for different circumstances.
2. Each Contracting Party shall ensure that any obligation to contribute to the Fund arising under this Protocol in respect of living modified organisms exported from the territory of that State is fulfilled and shall take any appropriate measures under its law, including the imposing of such sanctions as it may deem necessary, with a view to the effective execution of any such obligation; provided, however, that such measures shall only be directed against those persons who are under an obligation to contribute to the Fund.
3. Where a person who is liable in accordance with the provisions of articles 27 and 28 to make contributions to the Fund does not fulfil his obligations in respect of any such contribution or any part thereof and is in arrear for a period exceeding three months, the Director shall take all appropriate action against such person on behalf of the Fund with a view to the recovery of the amount due. However, where the defaulting contributor is manifestly insolvent or the circumstances otherwise so warrant, the Assembly may, upon recommendation of the Director, decide that no action shall be taken or continued against the contributor.

Article 30 - Fund Bodies

1. The Fund shall have an Assembly, a Secretariat headed by a Director and an Executive Committee.
2. The Assembly shall consist of all Contracting States to this Protocol.

Article 31 - Assembly Functions

The functions of the Assembly shall be:

1. To elect at each regular session its Chair and two Vice-Chairmen who shall hold office until the next regular session;
2. To determine its own rules of procedure, subject to the provisions of this Protocol;
3. To adopt Internal Regulations necessary for the proper functioning of the Fund;
4. To appoint the Director and make provisions for the appointment of such other personnel as may be necessary and determine the terms and conditions of service of the Director and other personnel;
5. To adopt the annual budget and fix the annual contributions;
6. To appoint auditors and approve the accounts of the Fund;
7. To approve settlements of claims against the Fund, to take decisions in respect of the distribution among claimants of the available amount of compensation in accordance with article 21, paragraph 3, and to determine the terms and conditions according to which

provisional payments in respect of claims shall be made with a view to ensuring that victims of damage are compensated as promptly as possible;

8. To elect the members of the Assembly to be represented on the Executive Committee;
9. To establish any temporary or permanent subsidiary body it may consider to be necessary;
10. To determine which non-Contracting States and which inter-governmental and international non-governmental organizations shall be admitted to take part, without voting rights, in meetings of the Assembly, the Executive Committee, and subsidiary bodies;
11. To give instructions concerning the administration of the Fund to the Director, the Executive Committee and subsidiary bodies;
12. To review and approve the reports and activities of the Executive Committee;
13. To supervise the proper execution of the Convention and of its own decisions;
14. To perform such other functions as are allocated to it under the Convention or are otherwise necessary for the proper operation of the Fund.

Article 32 - Sessions of Assembly

1. Regular sessions of the Assembly shall take place once every calendar year upon convocation by the Director; provided, however, that if the Assembly allocates to the Executive Committee the functions specified in article 31, paragraph 5, regular sessions of the Assembly shall be held once every two years.
2. Extraordinary sessions of the Assembly shall be convened by the Director at the request of the Executive Committee or of at least one-third of the members of the Assembly and may be convened on the Director's own initiative after consultation with the Chairman of the Assembly. The Director shall give members at least thirty days' notice of such sessions.

Article 33 - Quorum

A majority of the members of the Assembly shall constitute a quorum for its meetings.

[other mechanical provisions as necessary]

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