Specificities of liability in the context of biotechnology

Dr Philippe Cullet
IELRC & School of Oriental and African Studies (SOAS)

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Background

• No appropriate legal framework in general international law
• State responsibility – civil liability
• Liability for the legal and/or illegal introduction of GMOs into the environment
• Different types of damages
Environmental impacts

- Possible environmental impacts
  - Transfer of genes to other organisms
  - Surperformance of GMOs
  - Loss, displacement of biodiversity
- Basis for liability: impossibility to exclude damage (e.g. UK trials)
Socio-economic impacts

• Impacts of contamination on organic farmers
  – Loss of income
  – Loss of certification

• Displacement of production from tropical to temperate climates
  – Impacts on developing countries if this concerns cash crops for export
Patent liability

- Background: GMOs often protected by patents
- GMOs can contaminate fields of farmers who have not purchased seeds
- Patent liability implies obligation of farmer to pay if aware of presence even if not benefitting from special characteristics of GM seed
Liability and biotechnology

- Rationale for liability in biotechnology
  - Compensation
  - Prevention, precaution
- Liability regime to take into account all types of damages