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منظمة الأغذية
والزراعة
للأمم المتحدة

联合国
粮食及
农业组织

Food
and
Agriculture
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of
the
United
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Organisation
des
Nations
Unies
pour
l'alimentation
et
l'agriculture

Organización
de las
Naciones
Unidas
para la
Agricultura
y la
Alimentación

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Item 12 of the Provisional Agenda

INTERNATIONAL TREATY ON PLANT GENETIC RESOURCES FOR FOOD AND AGRICULTURE

SECOND SESSION OF THE GOVERNING BODY

Rome, 29 October – 2 November 2007

COMPILATION AND ANALYSIS OF SUBMISSIONS MADE BY CONTRACTING PARTIES AND OBSERVERS ON COMPLIANCE

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I. INTRODUCTION

1. Article 21 of the Treaty provides that:

The Governing Body shall, at its first meeting, consider and approve cooperative and effective procedures and operational mechanisms to promote compliance with the provisions of this Treaty and to address issues of non-compliance. These procedures and mechanisms shall include monitoring, and offering advice or assistance, including legal advice or legal assistance, when needed, in particular to developing countries and countries with economies in transition.

2. In its Resolution 3/2006, the Governing Body decided, *inter alia*:

2. pursuant to Article 21 of the Treaty, to consider and approve procedures and operational mechanisms on compliance at its second session, on the basis of the draft procedures and operational mechanisms to promote compliance and address issues of non-compliance, which are contained in Appendix I to [the] Report,¹ and the submissions made by Parties and observers, no later than three months before the commencement of the second session of the Governing Body, if possible.

3. Pursuant to this decision, on 3 November 2006 a Circular State Letter was issued, inviting Contracting Parties and observers to make submissions, *inter alia*, on the procedures and operational mechanisms to promote compliance and address issues of non-compliance. At the time of preparing this document, submissions had been received from Canada, Ecuador, Egypt, El Salvador, the United Kingdom on behalf of the European Region, Lesotho, Madagascar, Niger, Pakistan and Uruguay.

4. Prior to the First Session of the Governing Body, several Contracting Parties had made submissions which are contained in documents IT/GB-1/06/Inf.7 and IT/GB-1/06/Inf.7 Add.1, entitled *Compilation of submissions and comments on the draft procedures and mechanisms to promote compliance and to address issues of non-compliance*² and presented to the First Session of the Governing Body. As the Governing Body deferred consideration of the issue to its Second Session, that document is being re-issued for the Second Session and should be read in conjunction with the present document.

II. COMPILATION AND ANALYSIS OF SUBMISSIONS

5. The further submissions contained in this document generally address the text of the *Draft procedures and operational mechanisms to promote compliance and address issues of non-compliance*, which are contained in *Appendix I* to the *Report of the First Session of the Governing Body*. These further submissions are issued for the continued negotiations on compliance procedures and operational mechanisms.

6. Specific views submitted have been compiled in the *Annex* to this document. A number of countries made more general comments. These have not been incorporated in the *Annex*. New

¹ IT/GB-1/06/Report

² IT/GB-1/06/Inf.7.

text, modifications or preferred options regarding the *Draft procedures and operational mechanisms to promote compliance and to address issues of non-compliance*, as proposed by Contracting Parties, have been reproduced in the *Annex* to this document.

7. The Governing Body is invited to take into account, as appropriate, the submissions of Contracting Parties and observers contained in the *Annex* to this document, as well as those contained in documents IT/GB-1/06/Inf.7 and IT/GB-1/06/Inf.7 Add.1, when considering the draft Resolution on Compliance, contained in the *Appendix* of document IT/GB-2/07/14.

**ANNEX I: SUBMISSIONS BY CONTRACTING PARTIES ON
COMPLIANCE RECEIVED AFTER THE FIRST SESSION OF THE GOVERNING
BODY**

INTRODUCTION

This annex is a compilation of the submissions by Contracting Parties on *the draft procedures and operational mechanisms to promote compliance and address issues of non-compliance*, which are contained in *Appendix I to the Report of the First Session of the Governing Body*.

All submissions contained in this annex were received by the Secretariat of the Treaty before 1 August 2007.

The submissions have been inserted into this annex in the form and language in which they were received. Minor editorial changes include formatting, the full rendering of acronyms and the correction of spelling.

CANADA

CANADIAN SUBMISSION TO THE INTERNATIONAL TREATY ON PLANT GENETIC RESOURCES FOR FOOD AND AGRICULTURE

DRAFT PROCEDURES AND OPERATIONAL MECHANISMS TO PROMOTE COMPLIANCE AND ADDRESS ISSUES OF NON-COMPLIANCE

The following procedures and mechanisms are developed in accordance with Article 21 of the International Treaty on Plant Genetic Resources and are separate from, and without prejudice to, the dispute settlement procedures and mechanisms established by Article 22 of the International Treaty on Plant Genetic Resources:

I. OBJECTIVES

1. The objective of the compliance procedures and mechanisms shall be to promote compliance with the provisions of this Treaty and to address issues of non-compliance. These procedures and mechanisms include monitoring, offering advice or assistance, including legal advice or legal assistance, when needed [*and requested*], in particular to developing countries and countries with economies in transition.

Canada supports the paragraph without the inclusion of “and requested”. The paragraph as written uses the exact wording in Article 21 of the Treaty.

II. PRINCIPLES

1. The compliance procedures and mechanisms shall be simple, facilitative, non-adversarial, non-judicial, [*legally non-binding*] and cooperative in nature.

Canada supports the paragraph without the inclusion of “legally non-binding”, which is unnecessary given the clear wording in the paragraph on the intention of the document, and is also confusing in that it says the document should be both “legal” and “non-binding”.

2. The operation of the compliance procedures and mechanisms shall be guided by the principles of transparency, fairness, expeditiousness, predictability.

3. [The operation of the compliance procedures and mechanisms shall to take into account and adequate balance between developed and developing countries.]

Canada does not support the inclusion of this paragraph. The representation on the Compliance Committee will be based on FAO membership where an appropriate balance is already taken into account. It is also is not clear that the suggested balance would mean equal numbers of

representatives from developed and developing countries, which is probably not what was intended.

III. INSTITUTIONAL MECHANISMS

1. The Compliance Committee established by the Governing Body on [...] hereinafter referred to as “the Committee” shall carry out the functions specified herein.
2. The Committee shall consist of [14]/[10]/[7] members nominated by Parties and elected by the Governing Body to the Treaty on the basis of [two]/[one] from each of the [seven]/[five] regional groups of the [United Nations]/[FAO].

Canada supports representation by FAO regional groups, and a small group – 1 per FAO region. This will make the committee less costly and will make it easier to reach a consensus. Therefore, Canada supports 7 members, one from each of the seven regional groups of the FAO.

3. Members of the Committee shall have recognized competence in the field of genetic resources or other relevant fields for the Treaty, including legal or technical expertise[, and they shall serve in their individual capacity][and they shall act objectively and in the best interests of the Treaty].

Canada supports the text in the second bracket with a change in the word “act” to “serve” so it reads “and they shall serve objectively and in the best interests of the Treaty”.

Canada opposes the use of the phrase “in their personal capacity” in MEAs as these are experts nominated by Parties. A version of the second bracket has been agreed to in both the recent *Rotterdam Convention on Prior Informed Consent (PIC) Procedure for Certain Hazardous Chemicals and Pesticides in International Trade*, and the *Stockholm Convention on Persistent Organic Pollutants*.

4. Members shall be elected by the Governing Body to the Treaty for a period of four years, this being a full term. At its first session, the Governing Body to the Treaty shall elect seven members, one from each region, for half a term, and seven members for a full term. Each time thereafter, the Governing Body to the Treaty shall elect for a full term, new members to replace those whose term has expired. Members shall not serve for more than two consecutive terms.
5. [The Committee shall meet [twice]/[once] a year, unless it decides otherwise.]/[The Committee shall hold meetings as necessary and, wherever possible, in conjunction with meetings of the Governing Body or other Treaty bodies.]/[The Committee shall hold meetings as necessary, taking [also] into account meetings of the Governing Body]. The Secretariat shall service the meetings of the Committee.

Canada does not support specifically mentioning how many times a year the Committee should meet. There may be instances where the Committee would not really need to meet. As well, holding meetings in conjunction with meetings of the Governing Body would minimize extra expense and Secretariat resources. Therefore, Canada supports the second bracketed phrase:

“The Committee shall hold meetings as necessary and, wherever possible, in conjunction with meetings of the Governing Body or other Treaty bodies”. This is the approach taken in the Rotterdam Convention as well.

6. The Committee shall submit its reports including recommendations with regard to the discharge of its functions to the next meeting of the Governing Body to the Treaty for consideration and appropriate action in accordance with the Treaty.

7. Bearing in mind Rule 1.1 of the *Rules of Procedure of the Governing Body*, the Committee shall develop and submit any further rules of procedure[, including rules on confidentiality, conflict of interest and electronic decision-making,] to the Governing Body for its consideration and approval.

Canada does not see the need for the inclusion of the bracketed text, as the phrase “any further rules” would include those listed in the brackets. Canada would suggest the addition of the phrase “as appropriate” before the bracketed text.

8. The Committee shall elect its Chair and a Vice-Chair, who will rotate among the FAO regions.

IV. FUNCTIONS OF THE COMMITTEE

Canada suggests that Section IV is duplicative of other sections in the text and is not necessary. In the interest of streamlining the text, and creating a simple and effective mechanism, the whole section should be deleted, with the exception of a separate paragraph on reporting, which could expand paragraph h. below. Canada also has specific comments on some of the other paragraphs.

1. The Committee shall, with a view to promoting compliance and addressing issues of non-compliance, and under the overall guidance of the Governing Body to the Treaty, have the following functions:

a) [*Address individual issues of non-compliance and identify the specific circumstances and possible [causes of]/[issues] referred to it;*]

Canada can support the inclusion of this phrase if the word “Address” is changed to “Review”, which is more in line with what the committee will be doing. In the second set of brackets, the phrase “causes of” is better than repeating the word “issues” in the same sentence.

b) Consider information submitted to it regarding matters relating to compliance and issues of non-compliance;

c) Offer advice and/or facilitate assistance, as appropriate, to the concerned Party, on matters relating to compliance with a view to assisting it to comply with its obligations under the Treaty;

d) *[Review general issues of compliance by Contracting Parties with their obligations under the Treaty, taking into account the information submitted [by the Contracting Parties][to it] and following the guidance of the [Committee][Governing Body]];*

Canada would need further clarification on the meaning of “*general issues of compliance*” before supporting the inclusion of this sentence. As well, in the second set of brackets, Canada would agree with “*the guidance of the Governing Body*”. The Committee should not guide itself. (preference is to delete)

e) Take *[measures][actions]*, as defined *[in Section VII]* below, *[or make recommendations,] as appropriate, to the Governing Body*;

Canada could support the shortened phrase “*May make recommendations, as appropriate, to the Governing Body on further measures or actions*”. (preference is to delete)

f) *[Monitor the activities of the Treaty supported by the Secretariat and information supplied by the Parties;][Monitor the implementation of the Treaty by Contracting Parties on the basis of reports in accordance with Section IX;]*

Canada does not support the inclusion of this sentence. This gives a much larger mandate to the Committee than necessary, and imposes a larger resource burden on the Secretariat.

g) Carry out any other functions as may be assigned to it by the Governing Body of the Treaty pursuant to Article 21;

h) *[[Report to the Governing Body]/[Provide confidential reports to the Bureau] on its activities [, including a summary of each closed issue of non-compliance,]]/[To present a bi-annual report to the Governing Body].*

Canada supports expanding this paragraph into a separate section as follows:

[SECTION IV (bis)

Reports to the Governing Body

The Committee shall submit a report to each ordinary meeting of the Governing Body reflecting:

(a) *The work that the Committee has undertaken;*

- (b) *The conclusions and recommendations of the Committee; and*
- (c) *The future programme of work of the Committee.]*

V. PROCEDURES

1. The Committee shall receive, through the Secretariat, any submissions relating to compliance from:

- a) Any Contracting Party with respect to itself;
- b) *[Any Contracting Party with respect to another Contracting Party; or*
- c) *The Governing Body.]*

[The Contracting Party in respect of which the concern is raised is hereinafter referred to as "the Contracting Party concerned".]

Canada supports the inclusion of the bracketed text in the paragraph, as they are consistent triggers with other MEAs for compliance review issues.

Option 1 – Overall, Canada strongly prefers Option 2 below. Specific comments on Option 1 provisions follow:

[2. Upon reception of submissions on possible non-compliance, the Secretariat will initiate a process of dialogue with the Contracting Party or Contracting Parties involved in order to overcome the situation.]

Canada does not support the bracketed text as written. Canada needs clarification on what exactly the Secretariat is being tasked to do under this phrase. In particular, the second part implies a negotiation between parties or an adversarial process on issues of non-compliance. As well, the role given to the secretariat under this bracketed text is that of an active participant or conciliator, which is not a mandate given to it by the Treaty. The Secretariat role should be neutral and administrative only.

[3. In the event that such dialogue process will not reach its aim within thirty days, the Secretariat shall, within fifteen days of receipt of submissions make the submissions available to the Party concerned, and will publish it, encouraging the submission of any information from other sources, about it. The Party concerned and any other source interested will have sixty days to submit responses and related information to the secretariat. The Secretariat, within fifteen days of receipt of these responses and related information, shall transmit the submission, the response and information to the Committee. The Committee will have ninety days to analyse and produce the

recommendation or to adopt any measure, as proceeds, to ensure compliance in order to address the issue.]

Canada cannot support the bracketed text as written. There are too many undefined terms such as “it’s aim”, and the timelines are very short, and should not be set until more is established on when the committee meets and how urgent are the issues before it.

[4. A Party that has received a submission regarding its compliance with the provision(s) of the Treaty should respond and, with recourse to the Committee for assistance if required, provide the necessary information, preferably within three months and in any event not later than six months. This period of time shall commence on the date of the receipt of the submission as certified by the Secretariat. In the case where the Secretariat has not received any response or information from the concerned Party within the six months as referred to above, it shall transmit the submission to the Committee.]

This text is inconsistent with the timelines outlined in paragraph 3 above.

5. A Party, in respect of which a submission is made or which makes a submission, is entitled to attend the deliberations of the Committee. However, this Party shall not participate in the elaboration and adoption of a recommendation of the Committee.

OR

Option 2

2. Any submission shall be addressed in writing to the Secretariat and shall set out:

- a) The matter of concern;
- b) The relevant provisions of the Treaty; and
- c) Information substantiating the matter of concern.

[3. The Secretariat shall, within fifteen days of receipt of submissions under paragraph 1b above, make the submissions available to the Contracting Party concerned, and once it has received a response and information from the Contracting Party concerned, it shall transmit the submission, the response and information to the Committee. In the case that a Contracting Party submits documentation with regard to itself the Secretariat shall, within 15 days, forward that submission to the Committee.]

Canada can support paragraph 3 above.

4. When the Contracting Party concerned has received a submission it should respond and, with recourse to the Committee for assistance if required, provide the necessary information preferably within three months and in any event not later than six months. This period of time shall commence on the date of the receipt of the submission as certified by the Secretariat. In the case where the Secretariat has not received any response or information from the Contracting Party concerned within the six months as referred to above, it shall transmit the submission to the Committee.

5. The Committee may reject to consider any submission made pursuant to paragraph 1b of this section that is *de minimis* or ill-founded, bearing in mind the objectives of the Treaty.

5 bis. The Contracting Party concerned [may present responses or comments at every step of the proceedings]/[is entitled to participate in the deliberations of the Committee]. This Contracting Party shall not participate in the elaboration and adoption of a recommendation of the Committee.

Canada supports transparency and giving the contracting party concerned the opportunity to respond. However, participating in deliberations is not appropriate for objective decision making, and may not be feasible in some cases. Canada supports the first bracketed text “*may present responses or comments at every step of the proceedings*”, and supports leaving the rest of the text as is.

[6. Confidentiality will be an essential requirement of the process.]

Canada believes this sentence can be deleted as it is repeated in a more appropriate section below.

VI. INFORMATION

1. The Committee shall consider relevant information from:

a) The Party concerned;

b) *[The Party that has made a submission with respect to another Party.]*

Canada can support the inclusion of this phrase

2. The Committee may seek or receive and consider relevant information, including from:

a) *[Non-governmental organizations, the private sector and other civil society organizations and relevant inter-governmental organizations, [including the International Agricultural Research Centres]];*

Canada does not support the bracketed text. These organizations participate in the work of the Governing Body, there is no need to include them here specifically. They can be included in the expert advice section below. A possible compromise solution could be found if the following phrase is added at the end of the paragraph: “*as directed by the Governing Body and with the consent of the Party concerned*”.

b) The Secretariat.

[3. The Committee may seek expert advice.]

Canada can support this phrase.

[4. The Committee, in undertaking all of its functions and activities, shall maintain the confidentiality of any information that is [provided to the Committee].]

Canada can support this phrase, which is consistent with other compliance provisions in MEAs.

**VII. [MEASURES]/[MECHANISMS]/[ACTIONS] TO PROMOTE COMPLIANCE
AND
ADDRESS CASES OF NON-COMPLIANCE**

Canada supports “mechanisms” to be consistent with Treaty language.

1. *[The Committee may take one or more of the following measures] with a view to promoting compliance and addressing [cases][a case] of non-compliance [which is raised in accordance with Article V.1 and taking into account such factors as the cause, type, degree, and frequency of non-compliance, the Committee may [only]]:*

Canada proposes the following text: “*The Committee, after consultations with the Party concerned, and taking into account such factors as the cause, type, degree, and frequency of non-compliance, may:*” The term “measures” usually refers to actions of the Governing Body, whereas Committees are concerned more with matters of facilitation. Canada would prefer not referring to “measures” with Committee matters.

a) *[Provide]/[Offer] advice or [and or facilitate] assistance [,including legal advice or legal assistance] [or non-binding recommendations] to the Party concerned, as appropriate;*

Canada supports “*provide advice to the Party concerned as appropriate*”.

b) *[Make recommendations to the Governing Body to the Treaty regarding the provision of financial and technical assistance, technology transfer, training and other capacity building measures;]*

Canada can support this phrase.

c) Request or assist, as appropriate, the Party concerned to develop a compliance action plan regarding the achievement of compliance with the Treaty within a timeframe to be agreed upon between the Committee and the Party concerned, *[taking into account its existing capacity to comply]*; and

Canada can support the inclusion of the bracketed text.

d) Invite the Party concerned to submit progress reports to the Committee on the efforts it is making to comply with its provisions under the Treaty.

2. *[With a view to promoting compliance and addressing an issue of non-compliance raised in accordance with section V.1]* The Governing Body to the Treaty may, upon the recommendations of the Committee, and taking into account such factors as the cause, type, degree and frequency of non-compliance, *[and the capacity of the Party concerned, in particular of developing country Parties in complying with the Treaty,]* also decide *[to] [upon one or more of the following measures]:*

Canada supports the text without the first bracketed text or the second bracketed text. Concerns of developing country Parties are already dealt with in Article 21 of the Treaty. For the last set of brackets, Canada supports “*upon one or more of the following measures*”.

a) Provide *[financial and technical]* assistance *[,including legal assistance to the Party concerned,][technology transfer, training and other capacity building measures]* *[subject to budgetary considerations];*

Canada can support the inclusion of the bracketed text.

b) *[Issue a caution to the concerned Party; or]*

Canada can support this phrase which is found in the *Basel Convention compliance mechanism* (“*cautionary statement*”). Canada could also accept the issuance of a “*statement of concern*” in place of a “*caution*”, as was agreed in the *Stockholm and Rotterdam Conventions*.

c) *[Publish cases of non-compliance.]/[Request the Secretariat to place on the web site closed issues of non-compliance.]*

Canada does not support the inclusion of this phrase. Non-compliance issues are appropriately reported through reports to the Governing Body.

[d) Take any other actions it deems appropriate in accordance with the Treaty and for the fulfilment of the Treaty's objectives.]

Canada does not support the inclusion of this phrase. Committee actions should be specifically detailed in the compliance procedures, not open-ended.

VIII. REVIEW OF THE PROCEDURES AND MECHANISMS

[The Governing Body to the Treaty shall, in line with Article 21, review the effectiveness within X years of adoption of the procedures and/or periodically of these procedures and mechanisms and take appropriate action.]

Canada can support the inclusion of this phrase. Canada would rather not fix a specific time frame but could agree if the fixed timeframe was a longer period, such as 5-10 years.

IX. REPORTING

The Governing Body may, from time to time, seek reports from the Parties regarding compliance with the Treaty.

[IX. MONITORING

1. Each Party shall submit to the Committee, through the Secretariat, a report on the measures it has taken to implement the Treaty in one of the six languages of the United Nations five years after the entry into force of the Treaty, and every 5 years thereafter, in accordance with any further decisions of the Governing Body on the submission of such reports.

2. The Committee shall consider the reports that it has received up to twelve months before the next session of the Governing Body taking into account any guidance of the Governing Body.

3. The Committee shall submit a synthesis report on the basis of the reports that it has considered to each session of the Governing Body, which may include recommendations to the Governing Body on possible decisions to solve identified problems, including on the invitation to Parties to make a submission in accordance with Section V.1a.

4. The Committee may develop and submit any further rules on monitoring and reporting, including a reporting format, to the Governing Body for its consideration and approval, taking into account the need to avoid duplication and to enhance synergies.]]

Canada can support the bracketed section only with the agreement of the Governing Body, as it imposes important commitments on the Parties and the Committee.

ECUADOR

Propuestas sobre procedimientos y mecanismos operacionales para promover el cumplimiento y tratar los casos de incumplimiento.

Colombia presentó, en reuniones preparatorias para la primera reunión del Órgano Rector, un borrador de propuesta en este sentido, el cual fue apoyado y asumido por el GRULAC y el Grupo de los 77 más China. Este documento fue tomado en cuenta para la realización de la propuesta que fue analizada en la primera reunión del Órgano Rector con las siglas IT/GB-1/06/7. Se Logró pequeños avances en la primera reunión y prácticamente se tienen corchetes en casi todos los artículos.

Un gran porcentaje de países del GRULAC mencionamos que nuestros países no tienen la capacidad financiera, administrativa y operacional para poder cumplir con esta responsabilidad. Esto originó la aprobación en el documento IT/GB-1/06/6 que trata sobre el Acuerdo de Transferencia de Materiales, en el artículo 8, sobre Resolución de controversias, que exista una Tercera Parte Beneficiaria que ayude en la labor de monitoreo y de solución de controversias por problemas de incumplimiento. Además, el GRULAC propuso que la FAO asuma esa labor, ya que tiene las estructuras adecuadas para cumplir con dicha misión. En la carta G/X/AGD-10 del 22 de diciembre de 2006, el Director General de la FAO informa que ha dado en principio su consentimiento de que la Organización actúe como la Tercera Parte Beneficiaria. Este consentimiento en principio queda sujeto a la aprobación oficial, una vez examinados los procedimientos que serán establecidos por el Órgano Rector en su próxima reunión, donde definirán las funciones y las responsabilidades de la Tercera Parte Beneficiaria.

Con esto, queda solamente afinar en la segunda reunión lo dicho anteriormente y el documento que se encuentra en corchetes. Obviamente en el país se tendrán que realizar reuniones para el análisis de dicho documento, con la finalidad de llevar una posición consensuada.

EGYPT

SUBMISSION ON PROCEDURES AND OPERATIONAL MECHANISMS TO PROMOTE COMPLIANCE AND ADDRESS ISSUES OF NON-COMPLIANCE

The National Gene Bank (NGB) has developed a protocol for Material Transfer Agreement. (MTA).

The NGB is holding workshops and organizes visit for the stakeholders and participants to raise the public awareness concerning plant genetic resources.

EUROPEAN REGION

EUROPEAN REGION (ERG) SUBMISSION TO THE INTERIM SECRETARY OF THE INTERNATIONAL TREATY ON PLANT GENETIC RESOURCES FOR FOOD AND AGRICULTURE ON “PROCEDURES AND OPERATIONAL MECHANISMS TO PROMOTE COMPLIANCE AND TO ADDRESS ISSUES OF NON-COMPLIANCE”

1. The ERG would like to express its satisfaction regarding the successful adoption of a provisional compliance regime at the first session of the Governing Body and especially the decision for the establishment of a compliance committee which we consider to be an important tool for the Treaty's implementation.
2. As we recognize the central role of an operative compliance regime for the functioning and the success of the Treaty, we consider that the issue should have a high priority on the agenda of the Second Session of the Governing Body.
3. The ERG welcomes the text at *Appendix I* of the *Report of the First Session of the Governing Body*, which we believe to be an excellent starting point for the following negotiations.
4. The ERG would like to reaffirm its last submissions to the Secretariat that still form the basis of our position and will shape our approach to the upcoming negotiation. Therefore, we would like to emphasise the central elements of our position and highlight issues which in our view deserve particular attention:
 - a) the establishment of a small and effective compliance committee composed of technical and legal experts who serve in their personal capacity;
 - b) the early and proper application of procedures and mechanisms on compliance by entitling Parties to raise compliance issues before the compliance committee with respect to themselves or to another Party;
 - c) fairness, transparency, expedition, predictability and confidentiality should be ensured by solution-oriented proceedings and by the integration of procedural safeguards both in the compliance procedures and in the further rules of procedures of the compliance committee;
 - d) application / recommendations by the compliance committee of cooperative and effective measures that promote compliance and address issues of non-compliance under the International Treaty. We believe that the primary focus should be on supportive measures, such as the facilitation of advice and assistance;
 - e) The integration of monitoring of the implementation of the International Treaty as an enhancing element in the tasks of the committee.
5. The ERG looks forward to working with all participants at the second session of the Governing Body in a positive and constructive manner so that we can complete our work on these outstanding issues as foreseen in Resolution 3/2006.

LESOTHO

There are already reported cases of individuals who illegally use the local flora for commercialization and not sharing benefits that accrue from these material equitable with the local communities but has not been easy to take such people to court for laws in the absence of well established plant genetic resources laws.

MADAGASCAR

Cette communication a été déjà élaborée lors de l'Atelier de réflexion sur les ressources phylogénétiques pour l'alimentation et l'agriculture, tenu du 22 au 23 février 2006 à Madagascar et a été envoyé au Secrétariat du Traité avant la tenue de la première session de l'Organe directeur. Les participants n'ont plus de rajouts à suggérer.

NIGER

Excerpt from the Submission of the Republic of Niger

Un comité technique de mise en application du Traité doit être mis en place et travailler de concert avec les points focaux, le SE et l'Organe directeur. Le bon fonctionnement de ce dispositif va facilement permettre d'identifier les avancées et les lacunes dans la mise en application du Traité.

PAKISTAN

The National Focal Point is available to address these issues from time to time.

URUGUAY

Excerpt from the Submission of Uruguay

Uruguay considera que el cumplimiento, en el caso de países en desarrollo como Uruguay, sólo será posible lograrlo si se cuenta con fuentes de financiamiento nuevas y adicionales que permita cumplir los objetivos propuestos.

Se reitera el concepto enviado en su momento por Uruguay respecto a que las tareas de un Comité de Cumplimiento “*deberán estar orientadas hacia la cooperación eficaz, la promoción de la observancia y el tratamiento de las situaciones de incumplimiento. Al respecto y en todos los casos, el Comité deberá contemplar la condición particular de los países en desarrollo, previendo un tratamiento especial y diferenciado hacia los mismos. Dicho tratamiento debe incluir tanto la instrumentación de asesoramiento y asistencia para promover la observancia*

como la debida consideración de las menores capacidades de cumplimiento de estos países al analizarse casos concretos de incumplimiento en los que pudieran estar involucrados”.

Dadas las limitadas capacidades con que el país cuenta para llevar adelante tareas específicas en el área de los recursos genéticos, la forma de lograr el cumplimiento del Tratado será contar con financiamiento adicional para su implementación.