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Food and Agriculture  
Organization of the  
United Nations



**The International Treaty**  
ON PLANT GENETIC RESOURCES  
FOR FOOD AND AGRICULTURE

<b>Item 4 of the Provisional Agenda</b>
<b>INTERNATIONAL TREATY ON PLANT GENETIC RESOURCES FOR FOOD AND AGRICULTURE</b>
<b>SECOND MEETING OF THE COMPLIANCE COMMITTEE</b>
<b>Rome, Italy, 21 – 22 February 2017</b>
<b>FUTURE WORK OF THE COMPLIANCE COMMITTEE</b>

### **Executive Summary**

This document contains information on the possible future work that the Compliance Committee may wish to consider for the next biennium, based on its functions pursuant to Section IV of the *Procedures and Operational Mechanisms to Promote Compliance and Address Issues of Non-Compliance*. It gives particular regard to the active engagement needed from Contracting Parties and possibilities for the Governing Body to provide further specific guidance and requests to the Compliance Committee.

## I. INTRODUCTION

1. The functions of the Compliance Committee are established under Section IV of the *Procedures and Operational Mechanisms to Promote Compliance and Address Issues of Non-Compliance*<sup>1</sup> (Compliance Procedures). They 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, and promoting compliance with the provisions of the Treaty and addressing possible issues of non-compliance.
2. The Compliance Committee shall hold meetings as necessary.
3. According to the Compliance Procedures, the Compliance Committee shall exercise its functions under the overall guidance of the Governing Body, which may also assign to it further functions pursuant to Article 21 of the Treaty. Moreover, the Compliance Committee shall consider any questions concerning the implementation of obligations under the Treaty referred to it by decision of the Governing Body.
4. At its first meeting in April 2013, as requested by the Governing Body in Resolution 2/2011, the Compliance Committee agreed on the Draft Rules of Procedure of the Compliance Committee and on the Draft Standard Reporting Format, which the Governing Body, at its Fifth Session, approved as the *Rules of Procedure of the Compliance Committee*<sup>2</sup> and the (voluntary) *Standard Reporting Format*<sup>3</sup> Pursuant to Section V.1 of the *Procedures and Operational Mechanisms to Promote Compliance and Address Issues of Non-Compliance*.
5. At its Fifth and Sixth Sessions, the Governing Body did not provide any specific guidance or particular requests to the Compliance Committee.
6. This document is prepared with a view to assist the Compliance Committee in considering the work it may wish to undertake in the next biennium, including possible meetings.
7. Since the Committee can carry out many of its functions only following receipt of submissions or reports, this document specifically highlights where the active engagement by Contracting Parties is required and might need to be encouraged or facilitated. Additionally, the document points to a number of provisions in the Compliance Procedures that suggest possibilities for the Governing Body to provide specific requests and guidance to the Compliance Committee.
8. In this context, the Committee may also wish to recall that the Compliance Procedures shall be simple, cost-effective, facilitative, non-adversarial, non-judicial, legally non-binding and cooperative in nature, and their operation be guided by the principles of transparency, accountability, fairness, expeditiousness, predictability, good faith, and reasonableness, with particular attention to the special needs of Contracting Parties that are developing countries and Contracting Parties with economies in transition.

## II. NATIONAL REPORTS ON MEASURES TAKEN TO IMPLEMENT OBLIGATIONS UNDER THE TREATY (SECTION V OF THE COMPLIANCE PROCEDURES)

9. Document IT/GB7/CC-2/17/3, *Synthesis of reports received from Contracting Parties on measures taken to implement the provisions of the International Treaty*, contains an analysis of reports received from Contracting Parties pursuant to Section V of the Compliance Procedures, to assist the Committee in preparing a synthesis based on the reports that it has considered. The synthesis report developed by the Committee shall help the Governing Body in its monitoring of the implementation by Contracting Parties of their obligations under the Treaty.
10. As only twelve Contracting Parties submitted their reports in accordance with Section V of the Compliance Procedures, i.e. less than 10% of Contracting Parties, the Committee may wish to discuss possible actions to further encourage and facilitate reporting by Contracting Parties.

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<sup>1</sup> [Resolution 2/2011](#), Annex.

<sup>2</sup> [Resolution 9/2013 Rev.1](#), Annex 1.

<sup>3</sup> [Resolution 9/2013 Rev.1](#), Annex 2.

11. In this context, the Committee may wish to consider that it had developed the voluntary Standard Reporting Format, which was approved by the Governing Body at its Fifth Session in 2013, and that the Secretary, as requested by the Governing Body, has placed online the Online Reporting System to enable the reporting process through electronic means. Both these tools were developed with the aim to support Contracting Parties in submitting their reports pursuant to Section V of the Compliance Procedures, with technical support available from the Secretariat, and therefore to facilitate active engagement by Contracting Parties.
12. The Committee may also wish to discuss how, in the future, it intends to consider compliance issues following the submission of reports pursuant to Section V of the Compliance Procedures, as well as the expected assistance from the Secretariat in this regard. This might relate both to issues of general non-compliance that come to the attention of the Committee through the reports received or to indications by a Contracting Party of difficulties complying with its obligations under the Treaty.
13. Section V of the Compliance Procedures provides that the first national report is to be submitted three years after the approval by the Governing Body of the Standard Reporting Format, as developed by the Committee, and that subsequent reports are to be submitted every five years thereafter or periodically in accordance with any further decisions of the Governing Body on the submission of such reports. Consequently, the first reports were due by October 2016.
14. Since the deadline for receipt of the first reports has passed and only twelve Contracting Parties reported in accordance with the Compliance Procedures, the efficient monitoring by the Governing Body of the implementation of the Treaty in the coming biennia might benefit from an indication as to the expected timeline for receiving further reports. Due consideration should be given to the provision in the Compliance Procedures that the second reports will be due five years from October 2016, i.e. by October 2021, or as decided by the Governing Body.
15. The Compliance Procedures provide that the Committee shall consider the reports that it has received up to 12 months before the next session of the Governing Body taking into account any guidance of the Governing Body. This seems to suggest that the Committee could still consider any reports received, irrespective of the deadlines established by Section V of the Compliance Procedures.
16. Consequently, the Committee may wish to include in its report to the Governing Body a reference to the deadlines for Contracting Parties to submit their reports according to Section V of the Compliance Procedures.
17. Finally, the Committee may wish to discuss and make recommendations to the Governing Body, so that it could consider and set, if it deems necessary, priorities for the Committee's work related to monitoring and reporting, as foreseen in Section V of the Compliance Procedures. In this context, the Committee may also wish to discuss the possibility that it be requested by the Governing Body to develop and submit possible recommendations on the Compliance Procedures on monitoring and reporting, including a review of the Standard Reporting Format, as provided for in paragraph 4 of Section V of the Compliance Procedures.<sup>4</sup>

### **III. MEASURES TO PROMOTE COMPLIANCE AND ADDRESS ISSUES OF NON-COMPLIANCE (SECTIONS VI AND VII OF THE COMPLIANCE PROCEDURES)**

18. The objectives of the Compliance Procedures are both to address possible issues of non-compliance, and to promote compliance with all the provisions of the Treaty. The latter objective is, amongst others, reiterated in the list of functions of the Compliance Committee, one of which is to offer advice and facilitate assistance, including legal advice and legal assistance, to any Contracting Party on matters relating to compliance with a view to assist it to comply with its obligations under the Treaty.
19. Under Sections VI and VII of the Compliance Procedures, the Committee shall receive, through the Secretary, any submissions relating to issues of non-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.

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<sup>4</sup> See also document IT/GB7/CC-2/17/3, Section III.M, *Observations and recommendations on the first reporting format*.

20. No submissions pursuant to Sections VI and VII of the Compliance Procedures were received.
21. The Committee may wish to discuss how to consider, in the future, measures to promote compliance and address issues of non-compliance that are brought to its attention.

#### **IV. REVIEW OF THE COMPLIANCE PROCEDURES WITHIN SIX YEARS OF THEIR APPROVAL (SECTION X OF THE COMPLIANCE PROCEDURES)**

22. Pursuant to Section X of the Compliance Procedures, the Governing Body shall review the effectiveness of the Compliance Procedures and take appropriate action, within six years of their approval and periodically thereafter.
23. The Compliance Procedures were adopted at the Fourth Session of the Governing Body in 2011 and the first review of the effectiveness of the Compliance Procedures is therefore due in 2017.
24. The Committee may therefore wish to discuss the contributions it may provide to the assessment and review process and to submit relevant information to the Governing Body, so that the Governing Body could undertake the review at its Seventh Session in the last quarter of 2017.
25. If the Committee should come to the conclusion that the information currently available is not sufficient for the Governing Body to carry out an assessment and to review the effectiveness of the Compliance Procedures, it might also wish to suggest to the Governing Body to postpone the review foreseen in Section X of the Compliance Committee to its next Session. This would allow for more practical experiences with the Compliance Procedures to be accumulated.

#### **V. GUIDANCE SOUGHT**

26. The Compliance Committee is invited to consider the information given in this document and take appropriate action, including to provide guidance to the Secretariat as to the support it may provide.
27. The Committee is also invited to review the elements of a draft Resolution on Compliance, as provided below, for the consideration of the Governing Body at its Seventh Session, and to include the finalized draft elements in its report to the Governing Body.

#### **VI. ELEMENTS OF A DRAFT RESOLUTION ON COMPLIANCE**

28. On the basis of the Report of the Compliance Committee, the Governing Body:
  - a) *Invites* the Compliance Committee to hold at least one meeting during the 2018-2019 biennium;
  - b) *Decides* that the Compliance Committee shall consider all further reports that it will receive up to 12 months before the Eighth Session of the Governing Body, in accordance with Section V of the Compliance Procedures;
  - c) *Reiterates* that one of the functions of the Compliance Committee is to offer advice and facilitate assistance, including legal advice and legal assistance, to any Contracting Party on matters relating to compliance with a view to assist it to comply with its obligations under the Treaty, and accordingly *invites* Contracting Parties to make submissions on such matters for consideration by the Compliance Committee; and
  - d) *Decides* to postpone the review foreseen in Section X of the Compliance Procedures to its Eighth Session.