



CC/90/10

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INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS

Geneva

CONSULTATIVE COMMITTEE**Ninetieth Session
Geneva, October 28, 2015**

INTERNATIONAL SYSTEM OF COOPERATION

*Document prepared by the Office of the Union**Disclaimer: this document does not represent UPOV policies or guidance*

1. The purpose of the document is to provide information in order to facilitate consideration of the Consultative Committee of the issues raised by a possible international system of cooperation (ISC) and to consider a possible way forward, if appropriate.

BACKGROUND

2. The Consultative Committee, at its eighty-ninth session, held in Geneva on March 27, 2015 considered document CC/89/6 "International System of Cooperation (ISC)".

3. The Consultative Committee concluded that more time was needed to discuss the issues raised by an ISC and agreed that the matter should be considered further at its ninetieth session. In order to facilitate its considerations, the Consultative Committee agreed that the Office of the Union should produce a document with more information about the need for an international system, providing a business analysis and cost estimate based on the scheme provided in document CC/89/6, Annex I. A copy of the scheme provided in document CC/89/6, Annex I, is reproduced as Annex I to this document.

FURTHER INFORMATION

ISF/CIOPORA/CropLife International survey

4. In order to provide the Consultative Committee with more information about the need for an ISC, the Office of the Union invited the International Community of Breeders of Asexually Reproduced Ornamental and Fruit-Tree Varieties (CIOPORA), the International Seed Federation (ISF) and CropLife International to provide further information, beyond that provided in their written contribution reproduced in Annex II to document CC/88/9 "International filing system, quality assurance and variety denomination search" (ISF/CIOPORA/CropLife International contribution), with regard to the need for an ISC. In response to that invitation, ISF, CIOPORA and CropLife International organized a survey for its members in June/July 2015. ISF, CIOPORA and CropLife International agreed for the results of the survey, as presented in Annex II to this document, to be provided to the Consultative Committee for consideration.

PLUTO Information

5. In order to provide information on the number of applications that are made in more than one member of the Union for the same variety, the Office of the Union made an analysis of data in the PLUTO database for the following selected crops: apple, lettuce, maize, potato, rose, soybean and wheat.

6. The analysis of data in the PLUTO database considered only varieties that had been the subject of an application for plant breeders' rights (PBRs) and, for example, did not consider data related to national listing (NLI).

7. For the selected crops, information on the percentage of varieties for which PBR applications have been made in more than one member of the Union is provided. However, in order to assess the potential benefit of an ISC, the number of applications that concern the same variety is of particular relevance. Therefore, an analysis was also made of the percentage of entries in PLUTO that were included in more than one member of the Union. The reason for analyzing both aspects is illustrated below:

Variety A: application made in one member of the Union

Variety B: application made in 9 members of the Union

Percentage of varieties with applications in more than one member of the Union: 50%

Percentage of applications that concern the same variety: 90%

8. The results of analysis of PBR data in the PLUTO database are provided in Annex III to this document.

Business analysis and cost estimate

9. In July 2015, the Office of the Union issued a Request for Information (RFI) to a number of companies concerning a cost estimate for the development of an administrative system for an ISC on the basis of the scheme provided in document CC/89/6, Annex I. The RFI clarified that it was not an official request for an offer and the information provided by the companies would not be considered legally binding. It was also clarified that UPOV did not make any commitment to consider the companies for any subsequent tender, if appropriate.

10. The RFI issued to the companies was based on a business analysis that assumed, for the purpose of the exercise, an ISC would build on the GENIE and PLUTO databases and an operational electronic application form, as proposed in document CC/90/9 "Electronic Application Form Project", in accordance with the scheme provided in document CC/89/6, Annex I.

11. On the basis of the RFIs received from the four responding companies, it is estimated that the initial cost of setting up the IT infrastructure for an ISC would be of the order of CHF220,000. In addition, there would be IT costs for annual maintenance and for expanding the system to include additional PVP offices and crops/species. The design of the ISC would be for the system to operate automatically; however, there would be a need for staff to administer the system in a similar way to the PLUTO and GENIE databases.

POSSIBLE WAY FORWARD

12. On the basis of the possible way forward identified in document CC/89/6 "International System of Cooperation" and the conclusions of the Consultative Committee at its eighty-ninth session, a way forward might be for the Consultative Committee to:

(i) consider whether the potential benefits and estimated cost of development are sufficiently realistic to warrant further consideration of the concept of an ISC; and, if so,

(ii) consider the concept of an ISC on the basis of Issues 1 to 30 in document CC/89/6, a summary of which is reproduced in Annex IV of this document, and/or other issues; and, if so,

(iii) agree on which issues should be considered with a view to reaching a conclusion at the ninety-first session of the Consultative Committee and, in that regard, any additional information to be provided by the Office of the Union on those issues. Issues on which it might be appropriate to seek to reach

a conclusion at the ninety-first session the Consultative Committee are indicated in Annex IV to this document;

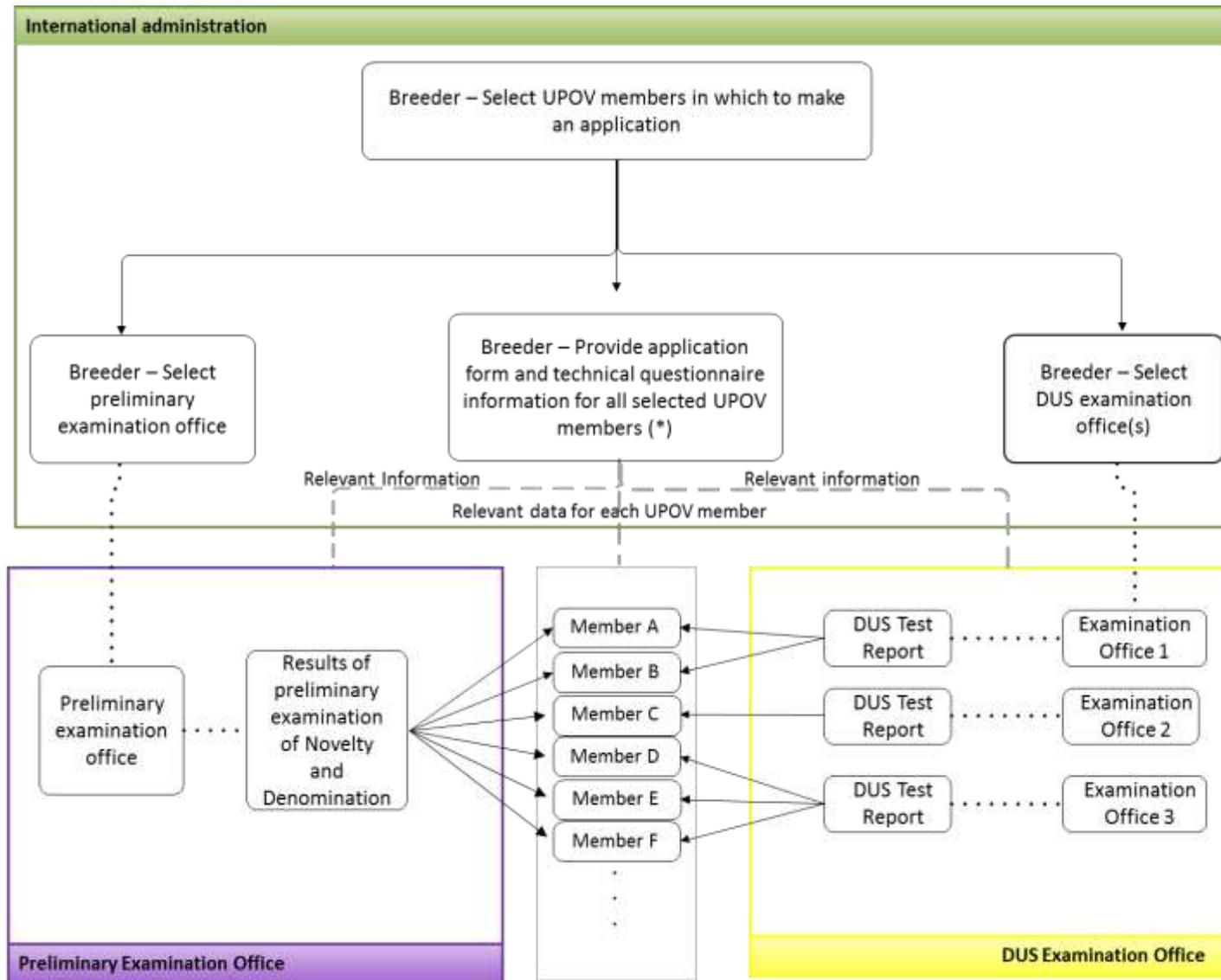
(iv) agree on which issues would require the development of detailed proposals/options before consideration by the Consultative Committee and to agree to establish an *ad hoc* working group ("ISC Working Group") for that purpose. Issues on which it might be appropriate to establish an ISC Working Group to consider are indicated in Annex IV to this document; and

(v) recommend to the Council to consider the development of an International System of Cooperation (ISC), on the above basis.

13. The Consultative Committee is invited to consider the possible way forward proposed in paragraph 12 of this document.

[Annexes follow]

ILLUSTRATION OF A POSSIBLE INTERNATIONAL SYSTEM OF COOPERATION (ISC)

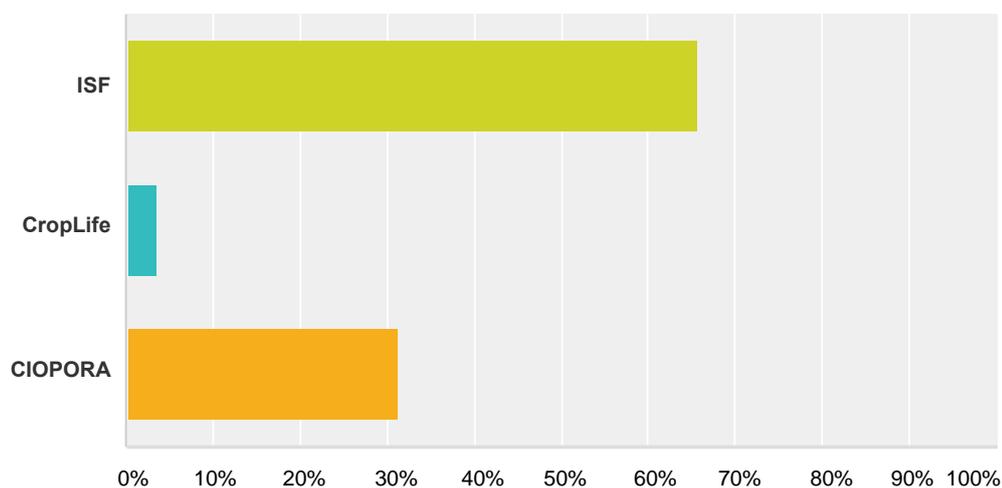


* Via electronic application system (online application form or XML format data upload)

RESULTS OF SURVEY BY THE INTERNATIONAL COMMUNITY OF BREEDERS OF ASEXUALLY REPRODUCED ORNAMENTAL AND FRUIT-TREE VARIETIES (CIOPORA), THE INTERNATIONAL SEED FEDERATION (ISF) AND CROPLIFE INTERNATIONAL

(a) From which organization did you receive the survey?

Responded: 61 Ignored: 2



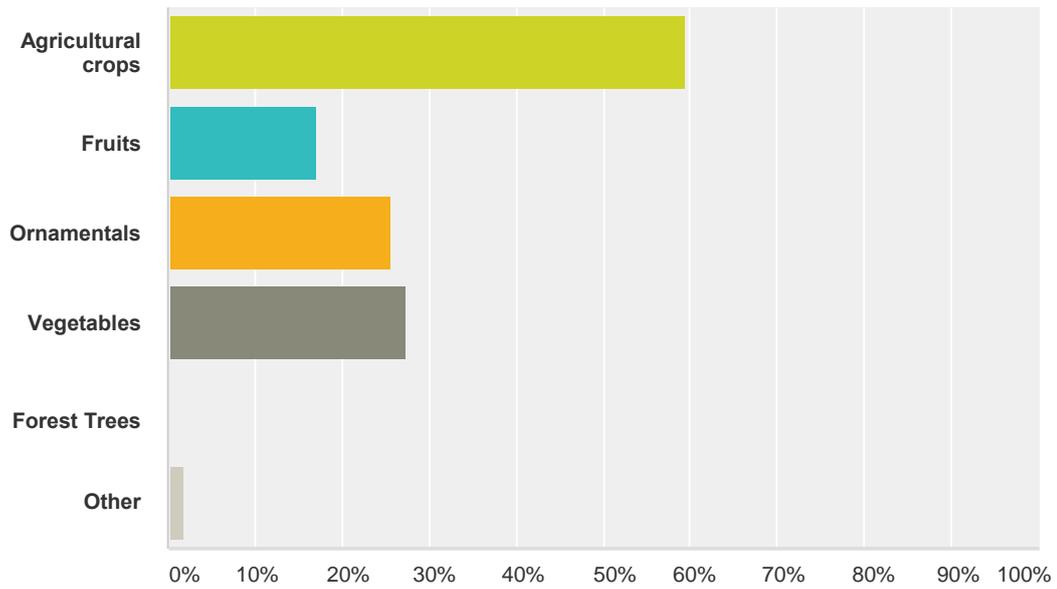
Response options	Responses	
ISF	65,57%	40
CropLife	3,28%	2
CIOPORA	31,15%	19
Total		61

(b) Location (country)

Argentina	5
Australia	1
Belgium	2
Brazil	1
Cyprus	1
Denmark	2
France	4
Germany	8
India	1
Iran (Islamic Republic of)	1
Israel	1
Italy	2
Mexico	2
Netherlands	6
New Zealand	1
Poland	2
South Africa	5
Spain	2
Turkey	1
United Kingdom	4
United States of America	1
_Global	4
Total	57

(c) Type of crops/species in which you are breeding

Responded: 59 Ignored: 4



Response options	Responses
Agricultural crops	59,32% 35
Fruits	16,95% 10
Ornamentals	25,42% 15
Vegetables	27,12% 16
Forest Trees	0,00% 0
Other (please specify)	1,69% 1
Total number of respondents: 59	

(d) Number of PBR applications made (2014)

0	5
1-9	20
10-25	12
26-49	4
50-99	5
100-199	3
>200	4
Total	53

(e) UPOV members in which PBR applications made (2014)

0	6
1	11
2	4
3-5	10
6-10	14
>10	2
Total	47

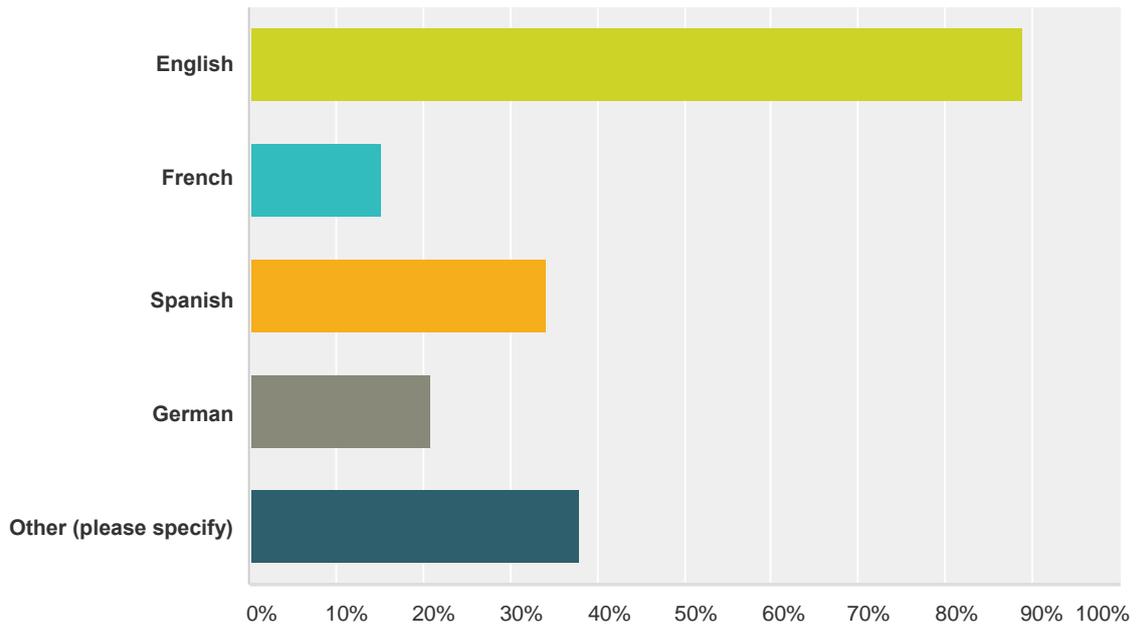
(Several respondents did not list the UPOV members, but the following were specifically mentioned: Argentina, Australia, Belarus, Belgium, Brazil, Bulgaria, Canada, China, Colombia, Ecuador, European Union, France, Germany, Hungary, Israel, Italy, Japan, Kenya, Mexico, Morocco, Netherlands, New Zealand, Norway, Paraguay, Peru, Poland, Republic of Korea, Romania, Russian Federation, Serbia, South Africa, Spain, Switzerland, Turkey, Ukraine, United Kingdom, United States of America, Viet Nam)

(f) Number of varieties for which applications were made in more than 1 UPOV member (2014)

0	14
1-9	18
10-25	8
26-49	5
50-99	0
100-199	1
>200	1
Total	47

(g) Languages in which you made applications (2014)

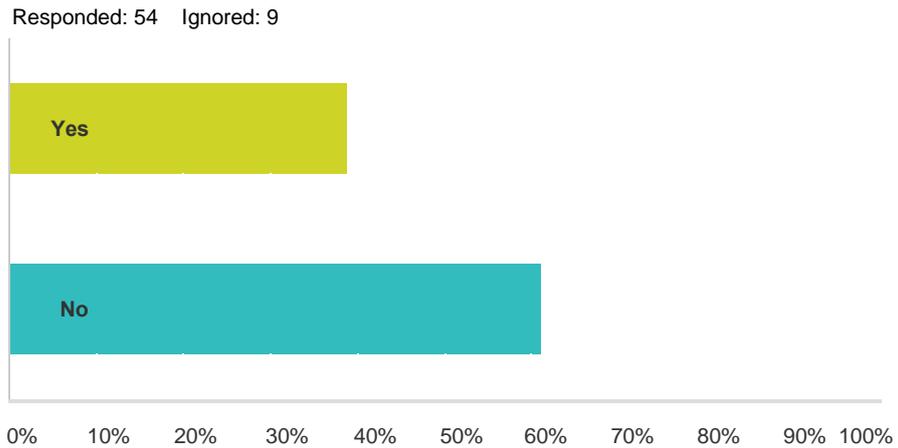
Responded : 53 Ignored : 10



Response options	Responses
English	88,68% 47
French	15,09% 8
Spanish	33,96% 18
German	20,75% 11
Other (please specify)	37,74% 20
Total number of respondents: 53	

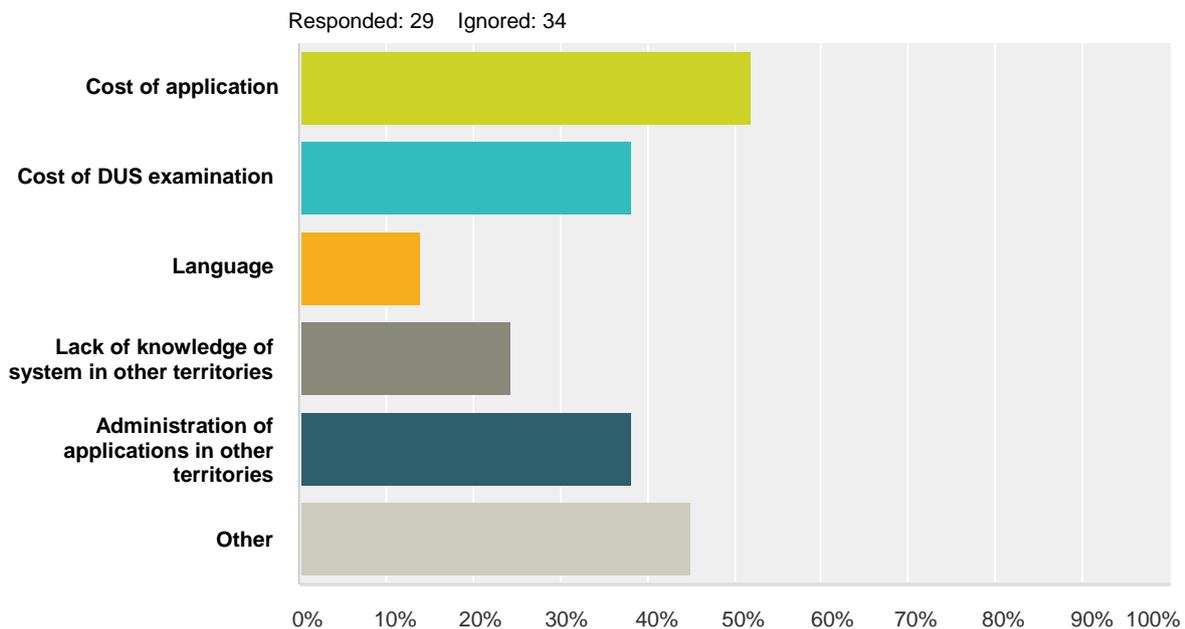
Others specified:
Arabic, Chinese, Danish, Dutch, Hebrew, Italian, Japanese, Korean, Polish, Portuguese, Russian, Serbian, Turkish, Ukrainian

(h) Do you make applications in all the UPOV members in which your varieties would have a value for farmers/growers?



Response options	Responses	
Yes	38,89%	21
No	61,11%	33
Total		54

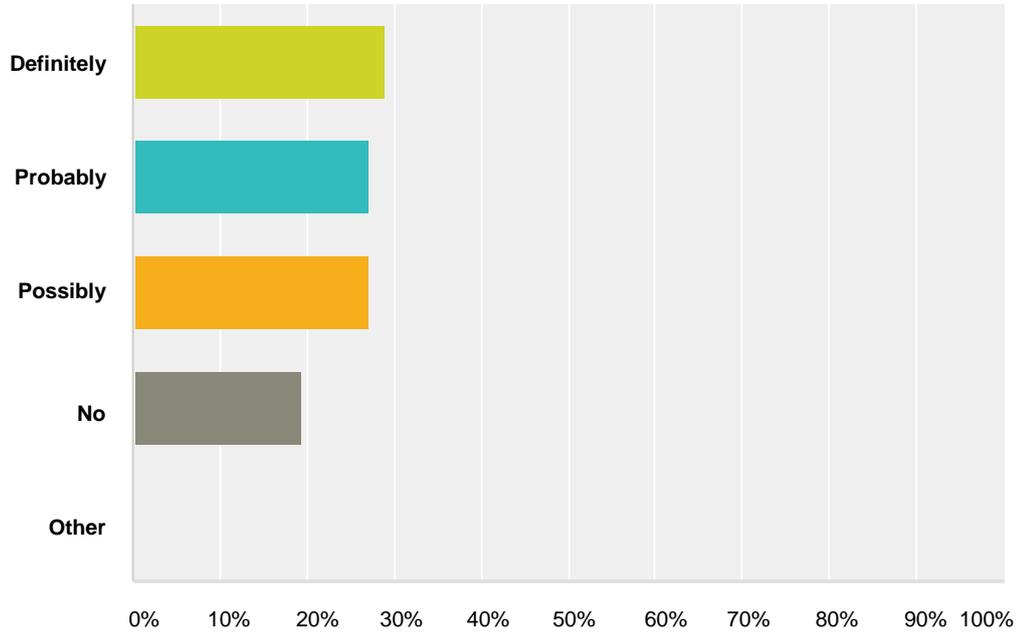
(i) If no, what are the barriers to making such applications (more than one option possible)?



Response options	Responses	
Cost of application	51,72%	15
Cost of DUS examination	37,93%	11
Language	13,79%	4
Lack of knowledge of system in other territories	24,14%	7
Administration of applications in other territories	37,93%	11
Other	44,83%	13
Total number of respondents: 29		

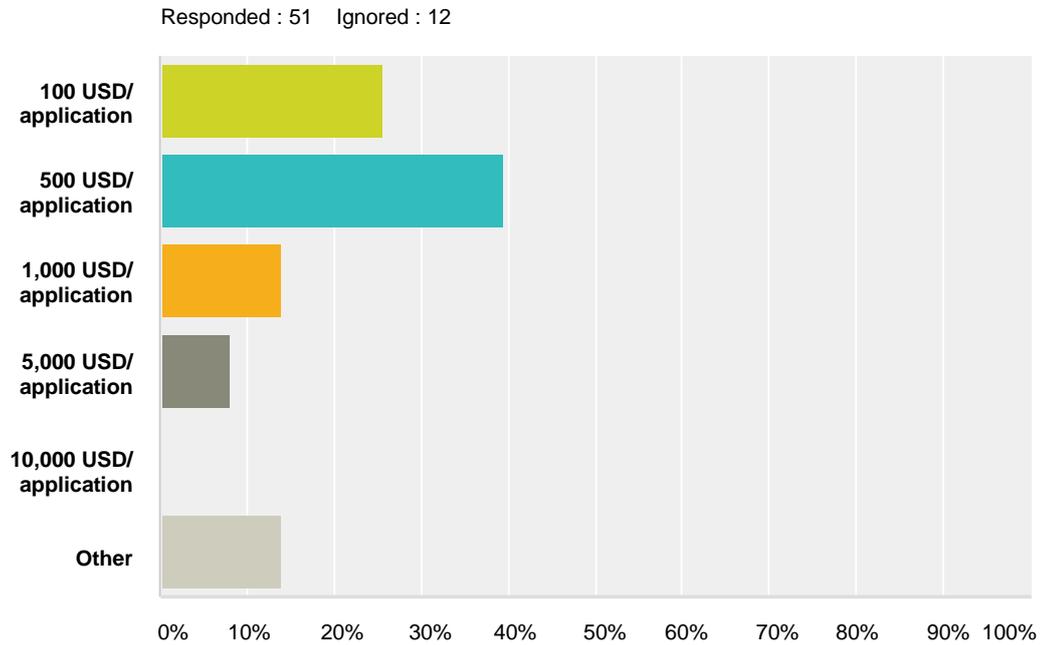
(j) **Would a system that made it easier to file applications in other territories result in your making more applications?**

Responded : 52 Ignored : 11



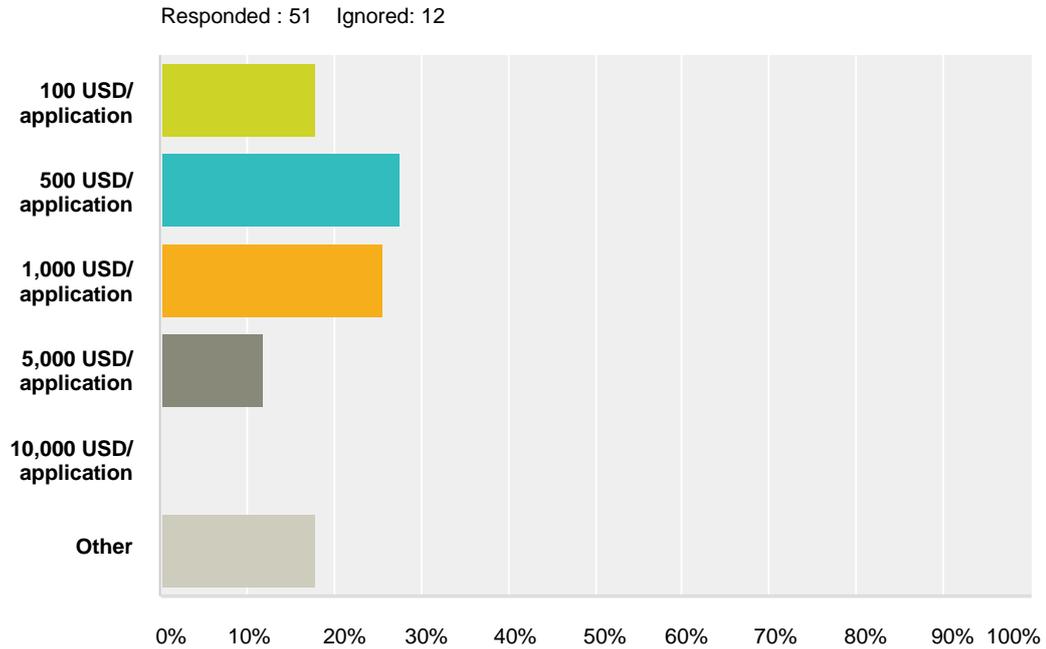
Response options	Responses
Definitely	28,85% 15
Probably	26,92% 14
Possibly	26,92% 14
No	19,23% 10
Other	0,00% 0
Total number of respondents: 52	

(k) If a system provided you with a single system to: view an application form of a country/organization in the language of your choice; complete a form online/upload data from your database; and re-use existing data for subsequent applications, what is the maximum cost per application that would be viable?



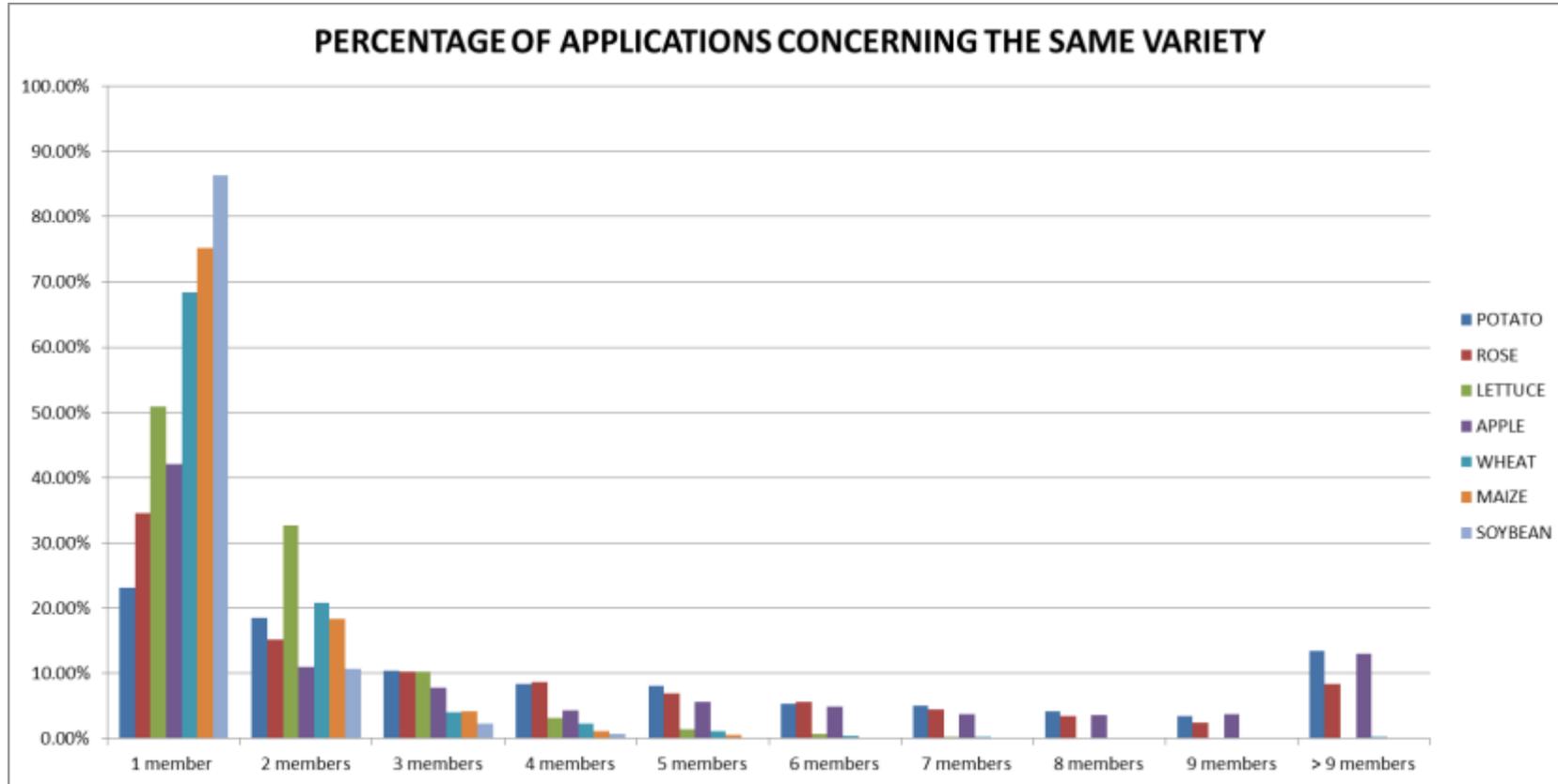
Response options	Responses
100 USD/application	25,49% 13
500 USD/application	39,22% 20
1,000 USD/application	13,73% 7
5,000 USD/application	7,84% 4
10,000 USD/application	0,00% 0
Other	13,73% 7
Total	51

(I) If a system provided you with the facilities in the preceding question and avoided the need for an additional DUS examination, what is the maximum cost per application that would be acceptable?



Response options	Responses
100 USD/application	17,65% 9
500 USD/application	27,45% 14
1,000 USD/application	25,49% 13
5,000 USD/application	11,76% 6
10,000 USD/application	0,00% 0
Other	17,65% 9
Total	51

[Annex III follows]



UPOV Code	SOLAN_TUB POTATO	ROSAA ROSE	LACTU LETTUCE	MALUS APPLE	TRITI WHEAT	ZEAAA MAIZE	GLYCI SOYBEAN
1 member	23.21%	34.55%	50.93%	42.02%	68.46%	75.18%	86.33%
2 members	18.52%	15.23%	32.74%	10.94%	20.86%	18.32%	10.64%
3 members	10.41%	10.28%	10.27%	7.75%	3.98%	4.24%	2.35%
4 members	8.32%	8.68%	3.22%	4.38%	2.37%	1.19%	0.68%
5 members	8.06%	6.91%	1.44%	5.62%	1.19%	0.64%	0.00%
6 members	5.32%	5.60%	0.74%	4.92%	0.46%	0.21%	0.00%
7 members	5.08%	4.49%	0.29%	3.83%	0.33%	0.10%	0.00%
8 members	4.23%	3.41%	0.16%	3.65%	0.08%	0.11%	0.00%
9 members	3.43%	2.52%	0.00%	3.83%	0.09%	0.00%	0.00%
> 9 members	13.41%	8.33%	0.21%	13.07%	0.22%	0.00%	0.00%

[Annex IV follows]

SUMMARY OF POSSIBLE ISSUES CONCERNING
AN INTERNATIONAL SYSTEM OF COOPERATION (ISC)

The following table provides a summary of the possible issues concerning an ISC, as set out in document CC/89/6 with an indication of issues on which it might be appropriate to:

- seek to reach a conclusion at the ninety-first session of the Consultative Committee (indicated as “CC”) and
- establish an *ad hoc* working group (“ISC Working Group”) to develop detailed proposals/options for consideration by the Consultative Committee (indicated as “ISC WG”).

		<i>Consideration:</i>
<i>Issue 1</i>	<i>to clarify that the an ISC would not affect the responsibility of the members of the Union in relation to the grant and protection of breeders’ rights.</i>	CC
<i>Issue 2</i>	<i>to clarify that it would be a matter for each member of the Union to decide whether to participate in an ISC and, if appropriate, what measures it would need to take in order to participate.</i>	CC
<i>Issue 3</i>	<i>to note that the ISF/CIOPORA/CropLife International contribution anticipates more PBR applications as a result of an ISC.</i>	CC
<i>Issue 4</i>	<i>to clarify that that it would remain a matter for each member of the Union to decide on its arrangements for DUS examination, including cooperation with other members of the Union.</i>	CC
<i>Issue 5</i>	<i>to consider whether</i> <i>(a) an ISC should be expected to result in a single DUS examination being sufficient for all members of the Union for all species, or</i> <i>(b) an ISC should not be expected to result in a single DUS examination being sufficient for all members of the Union for all species, whilst recognizing the benefits of facilitating greater cooperation between members of the Union.</i>	CC
<i>Issue 6</i>	<i>to consider whether arrangements between members of the Union for DUS examination might be integrated in an ISC.</i>	CC
<i>Issue 7</i>	<i>to note that information on arrangements between members of the Union for DUS examination is already included in the GENIE database.</i>	CC
<i>Issue 8</i>	<i>to consider whether the establishment of an accreditation system, or other means of conveying objective information on DUS examination capacity, might facilitate cooperation in DUS examination and the features of such a system.</i>	ISC WG
<i>Issue 9</i>	<i>to consider other measures that might facilitate cooperation in DUS examination between members of the Union.</i>	ISC WG
<i>Issue 10</i>	<i>to consider how an ISC could be used to support capacity in DUS examination with a view to facilitating cooperation, including the development of capacity that would facilitate cooperation.</i>	ISC WG
<i>Issue 11</i>	<i>to consider the basis on which a preliminary examination office(s) would be selected to conduct the preliminary examination.</i>	ISC WG
<i>Issue 12</i>	<i>to clarify that that a preliminary examination should, as far as possible, aim to assess the acceptability of a proposed variety denomination for all members of the Union.</i>	CC
<i>Issue 13</i>	<i>to consider, in the case that a member of the Union subsequently considered the proposed denomination unsuitable within its territory, the procedure for the breeder to submit another denomination.</i>	ISC WG
<i>Issue 14</i>	<i>to note the value of a UPOV similarity search tool for variety denomination purposes and to consider extending such a tool include words or elements that are considered to be unsuitable by members of the Union.</i>	ISC WG

Issue 15	<i>to consider the need to extend consideration beyond the denominations currently included in the PLUTO database, to other denominations considered by members of the Union.</i>	ISC WG
Issue 16	<i>to recall that the UPOV Model Form for the Application for Plant Breeders' Rights (document TGP/5 "Experience and Cooperation in DUS Testing" Section 2), Item 8, provides a request for relevant information concerning novelty.</i>	CC
Issue 17	<i>to recall that the PLUTO database includes an item to allow for information to be provided on dates on which a variety was commercialized for the first time in the territory of application and other territories.</i>	CC
Issue 18	<i>to consider, in a first phase, that it might not be appropriate to include the checking of the completeness of the application, preparation for publication and inserting the relevant information about the application in a centralized application database.</i>	CC
Issue 19	<i>to consider that the EAS Project, and/or ISC, might provide a basis for members of the Union to move towards greater harmonization in their application forms, thereby creating possibilities at a later stage for an ISC to include the checking of the completeness of the application, preparation for publication and inserting the relevant information about the application in a centralized application database.</i>	CC
Issue 20	<i>to clarify that, in addition to an "ISC fee", there would be fees for DUS examination and fees for individual members of the Union.</i>	CC
Issue 21	<i>To consider the EAS Project, with an appropriate extension of the remit, as a starting point for the international service to be provided by an ISC in relation to:</i> <i>a) receiving an application from any receiving UPOV member office or through a UPOV electronic application system;</i> <i>b) application information to be distributed to UPOV members designated by the breeder;</i> <i>c) application in a language of the breeder's choice with automatic translation into languages of relevant UPOV members;</i> <i>d) collection and distribution of fees;</i> <i>e) information on accredited DUS centers; and</i> <i>f) information on [choice of] preliminary examination office(s).</i>	CC
Issue 22	<i>To consider whether an international service to be provided by an ISC should:</i> <i>g) monitor the status of the DUS examination;</i> <i>h) receive and maintain reports of decisions on granting of PBR;</i> <i>i) address objections concerning conduct of the DUS examination;</i> <i>j) maintain and publish all relevant "bibliographic" information concerning PBR applications;</i> <i>k) maintain standard UPOV variety descriptions, information on varieties of common knowledge included in the DUS examination, status and disposition of any propagating material provided by the breeder and information relating to pedigree and parental lines of hybrids (to be maintained as confidential); and</i> <i>l) include a search for relevant varieties of common knowledge against which the application variety may be compared,</i> <i>or, whether such information should be monitored and maintained by members of the Union and made available at a general level via the PLUTO database.</i>	CC
Issue 23	<i>To consider an agreement as a suitable legal basis for an ISC, to be adopted by the Council of UPOV and open for signature only by members of the Union.</i>	CC
Issue 24	<i>To consider that the examination by members of the Union using the ISC would be resourced by the members of the Union under their current arrangements for examination of applications. However, the collection of fees to cover that work might be organized as a part of the international system of administration of an ISC.</i>	CC
Issue 25	<i>It would be necessary to agree on a basis for DUS examination fees, probably varying by species.</i>	ISC WG

<i>Issue 26</i>	<i>In the case of preliminary examination office(s), it would be necessary to agree a basis for a fee, including whether there would be a universal fee for all members of the Union for all species.</i>	<i>ISC WG</i>
<i>Issue 27</i>	<i>To note that the extent of resources for an ISC would be determined by the extent of the international system of administration.</i>	<i>CC</i>
<i>Issue 28</i>	<i>To consider whether the development and maintenance of an ISC should be fully financed by income from fees paid by breeders.</i>	<i>CC</i>
<i>Issue 29</i>	<i>To consider whether the EAS Project, as funded through the Program and Budget for the 2016-2017 Biennium, should provide the core of the international system of administration.</i>	<i>CC</i>
<i>Issue 30</i>	<i>To consider how additional elements to be incorporated in the EAS Project, e.g. the receipt of applications from receiving UPOV member offices, information on accredited DUS centers and information on [choice of] preliminary examination offices, should be funded.</i>	<i>CC</i>

[End of Annex IV and of document]