

**Consultative Committee**

**CC/96/5**

**Ninety-Sixth Session  
Geneva, October 31, 2019**

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**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 this document is to report on progress concerning the Working Group on a possible International System of Cooperation (WG-ISC). Furthermore, subject to agreement by the WG-ISC at its fifth meeting, to be held in Geneva on October 30, 2019, the Consultative Committee, at its ninety-sixth session, may be invited to consider a document (document CC/96/5 Add.) presenting proposals, analysis and information, in accordance with the mandate and terms of reference for the working group on a possible international system of cooperation (WG-ISC), as established by the Consultative Committee at its ninety-second session, held in Geneva on October 27, 2016.

2. The structure of this document is as follows:

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## BACKGROUND

3. The Consultative Committee at its ninety-fifth session, held in Geneva on November 1, 2018, considered document [CC/95/9](#) (see document [CC/95/18](#) "Report", paragraphs 70 to 73).

4. The Consultative Committee noted the progress in the work of the Working Group on an International System of Cooperation (WG-ISC), as set out in document CC/95/9 and in the oral report made by the Vice Secretary-General at its ninety-fifth session on the fourth meeting of WG-ISC, held in Geneva on October 31, 2018.

5. The Vice Secretary-General reported that the WG-ISC, at its fourth meeting, had analyzed the possible issues relevant for the needs of the PVP Offices as identified at the first meeting, and amended at the second and third meetings of the WG-ISC, as set out in Annex III of document [UPOV/WG-ISC/4/2](#), for suitability to be included in a proposal for a possible international system of cooperation. He explained that the WG-ISC had identified the following elements to form a draft proposal for a possible international system of cooperation:

### *DUS*

- (a) to assist members of the Union to make their documented DUS procedures and information on their quality management systems available to other members of the Union;
- (b) to include contact information in GENIE database for DUS experts with practical knowledge of particular crops/species;
- (c) to provide opportunities at the Technical Committee and Technical Working Parties for participants to explore and share information on DUS cooperation;
- (d) to facilitate cooperation between members of the Union in the development of databases and exchanging data (e.g. by providing guidance on data models) and by providing information on the database;

### *Novelty*

- (e) to review application forms in UPOV PRISMA for options on seeking information from applicants, concerning novelty;

### *Denominations*

- (f) to follow recommendations from the Working Group on Variety Denominations (WG-DEN) on:
  - UPOV similarity search tool,
  - extending information on denominations that would be searchable via the PLUTO database or web-service,
  - providing information on denomination contact persons on the UPOV website;

### *Cooperation in administrative matters*

- (g) UPOV PRISMA application information on procedures to include information on how to make payments for use of existing DUS reports provided by another authority;

### *Facilitating applications*

- (h) addressed by UPOV PRISMA.

6. On the above basis, the WG-ISC had requested the Office of the Union to prepare a draft document containing proposals, analysis and information on the above elements for initial consideration by correspondence and further consideration at its fifth meeting. Subject to agreement by the WG-ISC, the document would be presented to the Consultative Committee at its ninety-sixth session, immediately after the fifth meeting of the WG-ISC, to be held on the evening of October 30, 2019.

7. The Office of the Union circulated a first draft document containing proposals, analysis and information for consideration by correspondence, based on the conclusions of the WG-ISC at its fourth meeting and respecting [Purpose 1](#), and providing an analysis according to [Purpose 2](#), of the Mandate and Terms of Reference to the WG-ISC for consideration by correspondence. The document included relevant background information on the existing UPOV initiatives and materials on which proposals were based. The members of the WG-ISC were requested to provide comments to the Office of the Union by May 31, 2019.

8. A further document has been prepared for consideration by the WG-ISC at its fifth meeting, to be held in Geneva on October 30, 2019. Subject to agreement by the WG-ISC at its fifth meeting, a document

containing proposals, analysis and information will be presented to the Consultative Committee at its ninety-sixth session, to be held in Geneva on October 31, 2019 (document CC/96/5 Add.)

9. To assist the Consultative Committee in its consideration of this matter a synopsis of the work of the WG-ISC follows.

## SYNOPSIS OF THE WORK OF THE WG-ISC

### First meeting

10. The Working Group on a Possible International System of Cooperation (WG-ISC), at its first meeting held in Geneva on October 27, 2016, noted that the *modus operandi* agreed by the Consultative Committee specified "in the first instance, to prepare a document presenting the issues for consideration according to the following structure: (i) International system of administration; (ii) Preliminary observation on novelty and denomination; (iii) DUS examination; and (iv) Examination by members of the Union using the ISC". In that regard, there was consensus that the WG-ISC should, in the first instance, identify the needs of the PVP Offices of the members of the Union.

11. The following is a summary of the needs identified at the meeting:

#### *DUS Examination:*

- (i) to improve cooperation in order to improve the quality and completeness of variety collections;
- (ii) to accept DUS reports from any member of the Union without further consideration;
- (iii) information on varieties that were considered by members of the Union to be a matter of common knowledge;
- (iv) information on varieties that had been included in the DUS examination; and
- (v) centralized database(s) of variety descriptions, particularly for molecular data.

#### *Novelty:*

- (i) to have access to more timely and accurate information on novelty from members of the Union;
- (ii) to have more information on novelty-breaking criteria for individual members of the Union; and
- (iii) to have more information on novelty-breaking acts, rather than just dates, from applicants.

#### *Priority:*

- (i) to improve the timeliness and quality of data available within UPOV in relation to priority, particularly dates of applications.

#### *Denomination:*

- (i) easier access to variety denomination information;
- (ii) access to complete and up-to-date information on variety denominations;
- (iii) a common tool/service to facilitate harmonized decisions on variety denominations;
- (iv) information on reasons for rejection of denominations by members of the Union that had previously been proposed to, or registered by, another member of the Union; and
- (v) a network of denomination contact persons.

#### *Cooperation in administrative matters:*

- (i) a means of mutually recognizing documents produced by other members of the Union, e.g. a digital signature; and
- (ii) a mechanism to receive payments for the take-over of DUS reports from other members of the Union.

#### *Facilitating applications:*

- (i) to facilitate applications by residents and non-residents, including in particular applications by individuals and small- and medium-sized enterprises/organizations, in order to increase the number of varieties available in members of the Union; and
- (ii) to have a more efficient arrangement for processing applications in order to avoid delays resulting from an increased number of applications.

12. The WG-ISC agreed that, having identified needs of PVP Offices, the next step would be to analyze the issues in document [CC/92/10](#) "International System of Cooperation", paragraph 10, in relation to those needs (a copy of document CC/92/10, paragraph 10 is reproduced as Annex II to this document). The document should be structured on the basis of the following elements, within which the specific needs would be presented and the issues related to those needs identified:

- (a) DUS
- (b) Novelty
- (c) Priority
- (d) Denominations
- (e) Cooperation in administrative matters
- (f) Facilitating applications.

13. The WG-ISC noted that a number of issues in document [CC/92/10](#), paragraph 10, were already addressed in the WG-ISC terms of reference. On that basis, the WG-ISC agreed that the document should not include issues that were specifically addressed in the WG-ISC terms of reference. For transparency purposes, it was agreed that the issues that had been omitted would be reported in an annex to the document.

14. The WG-ISC noted the advantage of changing the name to one that reflected the nature of cooperation within UPOV. However, it agreed that it would be advisable to avoid proposing a new name until agreement had been reached on what form the cooperation, if any, might take.

#### Second meeting

15. At its second meeting, held in Geneva on April 5, 2017, the WG-ISC considered document [UPOV/WG-ISC/2/2](#), Annex I, which proposed a list of issues that might be considered relevant for the needs of the PVP Offices, as identified at the first meeting of the WG-ISC, structured on the basis of the following elements:

- (i) DUS Examination
- (ii) Novelty
- (iii) Priority
- (iv) Denomination
- (v) Cooperation in administrative matters
- (vi) Facilitating applications.

16. The WG-ISC concluded as follows:

#### *DUS Examination*

##### Needs of PVP Offices

17. The WG-ISC agreed to:

- (a) add capacity-building in DUS examination as a need of PVP Offices;
- (b) broaden the scope of "Needs of PVP Offices" identified in document UPOV/WG-ISC/2/2, Annex I, item (ii) to cover the "Needs of PVP Offices" for use and exchange of DUS reports in accordance with their policy; and
- (c) organize a presentation by the Office of the Union and the Chairperson of the Technical Committee (TC) at the third meeting of the WG-ISC on existing arrangements for DUS cooperation and the results of the TC survey on cooperation in DUS examination.

##### Relevant issues in document CC/92/10 "International system of cooperation"

18. The WG-ISC agreed that some of the issues were not of a high priority and/or were not feasible in the short/medium-term but agreed to retain all issues for the time being, as far as they were within the terms of reference of the WG-ISC.

19. In relation to [Issue 9\(a\)](#), the WG-ISC agreed that it would be useful to consider whether quality assurance systems introduced by individual members of the Union (without UPOV involvement) could facilitate cooperation in DUS examination.

20. The WG-ISC agreed to organize presentations, at its third meeting, by members of the WG-ISC on existing quality assurance systems in members of the Union.

*Novelty*

Needs of PVP Offices

21. The WG-ISC agreed to organize presentations at its third meeting:

(a) by the Office of the Union: on key elements in the explanatory notes on novelty and the role of the PLUTO database; and

(b) by members of the WG-ISC: on examples of the implementation of the novelty provisions.

Relevant issues in document CC/92/10

22. The WG-ISC agreed that consideration of a preliminary observation office would not be a priority.

*Priority*

Needs of PVP Offices

23. The WG-ISC agreed to organize presentations at its third meeting:

(a) by the Office of the Union: on key elements in the explanatory notes on priority; and

(b) by members of the WG-ISC: on experiences in the implementation of the priority provisions, including determination of the date of the first application.

*Denomination*

Needs of PVP Offices

24. The WG-ISC agreed to await for the outcome of the work by the Working Group on Variety Denominations (WG-DEN) before further discussions concerning variety denominations.

Relevant issues in document CC/92/10

25. The WG-ISC agreed that consideration of a preliminary observation office would not be a priority.

*Cooperation in administrative matters*

Needs of PVP Offices

26. With regard to "(i) a means of mutually recognizing documents produced by other members of the Union, e.g. a digital signature", the WG-ISC agreed to organize presentations at its third meeting by members of the WG-ISC on ways to mutually recognize documents.

27. With regard to "(ii) a mechanism to receive payments for the take-over of DUS reports from other members of the Union", the WG-ISC noted that some members of the Union, including Australia, Canada and Japan, did not charge for the take-over of DUS reports.

Relevant issues in document CC/92/10

28. The WG-ISC noted that there were some concerns with regard to [Issue 24](#) but agreed to retain the issue for the time being, on the basis that it would not be a priority.

## *Facilitating applications*

### Needs of PVP Offices

29. The WG-ISC agreed with the “Needs of PVP Offices” identified in document UPOV/WG-ISC/2/2, Annex I.

### Relevant issues in document CC/92/10

30. The WG-ISC noted that [Issue 19](#) would imply substantial new work for the Office of the Union and agreed that it would not be appropriate to consider that issue.

31. The WG-ISC agreed that its third meeting should focus on the presentation of information on the current situation within UPOV and within individual members of the Union participating in the WG-ISC in relation to the items identified above, with a view to facilitating consideration of substantial matters at its fourth meeting.

### Third meeting

32. At its third meeting, held in Geneva on October 24, 2017, the WG-ISC received presentations on the following topics, copies of which are available on the [WG-ISC webpage](#), as follows:

- (a) DUS Examination
  - (i) Existing arrangements for DUS cooperation and the results of the TC survey on cooperation in DUS examination
    - *Office of the Union*
  - (ii) Existing quality assurances systems in members of the Union
    - *Community Plant Variety Office of the European Union (CPVO)*
    - *New Zealand*
  - (iii) Overview and observations
    - *Chairperson of the Technical Committee (Mr. Kees van Ettehoven (Netherlands))*
- (b) Novelty
  - (i) Key elements in the explanatory notes on novelty and the role of the PLUTO database
    - *Office of the Union*
  - (ii) Examples of the implementation of the novelty provisions
    - *Community Plant Variety Office of the European Union (CPVO)*
    - *Norway*
- (c) Priority
  - (i) Key elements in the explanatory notes on the right of priority
    - *Office of the Union*
  - (ii) Experiences in the implementation of the priority provisions, including determination of the date of the first application
    - *Norway*
- (d) Cooperation in administrative matters
  - Ways to mutually recognize documents
    - *Norway.*

33. After each topic, a short discussion took place to clarify the information provided in the presentations.

34. The WG-ISC considered document [UPOV/WG-ISC/3/2](#) "Next steps", Annex II "Possible issues relevant for the needs of the PVP Offices as identified at the first meeting of the WG-ISC".
35. The WG-ISC agreed to invite the Office of the Union to prepare a document updating Annex II to document UPOV/WG-ISC/3/2 on the basis of:
- (a) the changes agreed by the WG-ISC at its second meeting, as set out in document UPOV/WG-ISC/3/2, paragraph 6; and
  - (b) amending "DUS EXAMINATION, Needs of PVP Offices" (ii) to read as follows:
    - "(ii) to accept DUS reports from other members of the Union".
36. The WG-ISC recalled that the conclusions of the second meeting, concerning items that were not considered to be of high priority, would also be reflected in the updated document.

#### Fourth meeting

37. At its fourth meeting, held in Geneva on October 31, 2018, the WG-ISC considered document UPOV/WG-ISC/4/2, Annex III, as the basis to develop to prepare a document containing proposals for consideration by the Consultative Committee (a copy of document UPOV/WG-ISC/4/2, Annex III, is provided in Annex IV to this document). It was agreed that the effectiveness of proposals be considered in the analysis of the proposals to be presented to the Consultative Committee.

38. The WG-ISC agreed as follows:

#### DUS EXAMINATION

The WG-ISC noted the needs of PVP Offices as set out in (i) to (vi). It considered the following measures that might meet those needs of PVP Offices:

##### *Issue 8*

The WG-ISC noted that, at its second meeting of the WG-ISC, it had considered that this item was not of a high priority and agreed not to consider the issue at that time.

##### *Issue 9*

The WG-ISC agreed that consideration should be given to assisting UPOV members to make their documented DUS procedures and information on their quality management systems available to other members of the Union.

The WG-ISC agreed that consideration should be given to adding to the GENIE database the contact details for DUS experts with practical knowledge of DUS testing for particular crops / species.

The WG-ISC agreed that it would not be feasible to facilitate cooperation for obtaining plant material where the DUS examination was conducted by another member of the Union.

##### *Issue 10*

The WG-ISC agreed that consideration should be given to encouraging the Technical Committee and Technical Working Parties to explore opportunities for facilitating cooperation in selected crops/species where cooperation was already developing between some members of the Union.

##### *Issue 22*

The WG-ISC agreed that the development of databases containing variety descriptions would need to be based on existing initiatives between members of the Union. The WG-ISC agreed that consideration should be given to the role of UPOV for supporting members of the Union in the development, maintenance and expansion of shared databases (e.g. by providing guidance on data models), rather than seeking to incorporate data in the PLUTO database.

## NOVELTY

The WG-ISC noted the needs of PVP Offices as set out in (i) to (iii). It considered the following measures that might meet those needs of PVP Offices:

### *Issue 11*

The WG-ISC noted that, at its second meeting of the WG-ISC, it had considered that this item was not of a high priority and agreed not to consider the issue at that time.

### *Issue 12*

The WG-ISC noted that, at its second meeting of the WG-ISC, it had considered that this item was not of a high priority and agreed not to consider the issue at that time.

### *Issues 16 and 17*

The WG-ISC agreed that consideration should be given to a review of application forms in UPOV PRISMA for options on seeking information from applicants, concerning novelty.

## RIGHT OF PRIORITY

The WG-ISC noted the needs of PVP Offices as set out in (i) but concluded that there were no feasible measures to address those needs.

## DENOMINATION

The WG-ISC noted the needs of PVP Offices as set out in (i) to (v).

The WG-ISC agreed that consideration should be given to the establishment of a network of denomination contact persons.

The WG-ISC also considered the following additional measures that might meet the needs of PVP Offices:

### *Issue 11*

The WG-ISC noted that, at its second meeting of the WG-ISC, it had considered that this item was not of a high priority and agreed not to consider the issue at that time.

### *Issue 12*

The WG-ISC noted that, at its second meeting of the WG-ISC, it had considered that this item was not of a high priority and agreed not to consider the issue at that time.

### *Issue 13*

The WG-ISC noted that this issue was linked to Issues 11 and 12, and agreed not to consider the issue at that time.

### *Issue 14*

The WG-ISC noted that the Administrative and Legal Committee (CAJ), through the Working Group on Variety Denominations (WG-DEN), was considering the development of a UPOV similarity search tool for variety denomination purposes and agreed to endorse that work as a measure to address the needs of PVP offices. It noted that the WG-DEN had agreed to recommend not to consider extending the tool to include words or elements that were considered to be unsuitable by members of the Union.



*Issue 15*

The WG-ISC noted that the WG-DEN was considering the need to extend consideration beyond the denominations currently included in the PLUTO database, to other denominations considered by members of the Union. The WG-ISC agreed to endorse the work of the CAJ and WG-DEN on that measure.

COOPERATION IN ADMINISTRATIVE MATTERS

The WG-ISC noted the needs of PVP Offices as set out in (i) and (ii).

The WG-ISC agreed that consideration should be given to including information in UPOV PRISMA on how to make payments for the use of existing DUS reports, provided by another member of the Union.

*Issue 24*

The WG-ISC noted that, at its second meeting of the WG-ISC, it had considered that this item was not of a high priority and agreed not to consider the issue at that time.

FACILITATING APPLICATIONS

The WG-ISC noted the needs of PVP Offices as set out in (i) and (ii).

The WG-ISC agreed that the needs identified in (i) and (ii) were being addressed by UPOV PRISMA.

*Issue 2*

The WG-ISC noted that, at its second meeting of the WG-ISC, it had considered that this item was not of a high priority and agreed not to consider the issue at that time.

39. The WG-ISC agreed to request the Office to prepare a first draft document containing proposals, analysis and information for consideration by correspondence, based on the conclusions above and respecting Purpose 1, and providing an analysis according to Purpose 2, of the Mandate and Terms of Reference. It agreed that the document should include relevant background information on the existing UPOV initiatives and materials on which proposals were based.

40. The WG-ISC further agreed that a second draft should be prepared for consideration by the WG-ISC at its fifth meeting, to be held in Geneva on October 30, 2019. Subject to agreement by the WG-ISC at its fifth meeting, the document would be presented to the Consultative Committee at its ninety-sixth session, on October 31, 2019.

41. *The Consultative Committee is invited to:*

*(a) note the report on progress concerning the WG-ISC, as presented in this document, and;*

*(b) note that, subject to agreement by the WG-ISC at its fifth meeting, to be held in Geneva on October 30, 2019, the Consultative Committee, at its ninety-sixth session, may be invited to consider a document (document CC/96/5 Add.) presenting proposals, analysis and information, in accordance with the mandate and terms of reference for the WG-ISC, as established by the Consultative Committee at its ninety-second session, held in Geneva on October 27, 2016.*

[Annexes follow]

## ANNEX I

MANDATE AND TERMS OF REFERENCE FOR THE  
WORKING GROUP ON A POSSIBLE INTERNATIONAL SYSTEM OF COOPERATION (WG-ISC),  
AS ESTABLISHED BY THE CONSULTATIVE COMMITTEE AT ITS NINETY-SECOND SESSION,  
HELD IN GENEVA ON OCTOBER 27, 2016.

*Purpose*

1. To prepare proposals for consideration by the Consultative Committee concerning a possible ISC that would:
  - (a) not affect the responsibility of the members of the Union in relation to the grant and protection of breeders' rights, or other international obligations;
  - (b) be relevant for all members of the Union, irrespective of the Act of the UPOV Convention by which they are bound;
  - (c) would not affect the existing flexibility of members of the Union to formulate policy and to address their own specific needs and circumstances according to the relevant Act of the UPOV Convention;
  - (d) be based on voluntary participation by members of the Union according to their measures for participation;
  - (e) allow members of the Union to choose to participate in selected elements of an ISC;
  - (f) be based on voluntary cooperation between members of the Union;
  - (g) not affect cooperation with, and between, members of the Union that did not participate in an ISC;
  - (h) be based on filing of applications with individual members of the Union and not with the Office of the Union;
  - (i) not be based on examination of applications by the Office of the Union;
  - (j) not affect the determination and payment of fees by individual members of the Union;
  - (k) not affect the right of each member of the Union to conduct its own examination for the granting of breeders' rights;
  - (l) be based as far as possible on existing UPOV initiatives and materials, including in particular: the GENIE database; the Electronic Application Form (EAF) project; the UPOV similarity search tool for variety denomination purposes; and UPOV information materials.
  
2. For the above proposals, to provide the Consultative Committee with an analysis of the:
  - (a) the need for an ISC;
  - (b) advantages and disadvantages of the proposals, compared to existing arrangements;
  - (c) existence of a legal basis under the Acts of the UPOV Convention;
  - (d) impact on domestic legislation, administrative procedures, rights and policy framework, in relation to the relevant Act of the UPOV Convention, for the PVP Offices of UPOV members;
  - (e) potential advantages and disadvantages for:
    - (i) society in the members of the Union;
    - (ii) PVP Offices of members of the Union, including:
      - costs and income
      - number of applications and income received for applications;
    - (iii) domestic and foreign breeders, including for small- and medium-sized enterprises (SMEs);
    - (iv) farmers; and
    - (v) UPOV.

*Composition*

- (a) to be composed of the following members of the Union:
  - Bolivia (Plurinational State of)
  - Brazil
  - Canada

- Chile
  - Colombia
  - Ecuador
  - European Union (European Commission, Community Plant Variety Office of the European Union (CPVO), Estonia, France, Germany, Netherlands and United Kingdom)
  - Japan
  - Norway
  - United States of America
- (b) other members of the Union would be free to participate at any meeting of the WG-ISC and make comments, where so desired;
- (c) the WG-ISC would be restricted to members of the Union and the WG-ISC would revert back to the Consultative Committee if the WG-ISC recommends to invite observers or experts to any of its meetings;
- (d) meetings to be chaired by the Vice Secretary-General.

*Modus operandi*

- (a) to meet, as far as possible, in conjunction with the sessions of the Consultative Committee at a time and frequency to address the requests of the Consultative Committee;
- (b) in the first instance, to prepare a document presenting the issues for consideration according to the following structure:
- (i) International system of administration
  - (ii) Preliminary observation on novelty and denomination
  - (iii) DUS examination
  - (iv) Examination by members of the Union using the ISC;
- (c) to prepare a document containing proposals, analysis and information according to the purpose specified above, for consideration by the Consultative Committee, according to a timetable to be specified by the Consultative Committee;
- (d) to report on progress to the Consultative Committee after each meeting of the WG-ISC;
- (e) WG-ISC documents to be made available to the Consultative Committee.

[Annex II follows]

## ANNEX II

[Extract from document CC/92/10 "International system of cooperation"]

SUMMARY OF POSSIBLE ISSUES  
CONCERNING AN INTERNATIONAL SYSTEM OF COOPERATION

10. The following table provides a summary of the possible issues concerning an ISC, as set out in document CC/89/6, Annex II, as amended on the basis of comments received in response to UPOV Circular E-16/084.

Issue 1	(a) 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.
	(b) to clarify that: <ul style="list-style-type: none"> <li>i. applications would not be filed with the Office of the Union;</li> <li>ii. applications would continue to be filed with individual members of the Union</li> <li>iii. examination of applications would not be conducted by the Office of the Union;</li> <li>iv. an ISC would be based on existing forms of voluntary cooperation in examination between members of the Union;</li> <li>v. non-participation in an ISC would not affect cooperation in examination between members of the Union</li> <li>vi. that an ISC would not affect the sovereign decision of the members of the Union in relation to the grant and protection of breeders' rights, including decisions on the conditions for the grant of breeders' rights</li> </ul>
	(c) to clarify that an ISC would not affect leeway of members of the Union to formulate policy and to address their own specific needs and circumstances according to the relevant Act of the UPOV Convention.
	(d) to take into account the standards and legislation of the various members of the Union in order to devise a framework that would benefit all members
	(e) to clarify that members of the Union could choose to participate in selected elements of an ISC
	(f) to analyze: <ul style="list-style-type: none"> <li>i. the representation of breeders in each member of the Union;</li> <li>ii. online / face-to-face payments;</li> <li>iii. publication in newspapers or the official gazette;</li> <li>iv. committees established by law, which decide on the registration of a variety;</li> <li>v. termination of a breeder's right if it occurred in another territory (availability of information);</li> <li>vi. obligation to submit representative samples, even if the DUS testing is not conducted; and</li> <li>vii. obligation to present legalized documents (powers of attorney, assignments, etc.).</li> </ul>
Issue 2	(a) 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.
	(b) to utilize software and technical specifications that would make it possible for all members of the Union to participate in an ISC without prejudice to national standards
Issue 3	(a) to consider the possible impact on the number of PBR applications as a result of an ISC.
	(b) to consider whether an increase in PBR applications would translate into benefits for UPOV members.
	(c) to explore the demand from breeders for an ISC through a set of dedicated questions in order to obtain more reliable data on the benefits and the potential use of such system by breeders
Issue 4	(a) 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.
	(b) to clarify that UPOV members would continue to be responsible for determining their own fees.
	(c) to consider the consequences of an ISC for DUS testing in individual UPOV members and for impact on breeders, particularly small and medium-sized enterprises (SME's)

Issue 5	to clarify that 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.
Issue 6	to consider whether arrangements between members of the Union for DUS examination might be integrated in an ISC.
Issue 7	to note that information on arrangements between members of the Union for DUS examination is already included in the GENIE database.
Issue 8	(a) 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.
	(b) to consider the functioning of an accreditation system including: <ul style="list-style-type: none"> <li>• the accrediting entity, the accreditation period, the costs associated with the offices and the entity that determines the examination rates</li> <li>• how the system would function for native varieties of each country and what would happen if these varieties need to be registered with the ISC and the Office is not accredited</li> </ul>
Issue 9	(a) to consider other measures that might facilitate cooperation in DUS examination between members of the Union.
	(b) to consider how plant material would be obtained in cases where the DUS examination was conducted by another member of the Union
	(c) to consider differences of geographic conditions and test conditions in terms of agricultural practices
Issue 10	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.
Issue 11	(a) to clarify that preliminary observations on novelty and denomination would not affect the sovereign decision of the members of the Union in relation to the grant and protection of breeders' rights
	(b) to consider the basis on which a preliminary observation office(s) would be selected to conduct the preliminary observation.
Issue 12	(a) to clarify that that a preliminary observation should, as far as possible, aim to assess the acceptability of a proposed variety denomination for all members of the Union.
	(b) to consider how to take into consideration marks, geographical indications and designations of origin
	(c) to consider how to take into consideration members of the Union that do not have national catalogs and those that do not file their data in the PLUTO database.
	(d) to consider how to address variety denominations in different alphabets
Issue 13	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.
Issue 14	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.
Issue 15	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.
Issue 16	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.
Issue 17	(a) 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.
	(b) to take into account that the concept of "first commercialization" differs among the UPOV members

Issue 18	to clarify that it would 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.
Issue 19	to consider that the EAF 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.
Issue 20	(a) to clarify that, in addition to an "ISC fee", there would be fees for DUS examination and fees for individual members of the Union.  (b) to make an economic analysis to assess the impact for plant breeders
Issue 21	subject to agreement on the relevant issues, to consider the EAF Project, with an appropriate extension of the remit, as a starting point for the international service to be provided by an ISC
Issue 22	(a) to clarify that an ISC should not: i. monitor the status of the DUS examination; ii. receive and maintain reports of decisions on granting of PBR; iii. address objections concerning conduct of the DUS examination; iv. maintain and publish all relevant "bibliographic" information concerning PBR applications; v. 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 vi. include a search for relevant varieties of common knowledge against which the application variety may be compared.  (b) to consider whether information in Issue 22 (i) to (vi) should be monitored and maintained by members of the Union and made available at a general level via the PLUTO database
Issue 23	to consider a suitable legal basis for an ISC, in accordance with the UPOV Convention, including Article 21 of the 1978 Act [Tasks of the Council] and Articles 10 [Filing of Applications] and 26 [The Council] of the 1991 Act.
Issue 24	to consider whether 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 and whether the collection of fees to cover that work might be organized as a part of the international system of administration of an ISC.
Issue 25	[deleted]
Issue 26	[deleted]
Issue 27	to note that the extent of resources for an ISC would be determined by the extent of the international system of administration.
Issue 28	to consider whether the development and maintenance of an ISC should be fully financed by income from fees paid by breeders.
Issue 29	to consider whether the EAF Project, as funded through the Program and Budget for the 20162017 Biennium, should provide the core of the international system of administration.
Issue 30	to consider how additional elements to be incorporated in the EAF Project, e.g. the receipt of applications from receiving UPOV member offices, information on accredited DUS centers and information on [choice of] preliminary observation offices, should be funded.
Issue 31	to examine and describe the relation between the ISC and the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA) and the Convention on Biological Diversity (CBD) Nagoya protocol, and any effect a possible ISC could have in this regard.

## ANNEX III

[Extract from document UPOV/WG-ISC/2/2, Annex I]

POSSIBLE ISSUES RELEVANT FOR THE NEEDS OF THE PVP OFFICES AS IDENTIFIED  
AT THE FIRST MEETING OF THE WORKING GROUP ON A POSSIBLE  
INTERNATIONAL SYSTEM OF COOPERATION (WG-ISC)

## DUS EXAMINATION

Needs of PVP Offices

- (i) to improve cooperation in order to improve the quality and completeness of variety collections;
- (ii) to accept DUS reports from any member of the Union without further consideration;
- (iii) information on varieties that were considered by members of the Union to be a matter of common knowledge;
- (iv) information on varieties that had been included in the DUS examination; and
- (v) centralized database(s) of variety descriptions, particularly for molecular data.

Relevant issues in document CC/92/10

<u>CC/92/10 Reference</u>	<u>CC/92/10 Item</u>	<u>Relevant Need</u>
Issue 8	(a) 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.	DUS examination (i)-(v)
	(b) to consider the functioning of an accreditation system including: <ul style="list-style-type: none"> <li>• the accrediting entity, the accreditation period, the costs associated with the Offices and the entity that determines the examination rates</li> <li>• how the system would function for native varieties of each country and what would happen if these varieties need to be registered with the ISC and the Office is not accredited</li> </ul>	DUS examination (i)-(v)
Issue 9	(a) to consider other measures that might facilitate cooperation in DUS examination between members of the Union.	DUS examination (i)-(v)
	(b) to consider how plant material would be obtained in cases where the DUS examination was conducted by another member of the Union	DUS examination (i)
	(c) to consider differences of geographic conditions and test conditions in terms of agricultural practices	DUS examination (ii)
Issue 10	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.	DUS examination (i)-(v)
Issue 22	[part] (a) to consider whether information in Issue 22 (v) and (vi) should be monitored and maintained by members of the Union and made available at a general level via the PLUTO database  [(v) 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 (vi) include a search for relevant varieties of common knowledge against which the application variety may be compared.]	DUS Examination (i)-(v)
	[part] (b) to consider whether information in Issue 22 (v) and (vi) should be monitored and maintained by members of the Union and made available at a general level via the PLUTO database	DUS Examination (i)-(v)

## NOVELTY

### Needs of PVP Offices

- (i) to have access to more timely and accurate information on novelty from members of the Union;
- (ii) to have more information on novelty-breaking criteria for individual members of the Union; and
- (iii) to have more information on novelty-breaking acts, rather than just dates, from applicants.

### Relevant issues in document CC/92/10

Issue 11	(b) to consider the basis on which a preliminary observation office(s) would be selected to conduct the preliminary observation.	Novelty (i) Denomination (i), (ii), (iii)
Issue 12	(a) to clarify that that a preliminary observation should, as far as possible, aim to assess the acceptability of a proposed variety denomination for all members of the Union.	Novelty (i) Denomination (iii)
	(c) to consider how to take into consideration members of the Union that do not have national catalogs and those that do not file their data in the PLUTO database.	Novelty (i) Denomination (i), (ii), (iv), (v)
Issue 16	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.	Novelty (i)
Issue 17	(a) 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.	Novelty (i)
	(b) to take into account that the concept of "first commercialization" differs among the UPOV members	Novelty (ii), (iii)

## RIGHT OF PRIORITY

### Needs of PVP Offices

- (i) to improve the timeliness and quality of data available within UPOV in relation to priority, particularly dates of applications.

### Relevant issues in document CC/92/10

[none]

## DENOMINATION

### Needs of PVP Offices

- (i) easier access to variety denomination information;
- (ii) access to complete and up-to-date information on variety denominations;
- (iii) a common tool/service to facilitate harmonized decisions on variety denominations;
- (iv) information on reasons for rejection of denominations by members of the Union that had previously been proposed to, or registered by, another member of the Union; and
- (v) a network of denomination contact persons.



Relevant issues in document CC/92/10

Issue 11	(b) to consider the basis on which a preliminary observation office(s) would be selected to conduct the preliminary observation.	Novelty (i) Denomination (i), (ii), (iii)
Issue 12	(a) to clarify that that a preliminary observation should, as far as possible, aim to assess the acceptability of a proposed variety denomination for all members of the Union.	Novelty (i) Denomination (iii)
	(b) to consider how to take into consideration marks, geographical indications and designations of origin	Denomination (iv)
	(c) to consider how to take into consideration members of the Union that do not have national catalogs and those that do not file their data in the PLUTO database.	Novelty (i) Denomination (i), (ii), (iv), (v)
Issue 13	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.	Denomination (iii)
Issue 14	to note the value of a UPOV similarity search tool for variety denomination purposes and to consider extending such a tool [to] include words or elements that are considered to be unsuitable by members of the Union.	Denomination (iii)
Issue 15	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.	Denomination (i), (ii), (v)

COOPERATION IN ADMINISTRATIVE MATTERS

Needs of PVP Offices

- (i) a means of mutually recognizing documents produced by other members of the Union, e.g. a digital signature; and
- (ii) a mechanism to receive payments for the take-over of DUS reports from other members of the Union.

Relevant issues in document CC/92/10

Issue 24	to consider whether 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 and whether the collection of fees to cover that work might be organized as a part of the international system of administration of an ISC.	Cooperation in administrative matters (ii)
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FACILITATING APPLICATIONS

Needs of PVP Offices

- (i) to facilitate applications by residents and non-residents, including in particular applications by individuals and small- and medium-sized enterprises/organizations, in order to increase the number of varieties available in members of the Union; and
- (ii) to have a more efficient arrangement for processing applications in order to avoid delays resulting from an increased number of applications.

Relevant issues in document CC/92/10

Issue 2	(b) to utilize software and technical specifications that would make it possible for all members of the Union to participate in an ISC without prejudice to national standards	Facilitating applications (i)
Issue 19	to consider that the EAF 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.	Facilitating applications (ii)

[Annex IV follows]

## ANNEX IV

[Extract from document UPOV/WG-ISC/4/2, ANNEX III]

POSSIBLE ISSUES RELEVANT FOR THE NEEDS OF THE PVP OFFICES AS IDENTIFIED AT THE FIRST MEETING, AND AMENDED AT THE SECOND AND THIRD MEETINGS OF THE WORKING GROUP ON A POSSIBLE INTERNATIONAL SYSTEM OF COOPERATION (WG-ISC)

## DUS EXAMINATION

Needs of PVP Offices

- (i) to improve cooperation in order to improve the quality and completeness of variety collections;
- (ii) to accept DUS reports from other members of the Union [, in accordance with the policy of the member of the Union concerned];
- (iii) information on varieties that were considered by members of the Union to be a matter of common knowledge;
- (iv) information on varieties that had been included in the DUS examination;
- (v) centralized database(s) of variety descriptions, particularly for molecular data; and
- (vi) capacity-building in DUS examination

Relevant issues in document CC/92/10

<u>CC/92/10 Reference</u>	<u>CC/92/10 Item</u>	<u>Relevant Need</u>
1 Issue 8	(a) 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.	DUS examination (i)-(v)
	(b) to consider the functioning of an accreditation system including: <ul style="list-style-type: none"> <li>• the accrediting entity, the accreditation period, the costs associated with the Offices and the entity that determines the examination rates</li> <li>• how the system would function for native varieties of each country and what would happen if these varieties need to be registered with the ISC and the Office is not accredited</li> </ul>	DUS examination (i)-(v)
Issue 9	(a) to consider other measures that might facilitate cooperation in DUS examination between members of the Union, including whether quality assurance systems introduced by individual members of the Union (without UPOV involvement) could facilitate cooperation in DUS examination.	DUS examination (i)-(v)
	(b) to consider how plant material would be obtained in cases where the DUS examination was conducted by another member of the Union	DUS examination (i)
	(c) to consider differences of geographic conditions and test conditions in terms of agricultural practices	DUS examination (ii)
Issue 10	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.	DUS examination (i)-(vi)

<sup>1</sup> At the second meeting of the WG-ISC, it was considered that this item was not of a high priority.

<u>CC/92/10 Reference</u>	<u>CC/92/10 Item</u>	<u>Relevant Need</u>
Issue 22	[part] (a) to consider whether information in Issue 22 (v) and (vi) should be monitored and maintained by members of the Union and made available at a general level via the PLUTO database  [(v) 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 (vi) include a search for relevant varieties of common knowledge against which the application variety may be compared.]	DUS Examination (i)-(v)
	[part] (b) to consider whether information in Issue 22 (v) and (vi) should be monitored and maintained by members of the Union and made available at a general level via the PLUTO database	DUS Examination (i)-(v)

## NOVELTY

### Needs of PVP Offices

- (i) to have access to more timely and accurate information on novelty from members of the Union;
- (ii) to have more information on novelty-breaking criteria for individual members of the Union; and
- (iii) to have more information on novelty-breaking acts, rather than just dates, from applicants.

### Relevant issues in document CC/92/10

<sup>2</sup> Issue 11	(b) to consider the basis on which a preliminary observation office(s) would be selected to conduct the preliminary observation.	Novelty (i) Denomination (i), (ii), (iii)
<sup>2</sup> Issue 12	(a) to clarify that that a preliminary observation should, as far as possible, aim to assess the acceptability of a proposed variety denomination for all members of the Union.	Novelty (i) Denomination (iii)
	(c) to consider how to take into consideration members of the Union that do not have national catalogs and those that do not file their data in the PLUTO database.	Novelty (i) Denomination (i), (ii), (iv), (v)
Issue 16	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.	Novelty (i)
Issue 17	(a) 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.	Novelty (i)
	(b) to take into account that the concept of "first commercialization" differs among the UPOV members	Novelty (ii), (iii)

## RIGHT OF PRIORITY

### Needs of PVP Offices

- (i) to improve the timeliness and quality of data available within UPOV in relation to priority, particularly dates of applications.

### Relevant issues in document CC/92/10

[none]

## DENOMINATION

### Needs of PVP Offices

- (i) easier access to variety denomination information;
- (ii) access to complete and up-to-date information on variety denominations;
- (iii) a common tool/service to facilitate harmonized decisions on variety denominations;
- (iv) information on reasons for rejection of denominations by members of the Union that had previously been proposed to, or registered by, another member of the Union; and
- (v) a network of denomination contact persons.

### Relevant issues in document CC/92/10

<sup>2</sup> Issue 11	(b) to consider the basis on which a preliminary observation office(s) would be selected to conduct the preliminary observation.	Novelty (i) Denomination (i), (ii), (iii)
<sup>2</sup> Issue 12	(a) to clarify that that a preliminary observation should, as far as possible, aim to assess the acceptability of a proposed variety denomination for all members of the Union.	Novelty (i) Denomination (iii)
	(b) to consider how to take into consideration marks, geographical indications and designations of origin	Denomination (iv)
	(c) to consider how to take into consideration members of the Union that do not have national catalogs and those that do not file their data in the PLUTO database.	Novelty (i) Denomination (i), (ii), (iv), (v)
Issue 13	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.	Denomination (iii)
Issue 14	to note the value of a UPOV similarity search tool for variety denomination purposes and to consider extending such a tool [to] include words or elements that are considered to be unsuitable by members of the Union.	Denomination (iii)
Issue 15	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.	Denomination (i), (ii), (v)

## COOPERATION IN ADMINISTRATIVE MATTERS

### Needs of PVP Offices

- (i) a means of mutually recognizing documents produced by other members of the Union, e.g. a digital signature; and
- (ii) a mechanism to receive payments for the take-over of DUS reports from other members of the Union, if applicable.

### Relevant issues in document CC/92/10

<sup>2</sup> Issue 24	to consider whether 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 and whether the collection of fees to cover that work might be organized as a part of the international system of administration of an ISC.	Cooperation in administrative matters (ii)
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## FACILITATING APPLICATIONS

### Needs of PVP Offices

- (i) to facilitate applications by residents and non-residents, including in particular applications by individuals and small- and medium-sized enterprises/organizations, in order to increase the number of varieties available in members of the Union; and
- (ii) to have a more efficient arrangement for processing applications in order to avoid delays resulting from an increased number of applications.

### Relevant issues in document CC/92/10

Issue 2	(b) to utilize software and technical specifications that would make it possible for all members of the Union to participate in an ISC without prejudice to national standards	Facilitating applications (i)
<sup>2</sup>		

[End of Annex IV and of document]

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<sup>2</sup> At its second meeting, the WG-ISC noted that Issue 19 would imply substantial new work for the Office of the Union and agreed that it would not be appropriate to consider that issue.