

Technical Committee

Fifty-Ninth Session
Geneva, October 23 and 24, 2023

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Administrative and Legal Committee

Eightieth Session
Geneva, October 25, 2023

MEASURES TO ENHANCE COOPERATION IN EXAMINATION

Document prepared by the Office of the Union

Disclaimer: this document does not represent UPOV policies or guidance

I. EXECUTIVE SUMMARY

1. The purpose of this document is to report on the survey of members of the Union on their policy or legal barriers that could prevent international cooperation in the examination of distinctness, uniformity and stability (DUS) and, on the basis of that information, to invite consideration of possible measures to increase opportunities for international cooperation.

2. The Technical Committee (TC) is invited to note the developments reported in this document.

3. The Administrative and Legal Committee (CAJ) is invited to:

(a) note the replies to the survey of members of the Union on policies or legal barriers that could prevent international cooperation in DUS examination, as presented in Annex II to this document; and

(b) consider the possible measures to increase opportunities for international cooperation, as set out in paragraph 13 of this document.

4. The structure of this document is as follows:

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5. The following abbreviations are used in this document:

- CAJ: Legal and Administrative Committee
- TC: Technical Committee
- TWPs: Technical Working Parties

II. BACKGROUND

6. The background to this matter prior to 2022 is provided in Annex I to this document.

7. The CAJ, at its seventy-seventh session¹, requested the Office of the Union to prepare a document for consideration, at its seventy-eighth session, concerning the following policy or legal barriers that the TC had identified as preventing international cooperation in DUS examination and possible measures to address those barriers (see document CAJ/77/10 “Report”, paragraph 14):

- (i) Requirement of formal agreement for cooperation
- (ii) Obligation for DUS examination to be conducted by the authority granting the rights
- (iii) Non-acceptance of breeder-based DUS test reports
- (iv) Wish from breeders to use (or not) existing DUS reports

8. The CAJ, at its seventy-ninth session², approved the proposed questions for the survey of members of the Union for information on their policies or legal barriers that could prevent international cooperation in DUS examination, with the following additional question at the end: “Are there developments that would increase the acceptance of DUS reports in the future?” (see document CAJ/79/11 “Report”, paragraph 58).

III. SURVEY AND KEY FINDINGS:

9. On June 2, 2023, the Office of the Union issued Circular E-23/091 inviting members of the Union to complete a survey on their policies or legal barriers that could prevent international cooperation in DUS examination. The results of the survey are reproduced in Annex II of this document.

10. Replies to the survey were received from the following 43 UPOV members:

Albania	Dominican Republic	Jordan	Poland
Australia	Ecuador	Kenya	Republic of Moldova
Austria	Egypt	Lithuania	Romania
Belarus	Estonia	Mexico	Serbia
Bolivia (Plurinational State of)	European Union	Montenegro	South Africa
Brazil	France	Morocco	Switzerland
Canada	Ghana	Netherlands	Tunisia
Chile	Hungary	New Zealand	United Kingdom
China	Ireland	Norway	United Republic of Tanzania
Croatia	Israel	Oman	United States of America
Denmark	Japan	Panama	

11. The key findings are as follows:

Use of DUS test reports from other UPOV members:

(a) All respondents use DUS test reports from other UPOV members, with the exception of one respondent (42 out of 43 members).

(b) 70% of respondents do not use DUS test reports from other UPOV members on a routine basis (30 responses):

- (i) 42% of respondents are obliged to conduct DUS examination for applications (18 responses) and would only use DUS test reports from other UPOV members under certain circumstances (17 responses); and
- (ii) 28% of respondents only use DUS test reports from other UPOV members within a regional legal framework (12 responses).

¹ CAJ, seventy-seventh session, held via electronic means on October 28, 2020.

² CAJ, seventy-ninth session, held in Geneva on October 26, 2022.

Conditions for using DUS test reports from other UPOV members:

- (a) Conditions for using DUS test reports from other UPOV members:
 - (i) 58% of respondents have conditions for using DUS test reports from other UPOV members (25 responses). From these, 48% (12 responses) indicated that the requirements were specified by law. The remaining 13 respondents have conditions established by regulations, administrative procedures, internal policies or office practice or guidance.
- (b) Formal agreement:
 - (i) 20% of respondents require a formal agreement to use DUS test reports from other UPOV members (9 responses).
 - (ii) From the 9 respondents that require a formal agreement to use DUS test reports from other UPOV members, 4 indicated that this requirement was specified by law. The remaining 5 respondents have this requirement specified in administrative procedures.
- (c) Test Guidelines:
 - (i) To use DUS test reports from other UPOV members, 70% of respondents require that the variety descriptions match the characteristics in UPOV Test Guidelines.
 - (ii) To use test reports from other UPOV members, 53% of respondents require that the variety descriptions match characteristics in their own test guidelines.
- (d) Use of breeders' premises:
 - (i) 30% of respondents would not use DUS test reports from other UPOV members when based on testing at breeders' premises. 44% of respondents would use DUS test reports from other UPOV members based on testing at breeders' premises under certain conditions. The remaining 26% of respondents use DUS test reports from other UPOV members based on testing at breeders' premises without particular conditions.
 - (ii) From the 32 respondents that declared not using or using only under circumstances DUS test reports from other UPOV members based on testing at breeders' premises, 47% indicated that the reason for non-acceptance or the conditions to use these reports were specified by law. The remaining 53% indicated that they were specified by regulations or administrative procedures.
- (e) Plant material requirement:
 - (i) Nearly half of respondents (49%) do not accept phytosanitary issues that prevent or delay submission of plant material as a basis to use DUS test reports from other UPOV members.
 - (ii) Among respondents that do accept to use DUS test reports when the applicants could not submit plant material due to phytosanitary or other related issues, a few indicated in the comments that they require a sample of the plant material before granting the right.

Main reasons for not using DUS test reports from other UPOV members:

12. Based on the survey and the key findings summarized in paragraph 10, the following main reasons for not using DUS test reports from other UPOV members have been identified:

- (a) Policy decision to maintain domestic capacity for DUS examination (70% of responses).
- (b) Completeness and relevance of variety collections.
- (c) Environmental influence on expression of characteristics.

(d) Test report lacks information to enable its use in some cases (e.g., basis for distinctness from most similar variety; varieties of common knowledge in same trial; missing UPOV or national test guidelines characteristics in the variety description) (70% of responses).

(e) Use of breeders' premises (30% of responses).

IV. POSSIBLE MEASURES TO INCREASE OPPORTUNITIES FOR INTERNATIONAL COOPERATION:

13. In accordance with the findings of the survey (see Section III), the following possible measures are proposed to increase opportunities for international cooperation:

(a) Environmental effect in expression of characteristics: organize events to explain how DUS examination takes into account environmental effect on the expression of characteristics and why it is not necessary to conduct DUS trials in each UPOV member;

(b) Completeness and relevance of variety collections: organize events to demonstrate how UPOV members address the risks associated with incomplete collections of varieties of common knowledge (document TGP/4 "Constitution and maintenance of variety collections");

(c) Revise document TGP/5, Section 6 "UPOV Report on Technical Examination and UPOV Variety Description" to provide information on: varieties of common knowledge grown in the same trial and/or otherwise considered in the DUS examination; and/or other elements required by UPOV members to use test reports from other UPOV members;

(d) Phytosanitary issues that prevent or delay submission of plant material: to add information in document UPOV/INF/15 "Guidance for Members of UPOV" to propose considering the use of DUS test reports from other UPOV members where phytosanitary issues prevented or delayed submission of plant material; and

(e) Increase information on arrangements for testing at breeders' premises:

(i) Arrangements are specified by the authority entrusted with the task of granting breeders' rights (authority) and decisions on DUS are always taken by the authority;

(ii) Maintaining independence in DUS examination and avoiding conflict of interests;

(iii) Invite policy makers from UPOV members and observers to meetings or seminars at UPOV members that conduct DUS examination at breeders' premises to facilitate exchange of information and enable visiting their test sites.

14. *The TC is invited to note the developments reported in this document.*

15. *The CAJ is invited to:*

(a) note the replies to the survey of members of the Union on policies or legal barriers that could prevent international cooperation in DUS examination, as presented in Annex II to this document; and

(b) consider the possible measures to increase opportunities for international cooperation, as set out in paragraph 13 of this document.

[Annex I follows]

Technical Committee

1. The TC, at its fifty-fifth³ session, considered the outcomes of discussions at the TWPs on technical concerns that prevent cooperation in DUS examination and how to overcome these (see document TC/55/10, paragraphs 19 to 26). The TC, at its fifty-sixth session⁴, agreed to propose the development of a package of compatible IT tools to address the technical and related administrative concerns that prevented cooperation in DUS examination with the following elements (see document TC/56/22 “Outcome of consideration of documents by correspondence”, paragraph 41):

- a) Platform for:
 - i) exchange of existing DUS reports for:
 - (1) UPOV members to post and receive existing DUS reports and arrange payment, as appropriate
 - (2) PVP applicants to request use of existing DUS reports and make payments, as appropriate
 - ii) UPOV members to make their documented DUS procedures and information on their quality management systems available to other members of the Union
- b) Tool to provide information to PVP applicants on cooperation in DUS examination between UPOV members in a user-friendly form, using information contained in the GENIE database
- c) Module for UPOV members to use the web-based TG Template and database of characteristics to develop individual authorities’ test guidelines (IATG) in their language
- d) Platform for UPOV member databases containing variety description information

Legal and Administrative Committee

2. The CAJ, at its seventy-seventh session⁵, noted the measures agreed by TC to overcome barriers that prevented international cooperation in DUS examination (see document CAJ/77/10 “Report”, paragraphs 13 to 15).

3. In response to the request of the TC, the CAJ requested the Office of the Union to prepare a document for consideration, at its seventy-eighth session, concerning the following policy or legal barriers that the TC had identified as preventing international cooperation in DUS examination and possible measures to address those barriers:

- (i) Requirement of formal agreement for cooperation;
- (ii) Obligation for DUS examination to be conducted by the authority granting the rights;
- (iii) Non-acceptance of breeder-based DUS test reports;
- (iv) Wish from breeders to use (or not) existing DUS reports;

4. The CAJ, at its seventy-eighth session⁶, agreed the following measures to address policy or legal barriers that the TC had identified as preventing international cooperation in DUS examination (see document CAJ/78/13 “Report”, paragraph 43):

(a) survey members of the Union for information on their policies or legal barriers that could prevent international cooperation in DUS examination;

(b) develop explanatory notes to Article 12 of the UPOV Convention (“Examination of the Application”); and

³ TC, fifty-fifth session, held in Geneva on October 28 and 29, 2019.

⁴ TC, fifty-sixth session, held via electronic means on October 26 and 27, 2020

⁵ CAJ, seventy-seventh session, held via electronic means on October 28, 2020

⁶ CAJ, seventy-eighth session, held in Geneva on October 27, 2021

(c) request breeders' organizations to clarify the issues concerning the wish of breeders to use, or not to use, existing DUS reports.

Survey of members of the Union for information on their policies or legal barriers that could prevent international cooperation in DUS examination

5. The CAJ, at its seventy-eighth session⁷, agreed to include possible "guidance to encourage members of the Union, on a voluntary basis, to take over DUS test reports when the applicants could not submit plant material due to phytosanitary or other related issues where acceptable to the members of the Union concerned" as part of the work to be agreed by the CAJ under document CAJ/78/9 "Measures to enhance cooperation in examination" (see document CAJ/78/13 "Report", paragraph 39).

6. The CAJ, at its seventy-ninth session⁸, approved the proposed questions for the survey of members of the Union for information on their policies or legal barriers that could prevent international cooperation in DUS examination, with the following additional question at the end: "Are there developments that would increase the acceptance of DUS reports in the future?" (see document CAJ/79/11 "Report", paragraph 58).

7. On June 2, 2023, the Office of the Union issued Circular E-23/091 inviting members of the Union to complete a survey on their policies or legal barriers that could prevent international cooperation in DUS examination. The results of the survey are reproduced in Annex II of this document.

8. Replies to the survey were received from the following 43 members of the Union:

Albania	Dominican Republic	Jordan	Poland
Australia	Ecuador	Kenya	Republic of Moldova
Austria	Egypt	Lithuania	Romania
Belarus	Estonia	Mexico	Serbia
Bolivia (Plurinational State of)	European Union	Montenegro	South Africa
Brazil	France	Morocco	Switzerland
Canada	Ghana	Netherlands	Tunisia
Chile	Hungary	New Zealand	United Kingdom
China	Ireland	Norway	United Republic of Tanzania
Croatia	Israel	Oman	United States of America
Denmark	Japan	Panama	

Information from breeders' organizations on the wish of breeders to use, or not to use, existing DUS reports

9. The CAJ, at its seventy-ninth session⁸, noted the replies from breeders' organizations to the request to clarify the issues concerning the wish of breeders to use, or not to use, existing DUS reports, as provided in document CAJ/79/7 Add. "Addendum to: Measures to enhance cooperation in examination". The CAJ agreed to integrate relevant matters with the information from the survey of members of the Union for consideration by the CAJ, at its eightieth session (see document CAJ/79/11 "Report", paragraph 59).

Explanatory notes to Article 12 of the UPOV Convention ("Examination of the Application");

10. The CAJ, at its seventy-ninth session⁸, agreed to the postponement of the development of explanatory notes of Article 12 of the UPOV Convention ("Examination of the Application") until information from the survey of members of the Union and from breeders' organizations was available and considered by the CAJ (see document CAJ/79/11 "Report", paragraph 60).

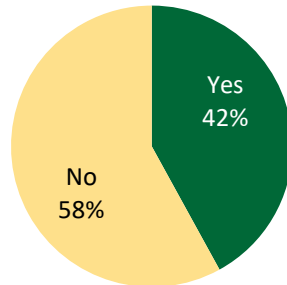
[Annex II follows]

⁷ CAJ, seventy-eighth session, held in Geneva on October 27, 2021

⁸ CAJ, seventy-ninth session, held in Geneva on October 26, 2022.

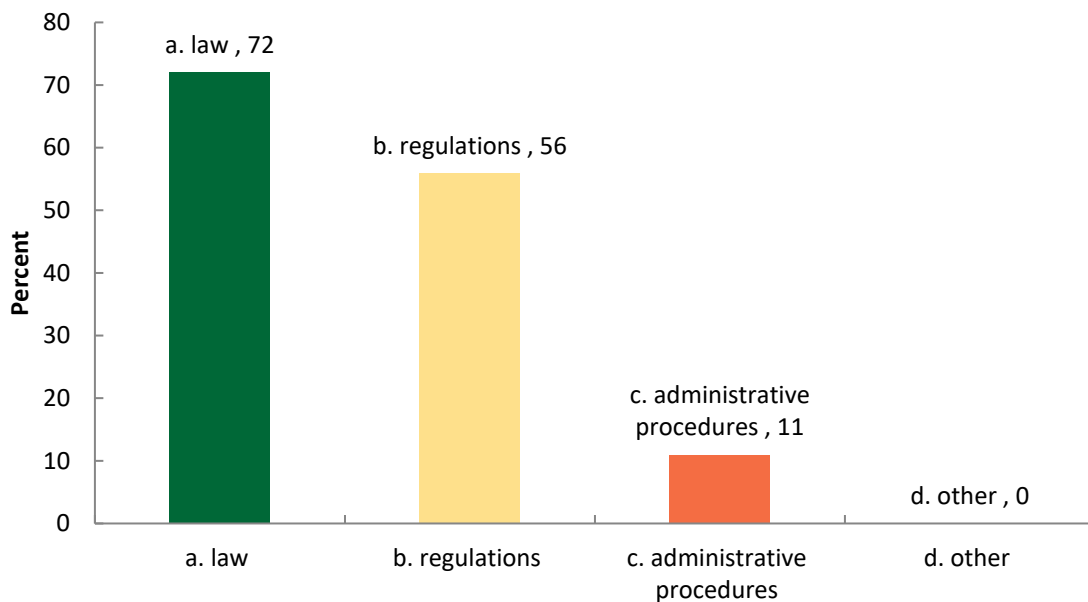
SURVEY MEMBERS OF THE UNION FOR INFORMATION ON THEIR POLICIES OR
LEGAL BARRIERS THAT COULD PREVENT INTERNATIONAL COOPERATION
IN DUS EXAMINATION

1. Is the authority entrusted with the task of granting breeders rights in your country/organization obliged to conduct the DUS examination for all applications?



Value	Percent	Count
Yes	42%	18
No	58%	25
	Totals	43

1.1. Please indicate if the obligation to conduct the DUS examination for all crops is a requirement that is specified in the:

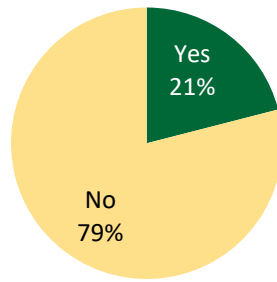


Value	Percent
a. law	72%
b. regulations	56%
c. administrative procedures	11%
d. other	0%
Total Responses	18

Comments:

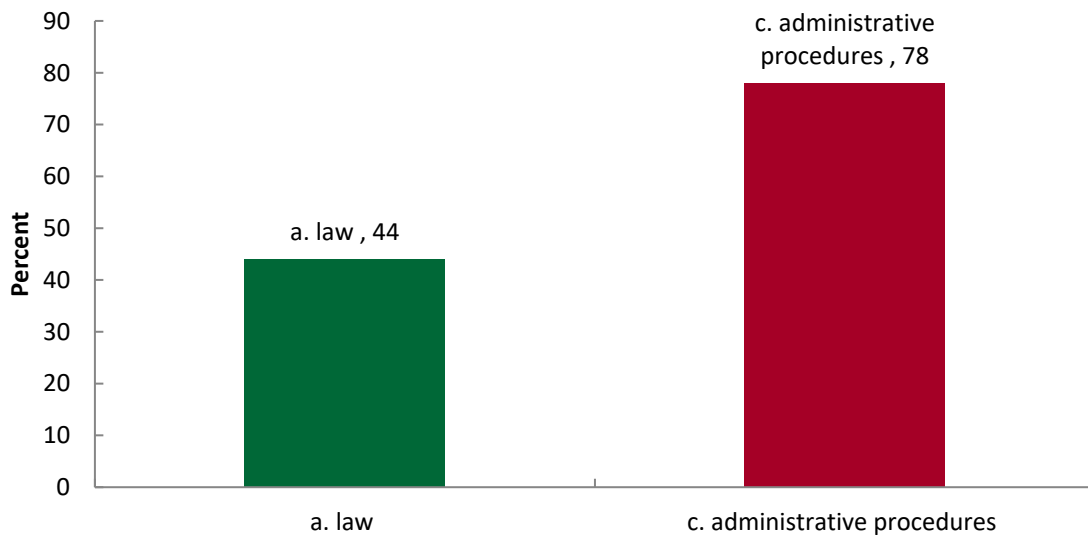
Response
United States PVP Act and Regulations.
La Ley 19342 establece que el Comité Calificador de Variedades ordena al SAG que realice las pruebas y ensayos de DHE
The new law Plant Variety Rights Act 2022 requires that a growing trial is necessary to determine DUS. The law does not specify the location of the growing trial, allowing for the use of growing trials in other authorities
"to conduct the DUS examination" means for us to subcontract or to take-over. On the opposite, we do not carry out ourself the DUS examination in so far as INOV is an administrative office.
COUNCIL DIRECTIVE 2002/53/EC
tenemos la Ley 63 de 5 de octubre de 2012 que reforma artículos de la Lay 23 de 1997

2. Does your country/organization require a formal agreement to utilize DUS test reports from another UPOV member?



Value	Percent	Count
Yes	21%	9
No	79%	34
	Totals	43

2.1. Please indicate if the formal agreement to utilize DUS test reports from another UPOV member is a requirement that is specified in the:

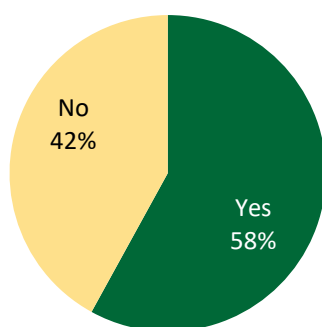


Value	Percent	Count
a. law	44%	4
c. administrative procedures	78%	7

Comments:

Response
Loi N°42 du 99 sur les semences et plants et obtentions végétales
Ireland is an entrusted DUS Examination Office on behalf of the Community Plant Variety Office (CPVO). The CPVO has formal agreements in place with other UPOV members in relation to sharing of DUS Reports (Memorandum of Cooperation agreements)
Details are specified in an implementing admin procedure
Albanian Law no: 10416 dt 07.04.2011, neni 33, pika 2

3. Are there any requirements in your country/organization for the utilization of DUS test reports from another UPOV member?



Value	Percent	Count
Yes	58%	25
No	42%	18
	Totals	43

3.1. Please list the requirements for the utilization of DUS test reports from another UPOV member:

The United States Plant Variety Protection Office requires additional breeding history, a statement of distinctness, and for some crops, additional characteristics that may not always be included on a DUS report from another country. This is determined on a case by case basis.

There are a number of items that IP Australia considers when determining if the information provided in an overseas DUS report will meet Australian legislative requirements. The Australian Plant Breeder's Rights Act 1994 requires: - under Section 34(4)(a) that a detailed description of the variety to which the application relates must be submitted and must contain "particulars of the characteristics that distinguish the variety from other plant varieties the existence of which is a matter of common knowledge;" - under section 38 of Australia's Plant Breeder's Rights Act 1994 the variety is not to be taken to have a particular characteristic unless subsection (2), (3), (4) or (5) applies to the variety. Subsection (4) states: (4) This subsection applies to the subject variety if the Registrar is satisfied that:

(a) a test growing of the variety carried out outside Australia has demonstrated that the variety has the particular characteristic; and

(b) that test growing of the variety is equivalent to a test growing of the variety in Australia.

Following are a few scenarios where we may require an Australian trial to be conducted:

Scenario 1 Overseas DUS report does not provide information on any varieties of common knowledge (VCK), or if it does- it does not disclose the specific characteristics that distinguish the candidate variety from each of the VCKs. In this scenario, a description could not be provided based off that report that could identify the particulars of the characteristics that distinguish the variety from other plants that are VCK. Even if the species was claimed to be significantly different from all other varieties, Australia would still need the most similar VCK to be identified.

Scenario 2 The overseas report indicates that the candidate and the VCKs were not grown in the same trial, instead previous descriptors are used to compare the varieties for the purpose of identifying distinctness. This may be allowable, if Australia can be certain that the different trials that the descriptions were based off had been conducted under identical conditions. however, even if the trials were carried out under controlled environments there could still be variances in influencing factors such as minor changes in soil, temperature, lighting, etc.

Therefore, Australia would usually require that the VCK and the candidate variety have been trialled in the same trial. In each of scenarios 1 and 2 we would seek further information from the overseas authority to confirm whether the most similar variety of common knowledge had been used in the trial. If we are satisfied that there is sufficient evidence that the candidate variety has been shown to exhibit characteristics different from a comparator variety grown in the same trial, then we may be able to continue processing the Australian application using the overseas data. Scenario 3 Potential for some varieties to express different characteristics when trialled under different environments. There may be times where there is a concern that due to environmental factors that a test growing in another location would not be equivalent to a test growing of the variety in Australia. To address scenario three, we would likely require the applicant to carry out a verification trial as a minimum in Australia to confirm that the distinguishing characteristic is stably expressed under Australian conditions.

DUS report is used for two purposes for protection or protection & National listing. National listing for the purpose of local production of seeds. The kindliness of environmental effect on character expression will be considered.

the testing body must be recognized and test in compliance with UPOV guidelines

We may take-over reports in case we do not conduct DUS tests for a given crop ourselves or if there was a prior application in other country but we did DUS for that application. DUS reports may be taken over from CPVO entrusted examination offices only.

In the technical examination, the State Commission may use the results of growing tests which have already been carried out or are being carried out by a competent authority of a Member State of UPOV, furnished by the applicant with the consent and under the conditions imposed by that competent authority

1. Belarus utilizes DUS test reports from another UPOV member if the authorized organization uses the up-to-date UPOV Test Guidelines; 2. Belarus utilizes DUS reports for all species and genera except for the list below Table 1 In Latin *Triticum aestivum* L. emend Fiori et Paol. *Triticum durum* Desf. *Secale*

cereale L. xTriticosecale Wittm. Hordeum vulgare L. sensu lato Fagopyrum esculentum Moench Zea mays L. Avena nuda L. Avena sativa L. Pisum sativum L. sensu lato Lupinus luteus L. Lupinus angustifolius L. Glycine max (L.) Merr. Cucumis sativus L. Brassica oleracea L. var. capitata L. f. alba DC. Brassica oleracea L. var. capitata L.f. rubra (L.) Thell. Brassica oleracea L. var. sabauda L. Brassica oleracea L. convar. botrytis (L.) Alef. var. botrytis Brassica oleracea L. var. cymosa Duch. Brassica oleracea L. var. gemmifera DC. Brassica oleracea L. var. gongylodes L. Brassica pekinensis (Lour.) Rupr. Allium cepa L. Daucus carota L. Capsicum annuum L. Petroselinum crispum (Mill.) Nyman ex A. W. Hill Raphanus sativus L. Brassica rapa L. Lactuca sativa L. Beta vulgaris L. ssp. vulgaris var. conditiva Alef. Solanum lycopersicum L. Cucurbita pepo L. Anethum graveolens L. Phaseolus L. Allium sativum L. Solanum tuberosum L. sensu lato Beta vulgaris L. ssp. vulgaris var. alba DC. Linum usitatissimum L. Brassica napus L. ssp. oleifera (Metzg.) Sinsk Brassica campestris L. ssp. campestris Fragaria L. Ribes rubrum L. Ribes nigrum L. 3. Belarus utilizes DUS reports if all characteristics from the Table of characteristics of the UPOV TG are determined

The link provides access to how the use of foreign test reports is decided.
<https://www.iponz.govt.nz/about-ip/pvr/technical-guidance/current/use-of-foreign-test-reports-for-dus-testing-in-new-zealand/>

The characteristics examined by the authority that carried out the DUS test must be the same characteristics of the national test guideline.

we require an entrustment for the concerned species.

- size of the collection reference, - experience of the EO, that is to say, number of files for the said species already studied by the EO.

DUS reports according to CPVO requirements

The results of experimental testing carried out by a competent foreign authority may be taken into consideration with the consent of such authority.

only for UE member states

We only accept DUS test reports from other EU member states and the examination office has to have an accreditation from the CPVO to conduct DUS tests.

use the results of tests that have already been carried out to determine whether the variety is new , distinct , uniform or stable.

There must be a memorandum of cooperation (MOC) agreement between the CPVO and the other UPOV member.

DUS reports can only be purchased from a CPVO entrusted test centre

should be approved by the government

The test results need to be requested office-to-office.

The fulfillment of certain administrative and technical quality requirements needs to be assured. In particular the other UPOV member needs to provide information as regards independence, impartiality, and integrity in respect of the institution in charge of the DUS testing, information as regards facilities and equipment as well as regards the experience with the species concerned. Furthermore the existing technical guideline used and the way how the technical examination is conducted, the requirements as regards the submission of plant material, information related to the existing reference variety collection (form, size, maintenance, composition, criteria which varieties to include in the collection) and the

procedure on how reference varieties to be grown in the growing trial are selected. The information provided will be assessed and the decision to use DUS reports from another UPOV member needs endorsement from the monitoring body.

1. DUS evaluations have to be conducted according to UPOV Test Guidelines. 2. Prescribed payments to testing authority

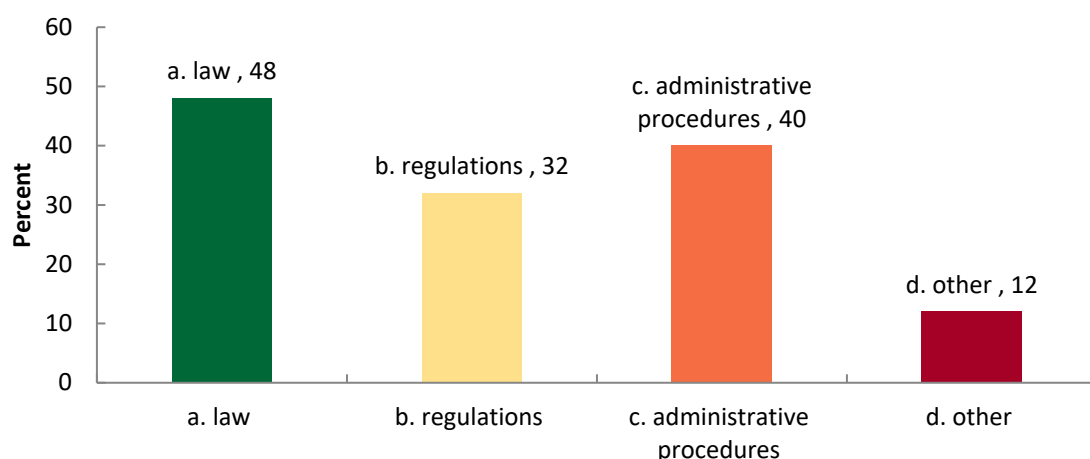
The law on Plant Breeder's Rights authorize the Norwegian Plant Variety Board to decide whether varieties that has already been examined for DUS in another country should:

1. be examined again,
2. only partly examined again or
3. not examined again (accepting the DUS-test report from the first country)

1. The results must be submitted by the competent authority of a UPOV member country.
2. The results must be in accordance with the UPOV DUS examination guideline or in exceptional cases in accordance with the national guideline of a UPOV member country.
3. The results should be in accordance with the UPOV Report Form for Technical Examination.

There are no specific criteria for accepting overseas DUS reports. As a practical matter, there is room to accept DUS reports for rare plant genus or species that have not been bred in our country, in order to reduce the burden on examination facilities and examination. For plant genus or species of the applied variety that are also bred in our country, foreign DUS reports are not accepted in principle. However, there is room for our country to consider the acceptance of a DUS Report for a foreign variety if the counterparty country is considering the acceptance of a DUS Report for the our variety applied to that country. In such a case, our country would need to consider whether the DUS report of that particular variety has been conducted an evaluation on the characteristics shown in the our national TG based on the UPOVTG for the specie, the effect on the expression of the characteristics and on the reference collection due to the difference in growing environment between our country and the place where the cultivation tests of the report were conducted, and the degree of development of the variety in our country to decide whether to accept the DUS report.

3.2. Please indicate if the requirements for the utilization of DUS test reports from another UPOV member are specified in the:



Value	Percent	Count
a. law	48%	12
b. regulations	32%	8
c. administrative procedures	40%	10
d. other	12%	3

d. other	Count
internal policies	1
none	1
office practice or guidance	1
Totals	3

Comments:

The requirements are an internal policy, not prescribed and are interpreted variety/application by variety/application.

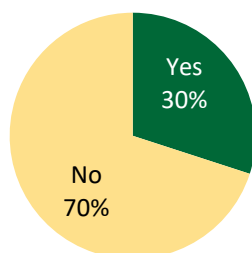
The above requirement is stated in DUS protocols which are published on a government website

see specifications under 3.1

Normally the Norwegian Plant Variety Board accept the DUS-test report from another UPOV member. Norway do not perform any DUS-testing anymore, we rely on accepting the DUS-test reports from other countries.

It is not stipulated anywhere. We do not have a concrete guideline on acceptance of foreign DUS reports.

4. Does your country/organization take-over DUS test reports where the variety descriptions do not match the UPOV Test Guidelines characteristics?



Value	Percent	Count
Yes	30%	13
No	70%	30
	Totals	43

Comments:

The United States Plant Variety Protection Office has adopted the UPOV Test Guidelines Characteristics for all asexually reproduced varieties and most seed varieties except the 27 listed in question 7 below. It would not be possible to take-over a DUS test report that does not follow the UPOV Test Guidelines.

Australia will consider taking over reports where: a. test growing conducted by a UPOV member state using UPOV technical guidelines for DUS testing ; or b. Test growing conducted by a UPOV member state using their harmonised national technical protocols for DUS testing; or c. Test growing conducted by a non-UPOV member state using test protocols which are harmonised with standard UPOV technical guidelines for DUS testing.

Yes If CPVO change/modify test Guidelines

The report will be validated against UPOV test guide lines.

mostly it agrees

Generally no. However, this could potentially be the case in case there is no UPOV TG available for a given crop or CPVO TP differs in that matter.

for genera or species out of the table *Triticum aestivum* L. emend Fiori et Paol. *Triticum durum* Desf. *Secale cereale* L. *xTriticosecale* Wittm. *Hordeum vulgare* L. sensu lato *Fagopyrum esculentum* Moench *Zea mays* L. *Avena nuda* L. *Avena sativa* L. *Pisum sativum* L. sensu lato *Lupinus luteus* L. *Lupinus angustifolius* L. *Glycine max* (L.) Merr. *Cucumis sativus* L. *Brassica oleracea* L. var. *capitata* L. f. *alba* DC. *Brassica oleracea* L. var. *capitata* L.f. *rubra* (L.) Thell. *Brassica oleracea* L. var. *sabauda* L. *Brassica oleracea* L. convar. *botrytis* (L.) Alef. var. *botrytis* *Brassica oleracea* L. var. *cymosa* Duch. *Brassica oleracea* L. var. *gemmifera* DC. *Brassica oleracea* L. var. *gongylodes* L. *Brassica pekinensis* (Lour.) Rupr. *Allium cepa* L. *Daucus carota* L. *Capsicum annuum* L. *Petroselinum crispum* (Mill.) Nyman ex A. W. Hill *Raphanus sativus* L. *Brassica rapa* L. *Lactuca sativa* L. *Beta vulgaris* L. ssp. *vulgaris* var. *conditiva* Alef. *Solanum lycopersicum* L. *Cucurbita pepo* L. *Anethum graveolens* L. *Phaseolus* L. *Allium sativum* L. *Solanum tuberosum* L. sensu lato *Beta vulgaris* L. ssp. *vulgaris* var. *alba* DC. *Linum usitatissimum* L. *Brassica napus* L. ssp. *oleifera* (Metzg.) Sinsk *Brassica campestris* L. ssp. *campestris* *Fragaria* L. *Ribes rubrum* L. *Ribes nigrum* L.

There would be consultation with the report provider to understand the reasons for not matching the UPOV tg. The decision will be based on that discussion outcome.

First of all the CPVO TP has to be used, in case there is no CPVO TP available, UPOV Test Guideline has to be used.

This is done by re-taking the test in the research centers located under the supervision of the approved committee to conduct the UPOV tests and issuing the technical report by the technical team authorized by the committee.

yet to encounter any such application

In the practice this case has not presented itself.

The Ministry may use results of technical examination (DUS test) of a variety obtained in other UPOV member. Only in case If there are no available UPOV Test Guidelines for certain plant species, we will accept DUS test and variety description made with other test guidelines.

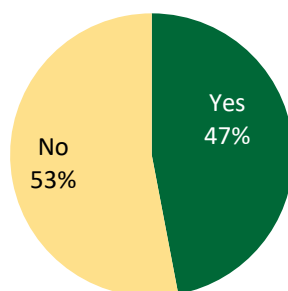
Yes but only in case there are justified reasons why certain characteristics are not observed, however asterisk characteristics should always match.

South Africa conducts DUS evaluations with the guidance of UPOV Test Guidelines and also only accepts variety descriptions according to UPOV Test Guidelines.

We order DUS test reports from the competent authorities, so we are sure that the report is prepared correctly

We assume the CPVO test guidelines and UPOV test guidelines are in line.

5. Does your country/organization take-over DUS test reports where the variety descriptions do not match the characteristics of your country/organization authority test guidelines?



Value	Percent	Count
Yes	47%	20
No	53%	23
	Totals	43

Comments:

Response
The United States Plant Variety Protection Office will not take-over DUS test reports that do not follow the characteristics for 27 major seed species and for all other species if they do not follow the UPOV Test Guidelines characteristics. The following crops are those that cannot be accepted by the US PVPO at this time until they are converted to the UPOV TGs: Alfalfa, Barley, Bentgrass, Bermudagrass, Bluegrass, Cauliflower, Corn, Cotton, Field Bean, Fescue, Garden Bean, Marigold, Muskmelon, Oat, Onion, Pea, Peanut, Pumpkin, Rice, Ryegrass, Safflower, Sorghum, Triticale, Vinca, Watermelon, Wheat, and Zinnia.
Same a comments for question 6.
CPVO Test Guidelines are accepted, in the case there are no CPVO guidelines, UPOV Test Guidelines are accepted
If all the asterisk characteristics have been scored.
we have no test guidelines ourselves

for genera or species out of the table *Triticum aestivum* L. emend Fiori et Paol. *Triticum durum* Desf. *Secale cereale* L. *xTriticosecale* Wittm. *Hordeum vulgare* L. sensu lato *Fagopyrum esculentum* Moench *Zea mays* L. *Avena nuda* L. *Avena sativa* L. *Pisum sativum* L. sensu lato *Lupinus luteus* L. *Lupinus angustifolius* L. *Glycine max* (L.) Merr. *Cucumis sativus* L. *Brassica oleracea* L. var. *capitata* L. f. *alba* DC. *Brassica oleracea* L. var. *capitata* L.f. *rubra* (L.) Thell. *Brassica oleracea* L. var. *sabauda* L. *Brassica oleracea* L. convar. *botrytis* (L.) Alef. var. *botrytis* *Brassica oleracea* L. var. *cymosa* Duch. *Brassica oleracea* L. var. *gemmifera* DC. *Brassica oleracea* L. var. *gongylodes* L. *Brassica pekinensis* (Lour.) Rupr. *Allium cepa* L. *Daucus carota* L. *Capsicum annuum* L. *Petroselinum crispum* (Mill.) Nyman ex A. W. Hill *Raphanus sativus* L. *Brassica rapa* L. *Lactuca sativa* L. *Beta vulgaris* L. ssp. *vulgaris* var. *conditiva* Alef. *Solanum lycopersicum* L. *Cucurbita pepo* L. *Anethum graveolens* L. *Phaseolus* L. *Allium sativum* L. *Solanum tuberosum* L. sensu lato *Beta vulgaris* L. ssp. *vulgaris* var. *alba* DC. *Linum usitatissimum* L. *Brassica napus* L. ssp. *oleifera* (Metzg.) Sinsk *Brassica campestris* L. ssp. *campestris* *Fragaria* L. *Ribes rubrum* L. *Ribes nigrum* L.

Use of a foreign test report often is for species which do not have any national TG.

The issuance of the report for UPOV tests in the Sultanate of Oman is done only through the Executive Committee for the registration and approval of new plant varieties.

It will be a concrete assessment of the specific deviations

Yet to encounter any such application

ALL ARE BASED ON THE UPOV EXAMINATION GUIDELINES.

In the practice this case has not presented itself.

The Ministry may use results of technical examination (DUS test) of a variety obtained in other UPOV member. Only in case If there are no available UPOV Test Guidelines for certain plant species, we will accept DUS test and variety description made with other test guidelines.

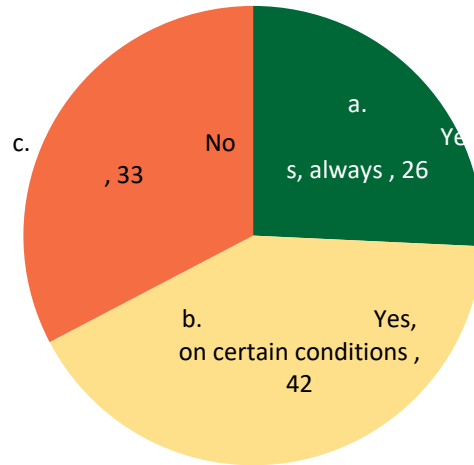
Yes but only in case there are justified reasons why certain characteristics are not observed, however UPOV asterisk characteristics should always match

South Africa is only taking over a DUS test report where the variety description matches the UPOV Test Guideline.

We order DUS test reports from the competent authorities, so we are sure that the report is prepared correctly

We don't have any national DUS-testing

6. Does your country/organization accept DUS test reports based on testing within the territory of your country/organization conducted at the breeders' premises?



Value	Percent	Count
a. Yes, always	26%	11
b. Yes, on certain conditions	42%	18
c. No	33%	14
	Totals	43

6.1. Please list the conditions for acceptance of DUS test reports based on testing within the territory of your country/organization conducted at the breeders' premises:

The Australian Plant Breeder's Act requires that each application has a nominated approved person who is accredited by the office (also referred to as a Qualified Person) who will: - supervise any Australian test growing of the variety required as well - prepare and lodge a detailed description (based on Australian or overseas growing trial data) of the variety. When a trial is ready for examination the Qualified Person/applicant must notify the office who will then make an assessment of whether they need to attend the trial in person to verify any data taken.

DUS testing in breeders premises mostly is for trees and ornamental but the authority will collect data and analysis the reports.

1. Inspection accepts DUS test reports based on testing within the territory of your country/organization conducted at the breeders' premises for genera and species out of the following Table Triticum aestivum L. emend Fiori et Paol. Triticum durum Desf. Secale cereale L. xTriticosecale Wittm. Hordeum vulgare L. sensu lato Fagopyrum esculentum Moench Zea mays L. Avena nuda L. Avena sativa L. Pisum sativum L. sensu lato Lupinus luteus L. Lupinus angustifolius L. Glycine max (L.) Merr. Cucumis sativus L. Brassica oleracea L. var. capitata L. f. alba DC. Brassica oleracea L. var. capitata L.f. rubra (L.) Thell. Brassica oleracea L. var. sabauda L. Brassica oleracea L. convar. botrytis (L.) Alef. var. botrytis Brassica oleracea L. var. cymosa Duch. Brassica oleracea L. var. gemmifera DC. Brassica oleracea L. var. gongyloides L. Brassica pekinensis (Lour.) Rupr. Allium cepa L. Daucus carota L. Capsicum annuum L. Petroselinum crispum (Mill.) Nyman ex A. W. Hill Raphanus sativus L. Brassica rapa L. Lactuca sativa L. Beta vulgaris L. ssp. vulgaris var. conditiva Alef. Solanum lycopersicum L. Cucurbita pepo L. Anethum graveolens L. Phaseolus L. Allium sativum L. Solanum tuberosum L. sensu lato Beta vulgaris L. ssp. vulgaris var. alba DC. Linum usitatissimum L. Brassica napus L. ssp. oleifera (Metzg.) Sinsk Brassica campestris L. ssp. campestris Fragaria L. Ribes rubrum L. Ribes nigrum L..
2. The breeder must use the TG and reference varieties provided to him by the Inspection.
3. DUS experts of the Inspection must inspect the conduct of the DUS testing one or more times
4. If fees are paid.

The conditions are set by the Examiner according to the testing protocol for that species and the Examiner determines they have been met. I species

As per the crop.

- 1 - this is applied when there is no competent EO in Europe,
- 2 - French territory is quiet specific with its islands (New-Caledonia, ...). It is not easy to send plant material in Europe; it is not easy to find a competent EO for specific species from these islands. The travel costs of an official examiner to these islands can be an issue.

In the case of plant varieties for which the conditions for the DUS test to be carried out by the NÉBIH are not given, the DUS test can be carried out with the cooperation and supervision of the NÉBIH at the breeder, a natural or legal person accredited by the CPVO, or an organization without legal personality.

Only for fruit and vine varieties ; observations made by our experts

An agreement with the breeder

only a few applications and no DUS subcenter have the capacity to conduct DUS trials

- 1)The test has to be performed according to UPOV guidelines;
- 2)The test has to be performed with the supervision of an office examiner;
- 3)The breeder has to guarantee the authorized personnel access to the test;
- 4)The test has to be maintained until a decision regarding the variety has been taken by the office.

In the process of examination of application for granting breeders' right, the Ministry shall examine the variety. The Ministry may delegate activities related to variety examination to a legal entity that in terms of staffing, equipment and devices meets conditions for execution of such examinations, or may accept results of previously conducted examinations of the variety. DUS tests have to be conducted under supervision of the Ministry. The Ministry shall conclude a contract with legal entity for the purposes of variety examination.

1. For perennial /Tree crops
2. New crop needs sharing of expertise
3. Special conditions

Although some DUS testing are conducted at breeders' premises, the examinations are executed by examiners from the SA PVP authority.

- pour les espèces pérennes - Présence de collection de référence - l'obteneur possède une expertise pour l'espèce concernée

the trials must be under the supervision of the authorized entity (DUS Administration)

1. Use the UPOV DUS examination guideline or in exceptional cases the national guideline of a UPOV member country, if UPOV does not have a guideline for a certain crop.
2. The DUS examination is carried out under the specifications of document TGP/6, Section 3: Declaration relative to the conditions of the examination of a variety based on tests carried out by the breeder or on his behalf.

Breeders exams can be carried out under selection of appropriate similar varieties, establishment of appropriate trial plots of the applied variety and the similar variety, and by comparing them. The following are the requirements to accept breeders exams within our territory (a) It is recognized that the applicant is capable of reliable cultivation based on the examination criteria for each crop type. (b) It is recognized that the applicant is capable to conduct an evaluation on the characteristics necessary for examination by comparing the variety with the similar variety specified in the notice by the authority if a breeders test is conducted at an appropriate time. (c) It is recognized that the applicant can reliably submit reliable data for the characteristics for which the time when the investigation of the characteristics should be conducted is different from the time when the breeders test should be conducted.

6.3. Please provide information on reasons for non-acceptance of DUS test reports based on testing within the territory of your country/organization conducted at the breeders' premises:

At the moment due to Regulation, the DUS tests are conducted by National Designated Authority (NDA) or by another NDA

we do not conduct (DUS) variety testing

Our organization is entitled for conducting official DUS tests within the territory of our country only. Normally, we do all DUS tests within our Office only and do not use breeders' premises for that purpose. There were really single applications for a rare crops tested at breeders' premises but all the observations were done by our experts. From the legal point of view, breeders can not produce official DUS reports in our country themselves.

La ley establece que es el SAG el encargado de realizar las pruebas de DHE

There must be no conflict of interest. DUS trials are carried out under the supervision of the Agriculture and Food Board

for the granting of PBR we require official DUS-tests performed by the testing institute of that country.

DUS trials are conducted on own trial stations

EU-legislation does not allow this.

DUS Reports can only be accepted if provided by an entrusted examination office on behalf of the CPVO.

This is not the UK's current policy on DUS test reports. The UK only conducts DUS tests as entrusted centres so to provide and ensure unbiased examination.

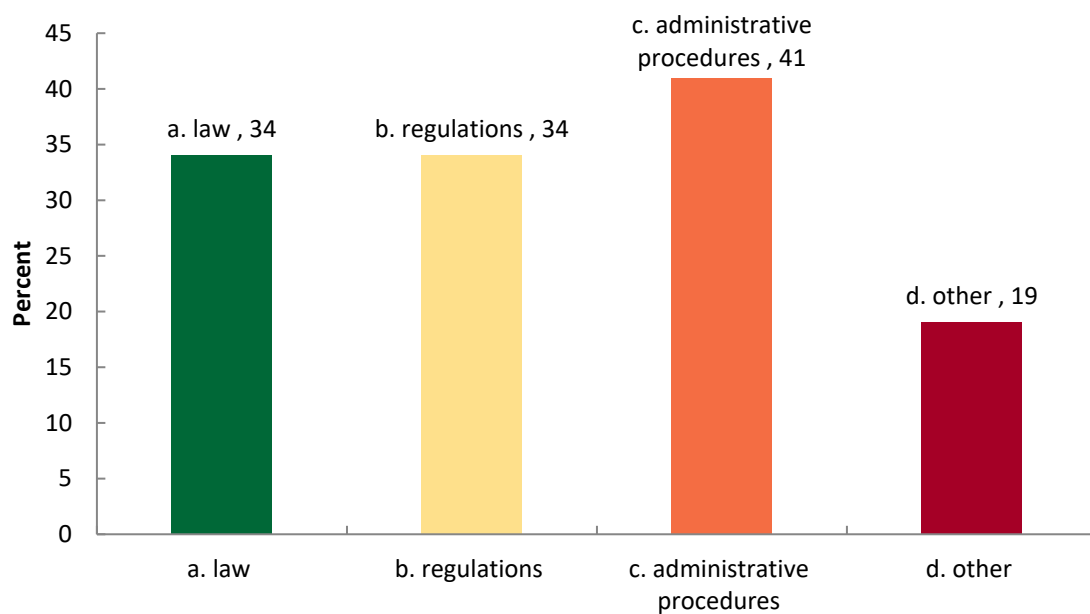
The legislation requires official testing

existen dos instituciones encargadas de realizar el DHE, El Instituto de Investigación Agropecuaria y la Universidad de Panamá en la Facultad de Ciencias Agropecuarias

These requirements for DUS is specified in the law

Norway has no official DUS-testing and is therefore not capable of supervising the breeders to do DUS-testing.

6.4. Please indicate if the conditions or the non-acceptance of DUS test reports based on testing within the territory of your country/organization conducted at the breeders' premises are specified in the:



Value	Percent	Count
a. law	34%	11
b. regulations	34%	11
c. administrative procedures	41%	13
d. other	19%	6

d. other	Count
EU regulation 2100/94	1
Not applicable	1
costs / knowledge	1
internal policies	1
not specified	1
office practice	1
Totals	6

Comments:

The PBR application shall be accomplished by reproductive material for testing unless the officer specify the test can be done in breeders premises due to another of reasons.

The Regulations set the framework with the specifics determined by practice notes

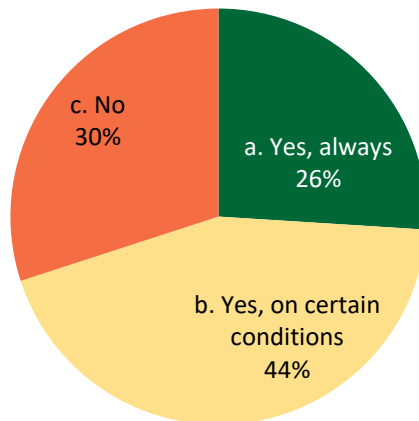
trials on breeders' premises are not necessary

The regulation states in article 54, that a variety shall undergo a technical examination by the competent authority in a Member State entrusted to do examinations regarding the specific species.

Breeder DUS test report from outside the country is regarded as a variety descriptor to be verified

existe un conejo que aprueba lo establecido por las instituciones que realizan el DHE emite nota par su resolución al Ministerio de Agricultura

7. Does your country/organization accept DUS test reports based on testing outside the territory of your country/organization conducted at the breeders' premises?



Value	Percent	Count
a. Yes, always	26%	11
b. Yes, on certain conditions	44%	19
c. No	30%	13
	Totals	43

7.1. Please list the conditions for acceptance of DUS test reports based on testing outside the territory of your country/organization conducted at the breeders' premises:

Same as response to previous question

Yes, If it is from the EU and if NDA conducts DUS at the breeders' premises

Only if the Authority concern was involved in data collection and report generation.

if the authority of that country so accepts and provides for the DUS examination. we accept the respective conditions of the testing station

We may take-over a DUS report done at breeders' premises in case it is issued by an official authority/examination office only.

the same conditions as specified in point 4

Guidance is located at <https://www.iponz.govt.nz/about-ip/pvr/technical-guidance/current/use-of-foreign-test-reports-for-dus-testing-in-new-zealand/>

The characteristics examined in the DUS test must be the same of the national test guideline.

if the examination is supervised by an official EO.

CPVO requirements must be fulfilled

if the reports were issued by EU member states authorities

by providing the results of the tests carried out to determine if the variety meets the requirement for DUS

An agreement with the breeder

In order to accept a test under these conditions, the variety must already be protected in the country where the test was performed, meaning that we would request the test results directly from the office that first protected the variety.

Yes, if the DUS authority that the report is being purchased from, deems the results of the DUS examination suitable for supporting PBR protection.

DUS test reports have to be issued by the official testing authority in charge for PVP.

South Africa does accept, however as a PVP authority we cannot comment on the matter. Certain DUS reports are accepted from outside the SA territory as agreed upon by Industry.

le rapport d'examen DHS doit être fourni par le service officiel homologué dont le pays est membre de l'UPOV

If the DUS-testing conducted at the breeders' premises is part of the official testing regime in the country in question, authorized the by the right authorities, we will accept it.

7.2. Please provide information on reasons for non-acceptance of DUS test reports based on testing outside the territory of your country/organization conducted at the breeders' premises:

Por Ley

If a variety has been registered in another country, the registrar has the right to order, at the expense of the applicant, a report on the results of the registration trials of the variety from the competent authority of such country.

For the granting of PBR we require official DUS-tests performed by the testing institute of that country.

DUS examinations must be conducted by a CPVO-accredited examination office.

DUS Reports can only be accepted if provided by an entrusted examination office on behalf of the CPVO.

The UK only accepts DUS reports from entrusted CPVO test centres so as to provide and ensure unbiased examination.

we do not have such cases for the time being.

Breeders DUS test report from outside the country is regarded as a variety descriptor to be verified

The legislation requires official testing

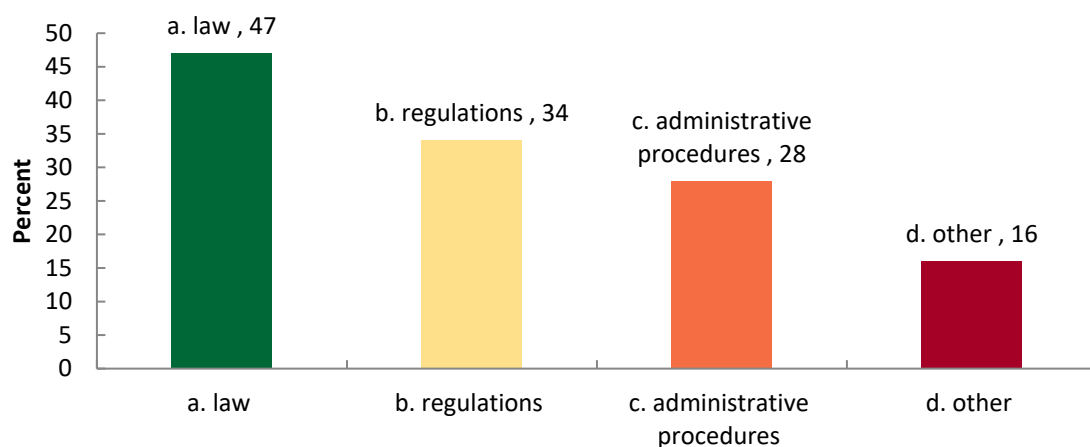
Must be conducted by an official authority as CPVO

These requirements for DUS is specified in the law

1. For legal reasons contemplated in our law (Regulation).

It does not mean that we will not consider the acceptance but we have not had any request for acceptance of breeder tested DUS reports. We may consider in the future.

7.3. Please indicate if the conditions or the non-acceptance of DUS test reports based on testing outside the territory of your country/organization conducted at the breeders' premises are specified in the:



Value	Percent	Count
a. law	47%	15
b. regulations	34%	11
c. administrative procedures	28%	9
d. other	16%	5

d. other	Count
Not applicable.	1
guidance or practice notes	1
internal policies	1
no case	1
none	1
Totals	5

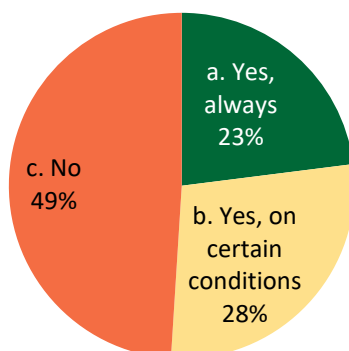
Comments:

The authority does not accept breeders reports.

The law requires a growing trial but does not exclude the option for use of foreign test reports

South Africa does accept, however as a PVP authority we cannot comment on the matter.

8. Does your country/organization accept to take over DUS test reports when the applicants could not submit plant material due to phytosanitary or other related issues?



Value	Percent	Count
a. Yes, always	23%	10
b. Yes, on certain conditions	28%	12
c. No	49%	21
	Totals	43

8.1. Please list the conditions for acceptance to take over DUS test reports when the applicants could not submit plant material due to phytosanitary or other related issues:

If plant material cannot be submitted then the applicant must sign a germplasm deposit waiver and make the germplasm available if requested.

The only condition is that the application will not be able to proceed to grant until plant material has been lodged with a genetic resource centre in Australia/NZ. We can still take over a DUS report when the plant material is not yet in Australia.

If the variety is not going to be local produced.

for genera or species out of the table *Triticum aestivum* L. emend Fiori et Paol. *Triticum durum* Desf. *Secale cereale* L. *xTriticosecale* Wittm. *Hordeum vulgare* L. sensu lato *Fagopyrum esculentum* Moench *Zea mays* L. *Avena nuda* L. *Avena sativa* L. *Pisum sativum* L. sensu lato *Lupinus luteus* L. *Lupinus angustifolius* L. *Glycine max* (L.) Merr. *Cucumis sativus* L. *Brassica oleracea* L. var. *capitata* L. f. *alba* DC. *Brassica oleracea* L. var. *capitata* L.f. *rubra* (L.) Thell. *Brassica oleracea* L. var. *sabauda* L. *Brassica oleracea* L. convar. *botrytis* (L.) Alef. var. *botrytis* *Brassica oleracea* L. var. *cymosa* Duch. *Brassica oleracea* L. var. *gemmifera* DC. *Brassica oleracea* L. var. *gongylodes* L. *Brassica pekinensis* (Lour.) Rupr. *Allium cepa* L. *Daucus carota* L. *Capsicum annuum* L. *Petroselinum crispum* (Mill.) Nyman ex A. W. Hill *Raphanus sativus* L. *Brassica rapa* L. *Lactuca sativa* L. *Beta vulgaris* L. ssp. *vulgaris* var. *conditiva* Alef. *Solanum lycopersicum* L. *Cucurbita pepo* L. *Anethum graveolens* L. *Phaseolus* L. *Allium sativum* L. *Solanum tuberosum* L. sensu lato *Beta vulgaris* L. ssp. *vulgaris* var. *alba* DC. *Linum usitatissimum* L. *Brassica napus* L. ssp. *oleifera* (Metzg.) Sinsk *Brassica campestris* L. ssp. *campestris* *Fragaria* L. *Ribes rubrum* L. *Ribes nigrum* L.

This is determined variety by variety. It is not possible to set conditions for all situations.

The TQ shall be comply with the UPOV's TQ.

In order to accept a test under these conditions, the variety must already be protected in the country where the test was performed, meaning that we would request the test results directly from the office that first protected the variety.

For non-seed propagated crops (i.e. vegetatively reproduced) no plant material is needed.

The Ministry may use results of technical examination in DUS test of a variety obtained only in other UPOV member.

Not applicable to South Africa. This may be applicable if and when our country is requested by another country/organisation to perform a DUS test on their behalf and material/seed are required for this purpose.

l'obteneur doit présenter un engagement de fournir le matériel végétal en cas de besoin

For plant genus or species of the applied variety that are also bred in our country, foreign DUS reports are not accepted in principle. However, there is room for our country to consider the acceptance of a DUS Report for a foreign variety with problems of importing plant material if the counterparty country is considering the acceptance of a DUS Report for the our variety applied to that country having problems of plant material importation. In such a case, our country would need to consider whether the DUS report of that particular variety has been conducted an evaluation on the characteristics shown in the our national TG based on the UPOVTG for the specie, the effect on the expression of the characteristics and on the reference collection due to the difference in growing environment between our country and the place where the cultivation tests of the report were conducted, and the degree of development of the variety in our country to decide whether to accept the DUS report.

8.2. Please provide information on reasons for non-acceptance to take over DUS test reports when the applicants could not submit plant material due to phytosanitary or other related issues:

Response

Because the national authority does not conduct the DUS test"

if no material can be submitted, no DUS can be made by the testing authority either

There is a legal obligation of providing plant material for official DUS test. If providing of plant material is not possible for the first season due to legal/phytosanitary issues postponement of test may be granted.

La ley establece que la muestra de la variedad DEBE estar en el pais

To Facilitate the protection.

DUS test no possible

No, until the problem of health certificates is resolved and samples of experiments are obtained intact, and this is done by the relevant committee in the Sultanate

The applicant is obliged to make the propagating materials necessary for testing the variety candidates available to the NÉBIH free of charge by the time and place specified by the NÉBIH - in the case of a variety originating from a third country, customs-cleared.

the applicant must submit appropriate plant material

According to the EU Plant Health regulation 2016/2031 article 8 it is possible to import plant material for official testing, scientific or educational purposes, trials, varietal selection or breeding. It requires an approval as quarantine station, but it is possible to submit plant material.

Affaire juridique

Not yer applicable

Suitable Plant Material (material of satisfactory health status) must be provided in order to carry out a DUS Examination.

Limitations on plant material for DUS testing is no, by itself, justification for triggering a DUS report take-over.

we do not takeover DUS reports for the time being

ACCORDING TO OUR REGULATIONS, SEED OR PLANT MATERIAL CANNOT BE ENTERED WITHOUT THE AUTHORIZATION OF THE COMPETENT AUTHORITY.

Materials with Phytosanitary issues are not allowed to enter the country

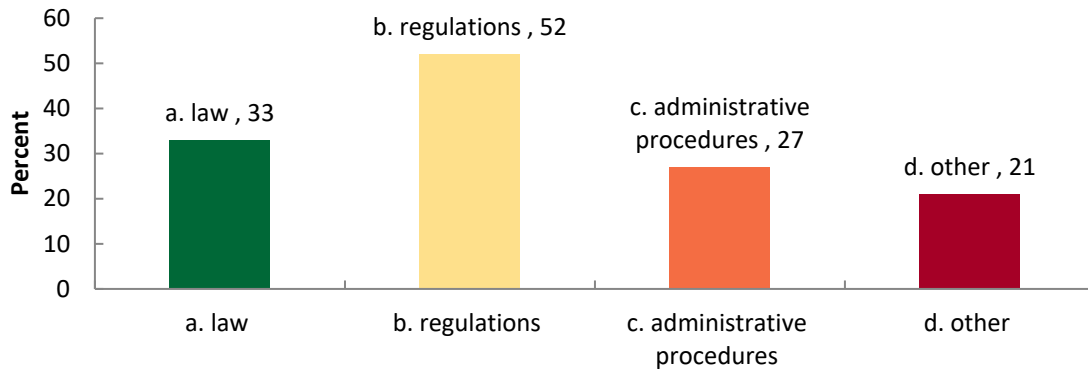
Supply of plant material is the sole responsibility of the applicant

el instituto de Investigación Agropecuaria de Panamá es la encargada de la solicitud para la realización del DHE

the variety must be free from any pests or diseases and this is as in all countires

We accept DUS reports when they are submitted under the responsibility of a competent authority of a UPOV member country.

8.3. Please indicate if the conditions or the non-acceptance to take over DUS test reports when the applicants could not submit plant material due to phytosanitary or other related issues are specified in the:



Value	Percent	Count
a. law	33%	11
b. regulations	52%	17
c. administrative procedures	27%	9
d. other	21%	7

d. other	Count
NA	1
internal policies	1
law to proceed to grant- but not to take over a DUS report	1
none	1
por medio de homologación un país miembro	1
practice and precedent	1
we do not takeover DUS reports for the time being	1
Totals	7

Comments:

Response

United States PVP Act and Regulations.

There is no requirement for plant material to be submitted before Australia can take over an overseas DUS report, however there is legislative requirements for plant material to be submitted at an Australian/NZ Genetic Resource Centre before an application can proceed to grant.

As far as I am aware, there was no such a situation within our examination office identified since many years.

Practice is determined by species requirements and must be consistent. Each application/variety is considered separately and the most suitable DUS testing procedure followed

par arrêtés et circulaires

failure to provide material for maintenance of variety leads to cancellation under s 29 of the Act

Details in relation to suitable DUS Trial Material are specified in the S2 gazette published by the CPVO. "The purpose of the S2/S3 Publication is to provide applicants with a consolidated version of the closing dates for applications and the submission requirements for plant material per species and according to the examination offices which are currently entrusted to carry out the DUS technical examination on behalf of the CPVO"

At the moment this survey is being filled, the case previously described has not presented itself.

Phytosanitary requirements are provided for in other legislations.

Requisitos para la ejecución del ensayo por parte de las entidades a realizar el DHE

When there are phytosanitary barriers to the shipment of plant material by the applicant, we, as the competent authority, authorize the applicant to take charge of the DUS examination at their facilities under the following conditions: 1. Use the UPOV DUS examination guideline or in exceptional cases the national guideline of a UPOV member country, if UPOV does not have a guideline for a certain crop. 2. The DUS examination is carried out under the specifications of document TGP / 6, Section 3: Declaration relative to the conditions of the examination of a variety based on tests carried out by the breeder or on his behalf.

Please provide information on other related issues, if applicable:

Response

NZ has very strict biosecurity requirements and importation of plant material can be complicated and prolonged. The national DUS Testing protocols must allow for this and does include the possible use of foreign test reports.

If South Africa is required to perform DUS evaluations on behalf of another country, the Nagoya Protocol would be applicable.

9. Are there developments that would increase your acceptance of DUS reports in the future?

Response
Yes, the conversion of the 27 remaining seed species to the UPOV TG Characteristics would make it possible for the United States Plant Variety Protection Office to accept DUS reports for all species.
Yes, It is likely that Mexico will update its national law, which could lead to an increase in the use of the existing DUS test
Australia is currently undertaking a PBR reform program however no recommendations have been finalised yet.
Till now we had no problem with Take-over reports,
Increase in use UPOV test guide line by member countries and reciprocate acceptance of DUS reports.
Yes, a better overview (more transparency) of exactly which testing station or authority is responsible for what
No, we expect to have rather stable level of DUS reports take-overs in the future.
Estamos trabajando en la modificación de la ley vigente para adherir a UPOV 91, en el cual se considera la cooperación en materia de examen
We accept all DUS reports made by competent authorities of a Member State of UPOV.
A serious problem in the acceptance of DUS reports in the future, including those from Belarus, prepared in accordance with the UPOV documentation is the requirements of other authorized organizations of the UPOV member countries to conduct mandatory equivalence procedures, use the same reference varieties, etc. Of course, the question lies in the plane of receiving payments for DUS reports.
Initiatives such as E PVP will potentially make it easier to track report availability and assist the take over process. Reviewing the content of TGP5 model test report could be helpful to ensure all the key information is in the report
yes.
A data base where we could check where the variety was tested could help to improve the cooperation in DUS test.
Can't name them at the moment
At this moment we do not see any development which would increase the acceptance of DUS-reports in future.
To define more precisely the terms when the examination is carried out in the breeder's premises.
No
Yes, by further activating cooperation with the UPOV in clarifying ways to use the tests and their uses and spreading awareness to make good use of them.
No such development is planned.
no

This will depend on the corresponding EU-legislation.

non

We accept DUS report under the law

A memorandum of cooperation would need to be agreed between the CPVO and other UPOV member.

The UK are in the early stages of creating a 5-year Plant Varieties and Seeds strategy. This strategy will cover a number of topics but will likely include the UK's approach to DUS testing. As this early stage, we do not know what, if any, impact the strategy will have on the UK's approach to DUS testing.

NO

AT THE MOMENT IT DOES NOT HAVE

Our law allows for the acceptance of any DUS report performed according to the UPOV standards.

Increased acceptance and use of UPOV TGs when conducting DUS trials.

Availability of UPOV Technical Guidelines for as more plant species, as it possible.

Currently no development in place

No

1. Consultations with local industries might increase our acceptance of certain DUS reports. 2. Cooperation and improved communication with other PVP authorities.

puede ocurrir

no

Disposer d'une large collection de référence Avoir une expertise en l'espèce concernée

In case that that the countries treat each other reciprocally: it means that, the Egyptian Protection Office take over the reports of DUS from the member states of UPOV, so these countries must consider the results from the Egyptian Protection Office

there is'n one

Could depend on EU regulation

not as I can think of

None by the moment.

Start off promotion of cooperation in the examination of rare plant varieties with a small number of national varieties in market. For plant species that have been bred in our country and have a large number of varieties, in addition to the technical coordination and harmonization, we should further aim to improve the consistency of characteristics between our country and overseas by using the same standard varieties as well as conducting ring tests.