

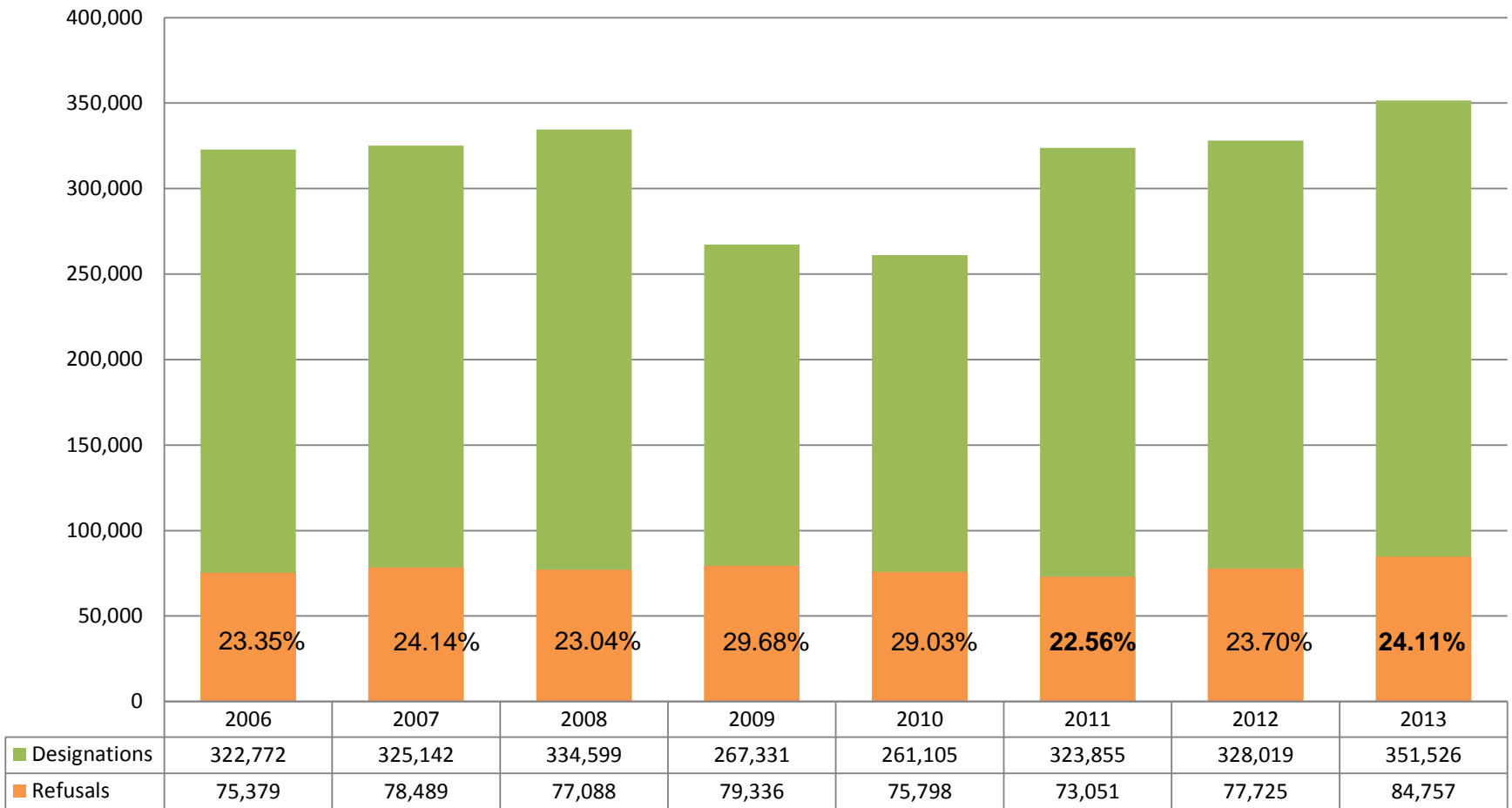
■ Information on provisional refusals

Madrid Working Group Roundtable

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Geneva
October 24, 2014

Estimated Refusal rate



Refusals by designated Contracting Party

Contracting party	2009	2010	2011	2012	2013
United States of America	13,902	13,648	14,959	14,938	17,629
Japan	7,890	9,059	5,936	7,724	7,890
Russian Federation	6,319	6,216	5,671	5,649	6,765
Republic of Korea	5,728	5,164	7,475	5,996	6,478
China	7,532	8,846	7,613	8,894	6,435
Australia	2,154	2,472	3,290	3,028	3,455
Singapore	2,198	2,446	2,424	3,760	3,143
Turkey	1,712	1,710	1,162	1,105	2,393
European Union	1,697	1,703	1,876	2,189	2,340
Norway	2,365	1,904	2,062	2,370	2,170
Others	27,839	22,630	20,583	22,072	26,059
Total	79,336	75,798	73,051	77,725	84,757

Background

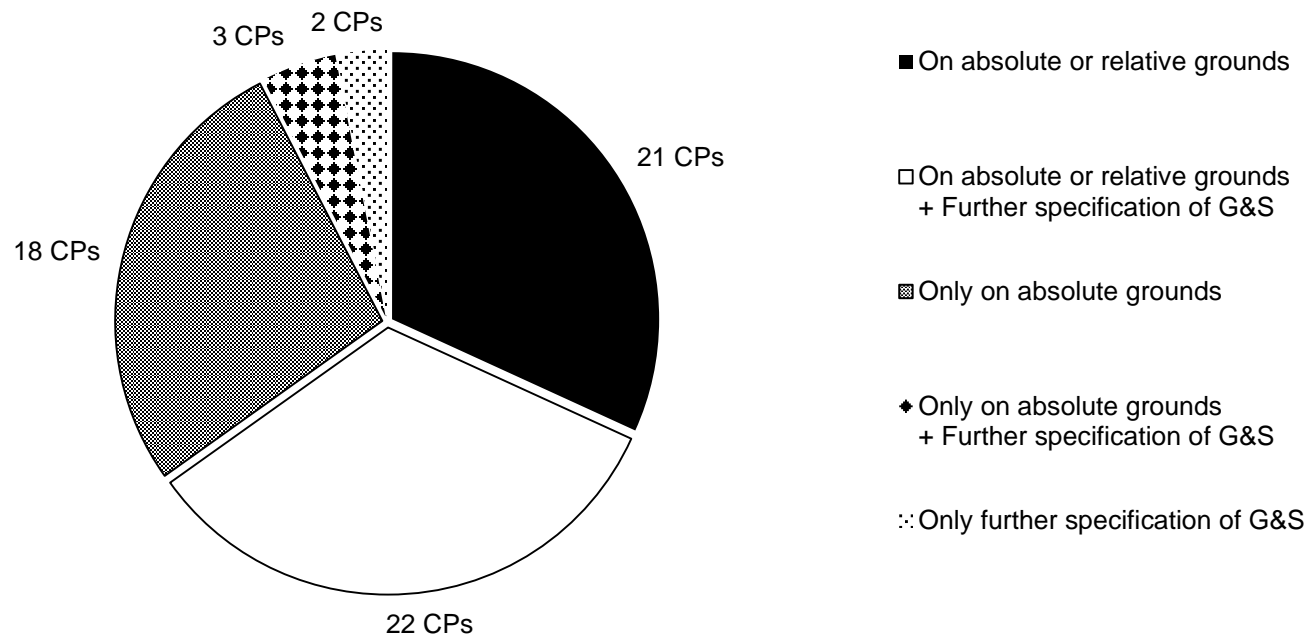
- The IB often receives complaints from users of the Madrid System concerning provisional refusals (PRs) from the Offices of the designated Contracting Parties (DCPs)
- The users complain about difficulties in understanding PRs
- Offices provide for different time limits to respond
 - Some Offices provide only for short time limits
 - Offices calculate the time limits differently
- The IB prepared a questionnaire on PRs, submitted to the Contracting Parties on April 15, 2014
- 66 CPs replied to the questionnaire
- The IB has prepared a document presenting the findings resulting from those replies

Information extracted from the replies to the questionnaire

Grounds for provisional refusal (1)

■ All 66 CPs perform an *ex officio* examination

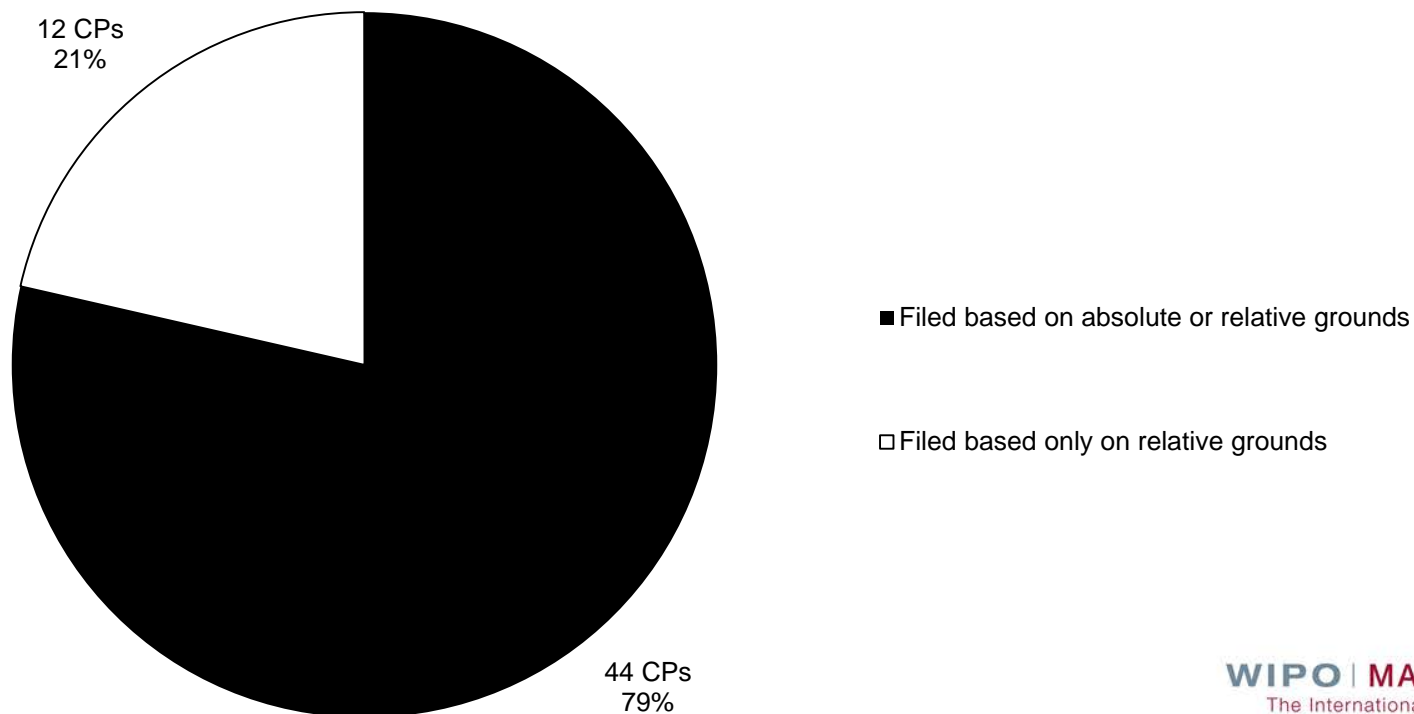
PRs based on examination - I.1(a)



Grounds for provisional refusal (2)

■ Provisional refusals based on oppositions

PRs following an opposition procedure - 1.1(b)



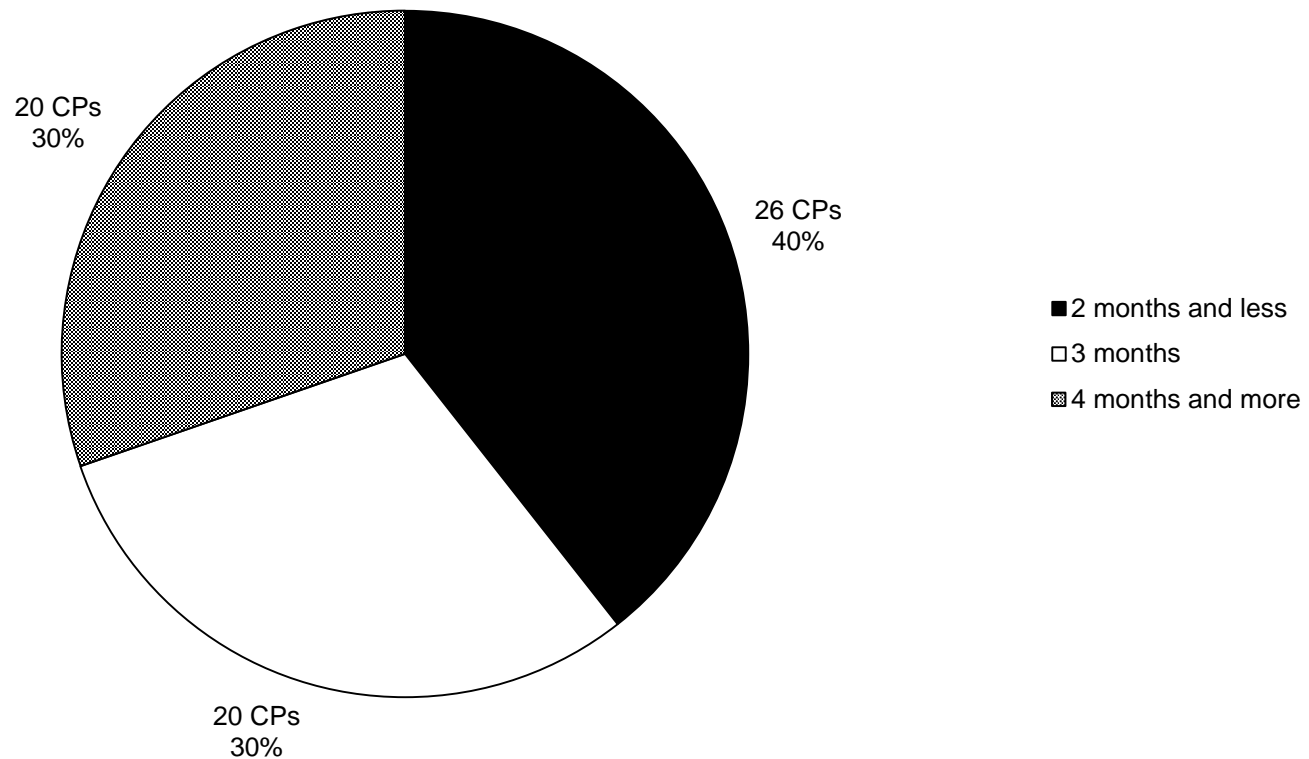
Time limit for provisional refusal, Rule 17(2)

■ Rule 17(2) “A notification of provisional refusal shall contain or indicate:

(vii) the time limit, reasonable under the circumstances, for filing a request for review of, or appeal against, the ex officio provisional refusal or the provisional refusal based on an opposition, preferably with an indication of the date on which the said time limit expires, and the authority with which such request for review, appeal or response should be filed, with the indication, where applicable, that the request for review, the appeal or the response has to be filed through the intermediary of a representative whose address is within the territory of the Contracting Party whose Office has pronounced the refusal”

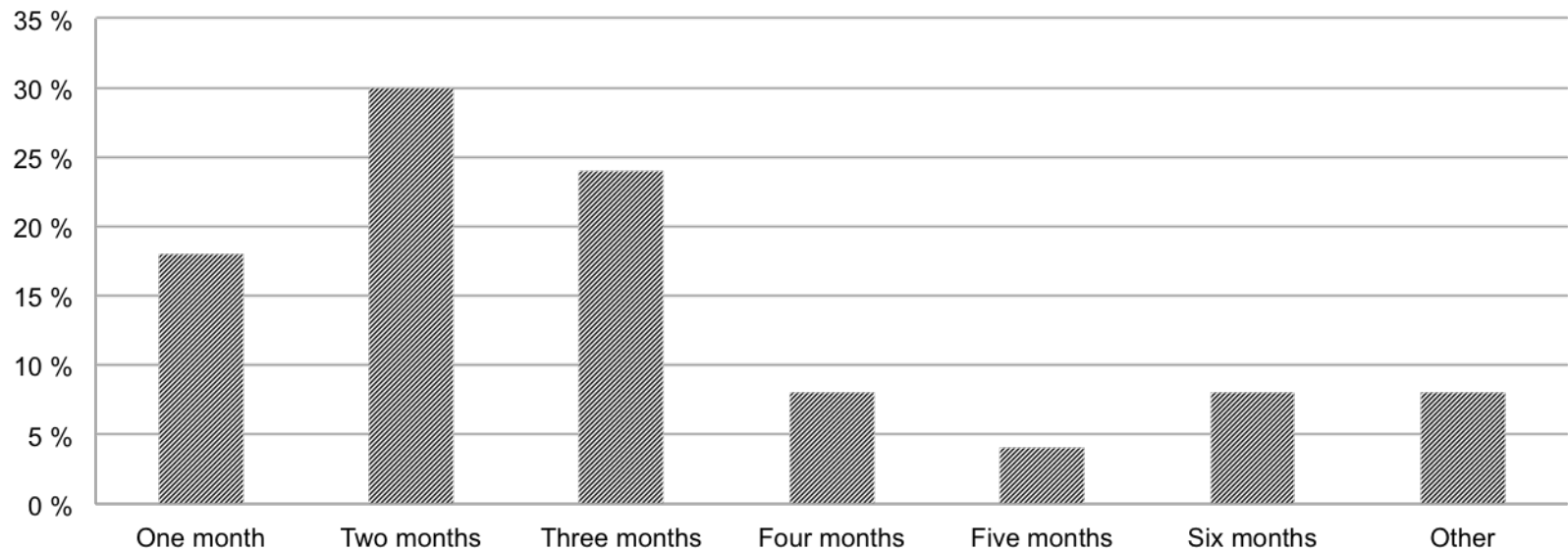
Time limit to request a review or file an appeal against a PR (1)

Time limit after ex-officio provisional refusal - II.1



Time limit to request a review or file an appeal against a PR (2)

Time limit after PR based on opposition or observation - II.2

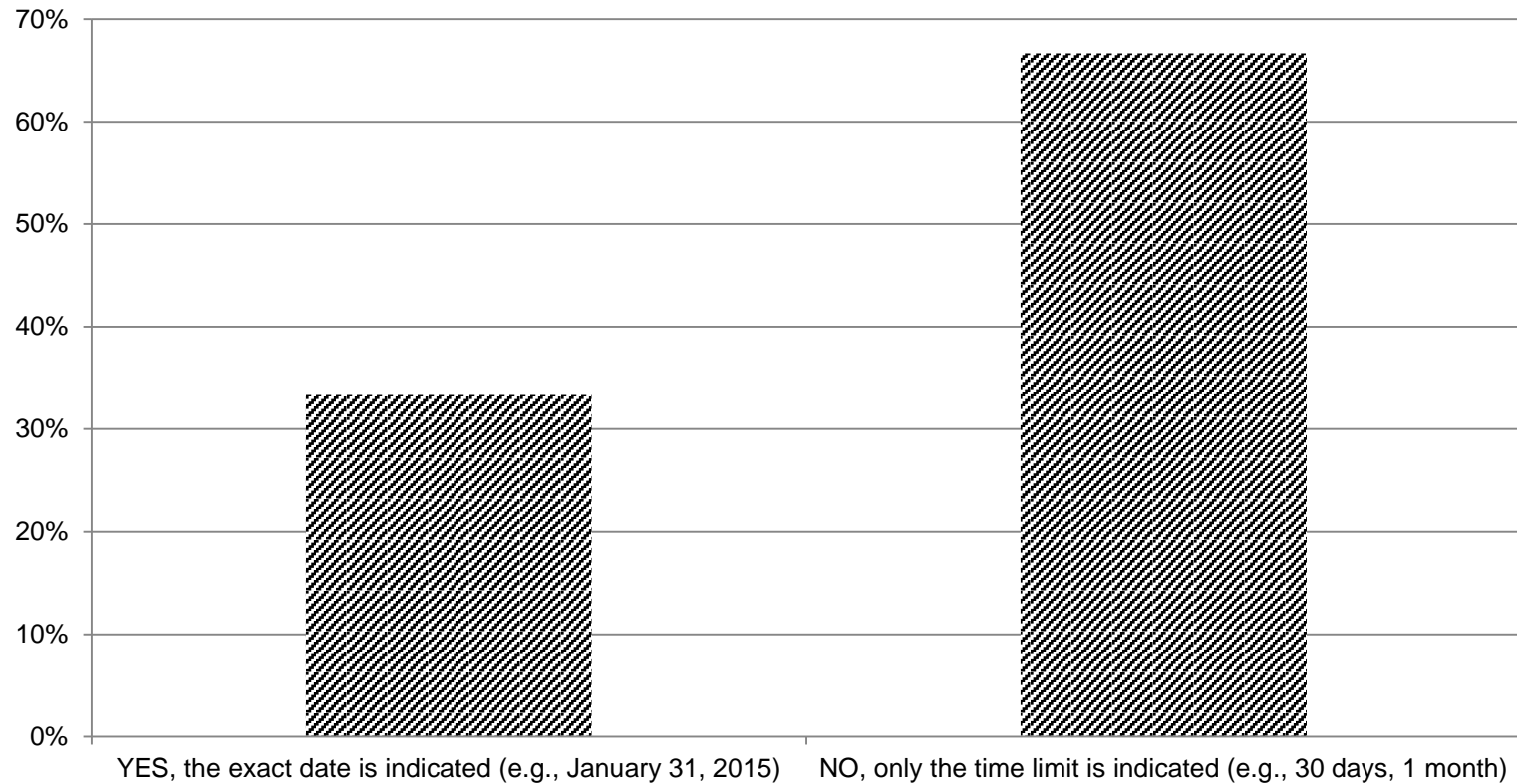


24 CP (48%*) ≤ 2 months

* 50 CP replied to item II.2

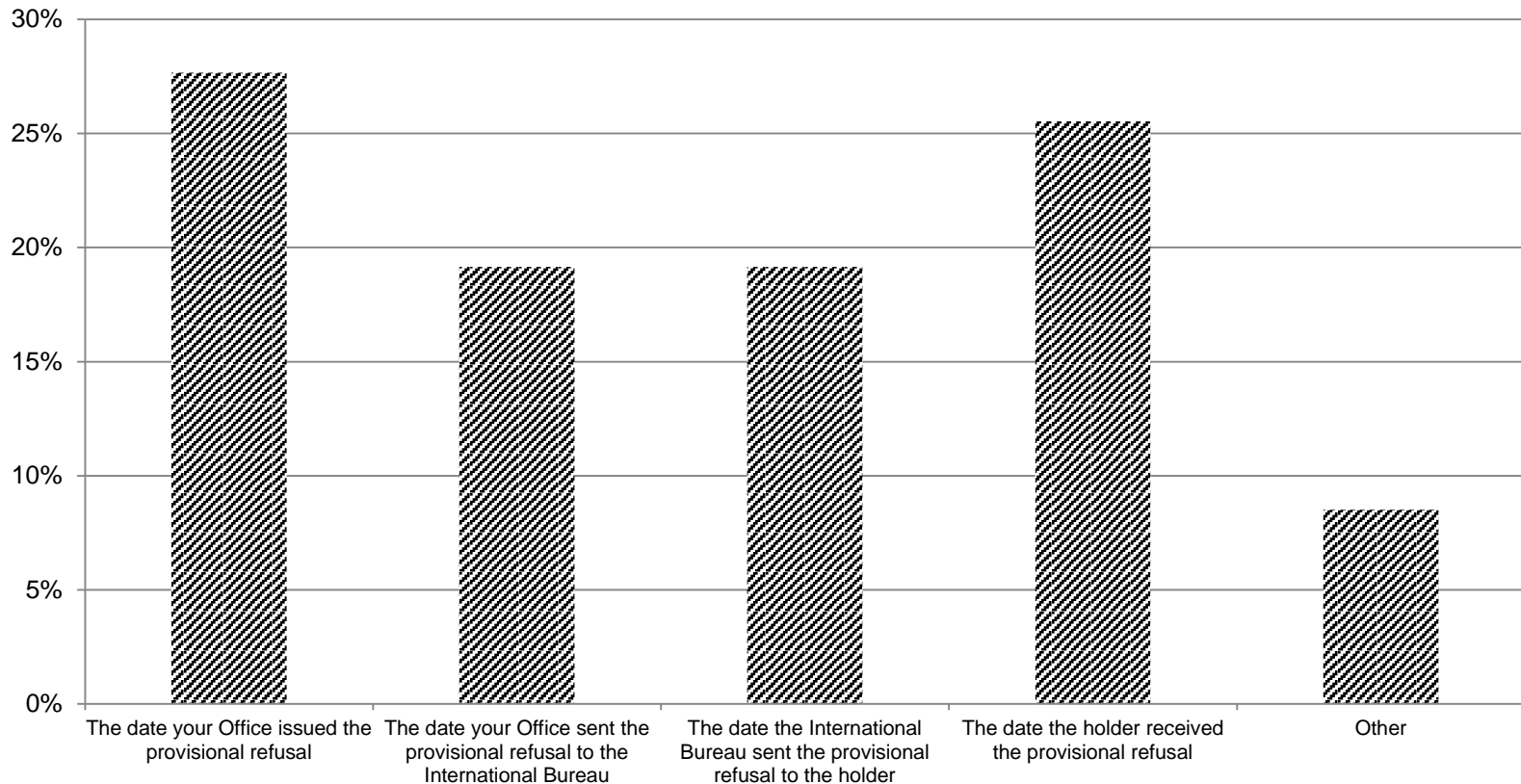
Calculation of time limits (1)

Exact date of expiry indicated - III.1



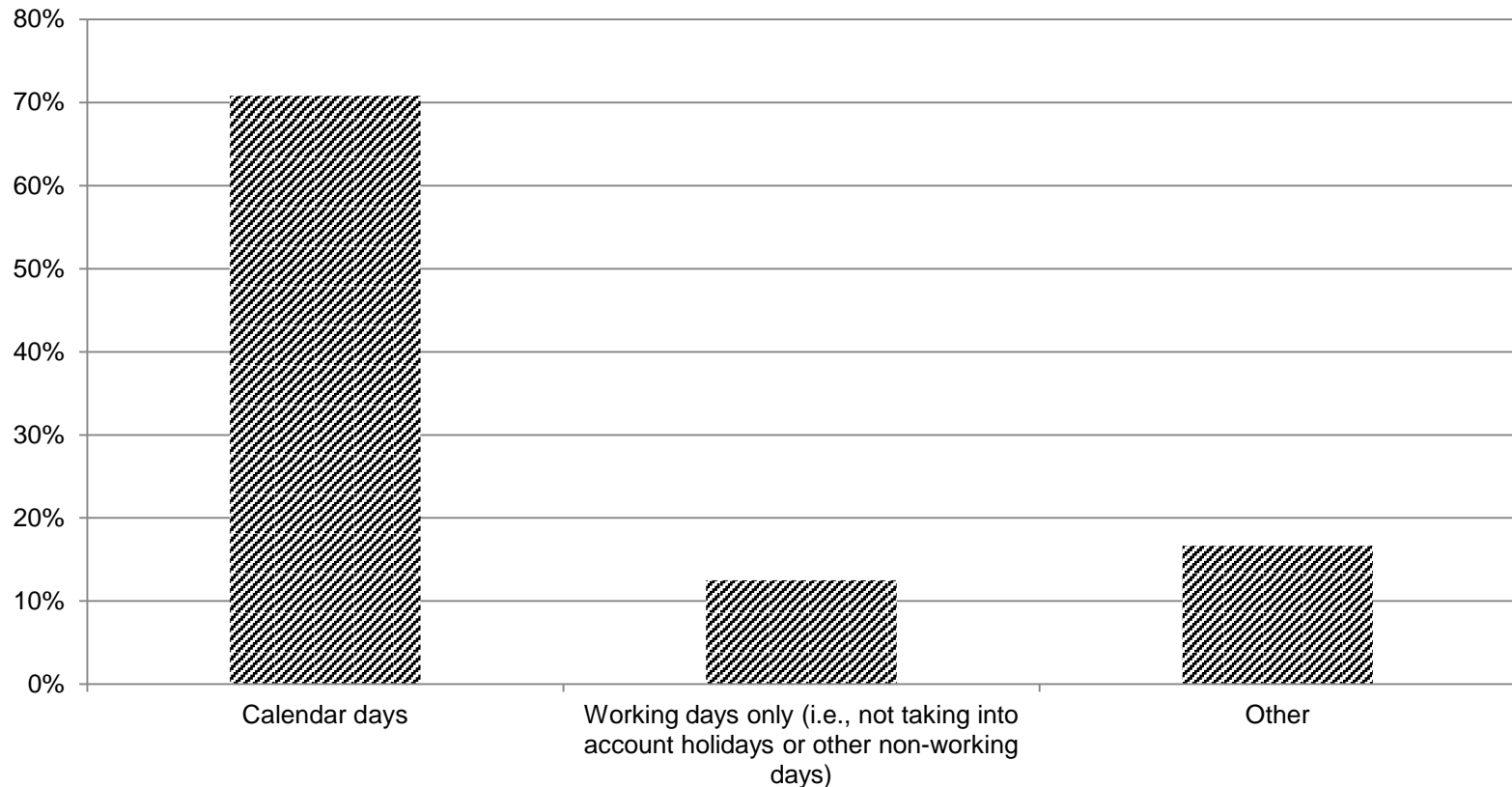
Calculation of time limits (2)

If NO, what determines the start date? - III.1(2)



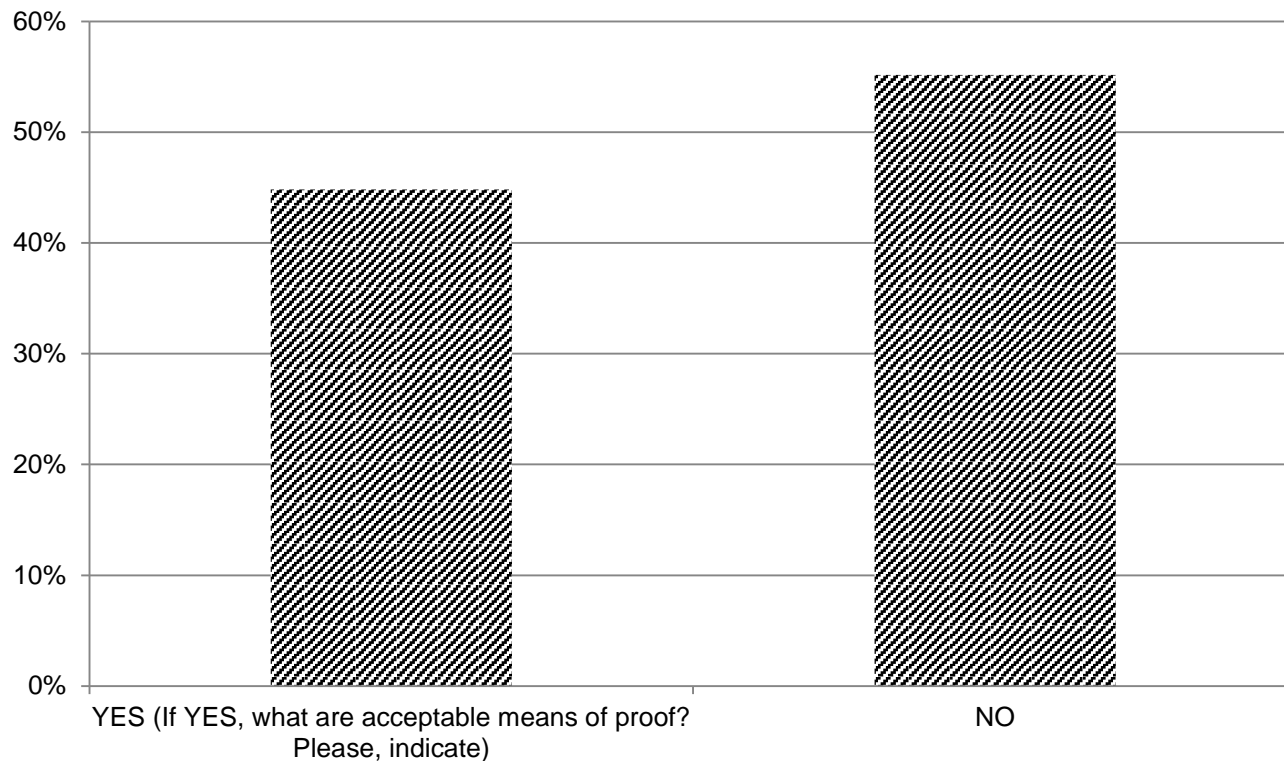
Calculation of time limits (3)

How does your Office calculate time limits? - III.2



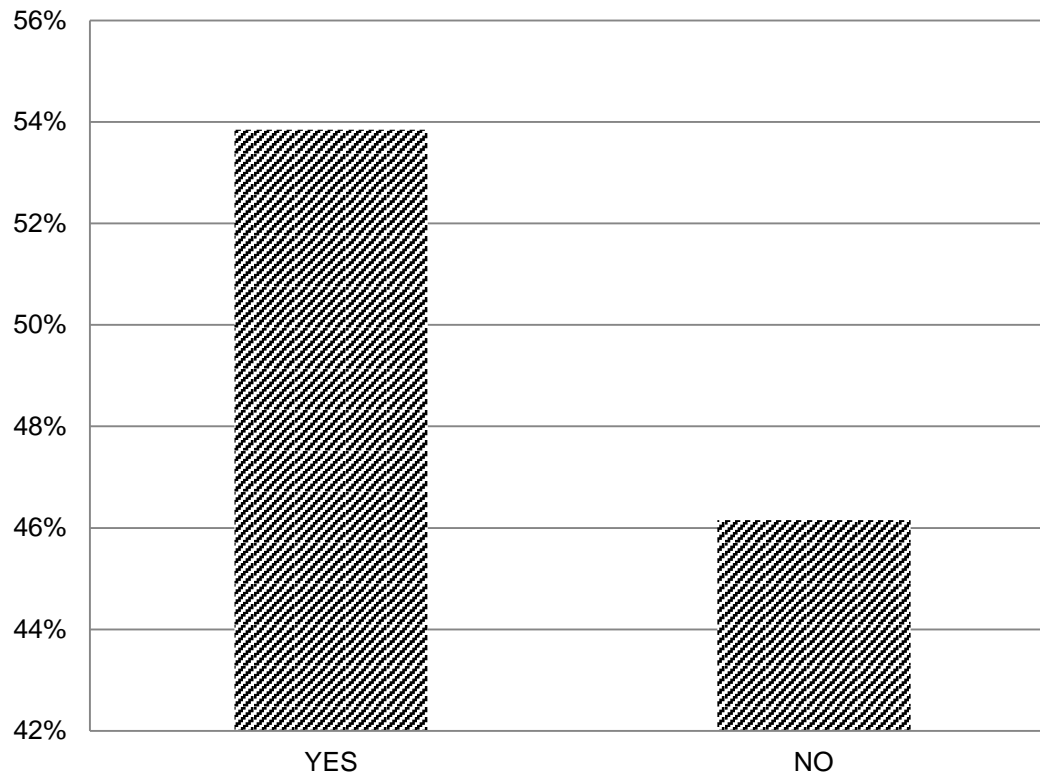
Calculation of time limits (4)

If time limit starts when the holder received the notification, do you require proof? - III.3



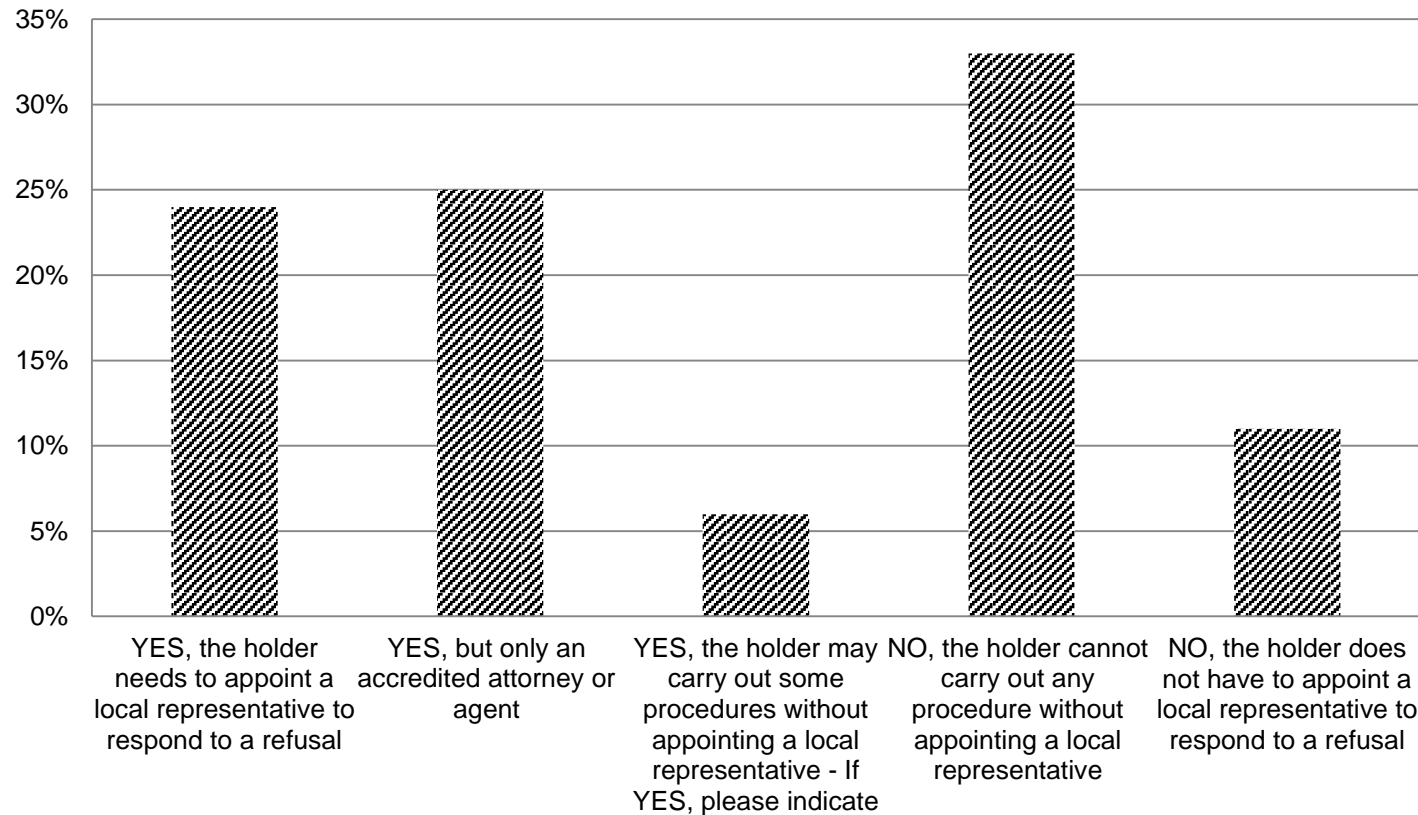
Requirements to request a review or file an appeal against a PR (1)

Requirement to indicate a local address - IV.1



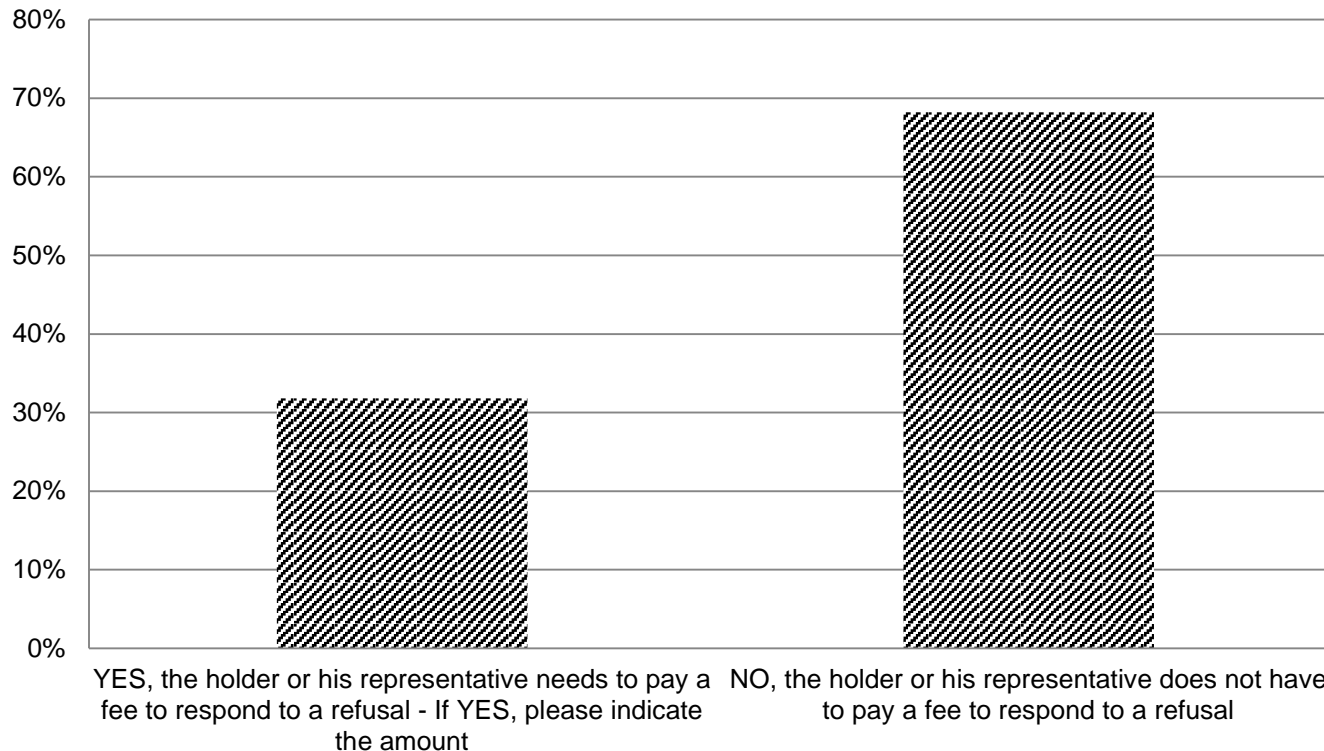
Requirements to request a review or file an appeal against a PR (2)

Need to appoint a local representative - IV.2



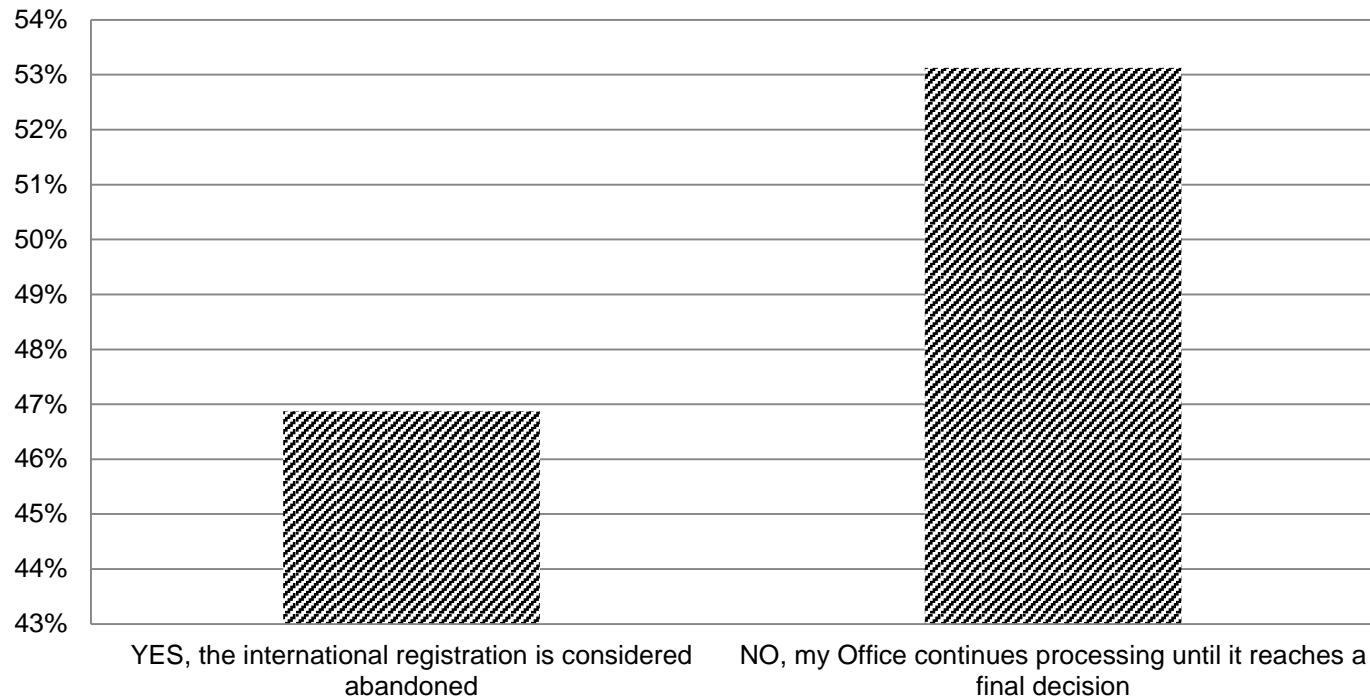
Requirements to request a review or file an appeal against a PR (3)

Need to pay a fee to respond - IV.3



Failure to meet the time limit to request a review or file an appeal against a PR

Would failure to meet the time limit result in abandonment? - V.1



Relief measures in case of failure to comply with time limits:

- 59 CPs provide one or more relief measures (item VI.1)
- Extension requested prior to the expiration of the time limit: 53
- Extension requested after the expiration of the time limit: 18
- Continued processing: 18
- Reinstatement of rights: 30

Information on the communication by the Offices of Contracting Parties, processing by the International Bureau and transmission to the holder of provisional refusals

Means of Communication of the PR by the DCP

- How CPs calculate time limits may have a significant effect on the time the holder actually has to respond to the Office of the concerned CP
- Only where the time limit runs from the date of receipt by the holder, will the manner in which the CP communicates the PR to the IB have no effect on that period (12 CP out of 66)
- Jan-Jul 2014: The IB received 4,687 notifications of PR electronically (70.2%)

Formality examinations by the IB

Average processing time of regular PRs (in days):

July 2012	August 2012	September 2012	October 2012	November 2012	December 2012
8.7	11.1	11	7.8	6.3	5

January 2013	February 2013	March 2013	April 2013	May 2013	June 2013
10.8	5.3	5.7	6.9	7	6.5

July 2013	August 2013	September 2013	October 2013	November 2013	December 2013
8.5	7.8	9.8	8.1	12.4	11

January 2014	February 2014	March 2014	April 2014	May 2014	June 2014
16.3	13.9	10.9	8.4	13.3	6.7

Average: 9.1 days

Maximum: 16.3 days

Priority in the IB of PR notifications sent by CPs with shorter time limits

Communications between the IB and the holder/representative

- Where the holder/representative has opted for electronic communication, the transmission of the PR would not have effects on the time the holder has to reply
- If the holder/representative receives the notification by postal service, this may affect the period to react to the PR
- Average time when sent by mail (registered mail):
 - Europe: 2 - 4 days
 - United States of America: 4 - 7 days
 - Rest of the world: 4 - 10 days

Appointments of local representatives

- 57 out of 64 Offices (89%) require the holder to appoint a local representative (item IV.2) to respond to a PR
- This requirement may further affect the time left to react to the PR

Issues for consideration

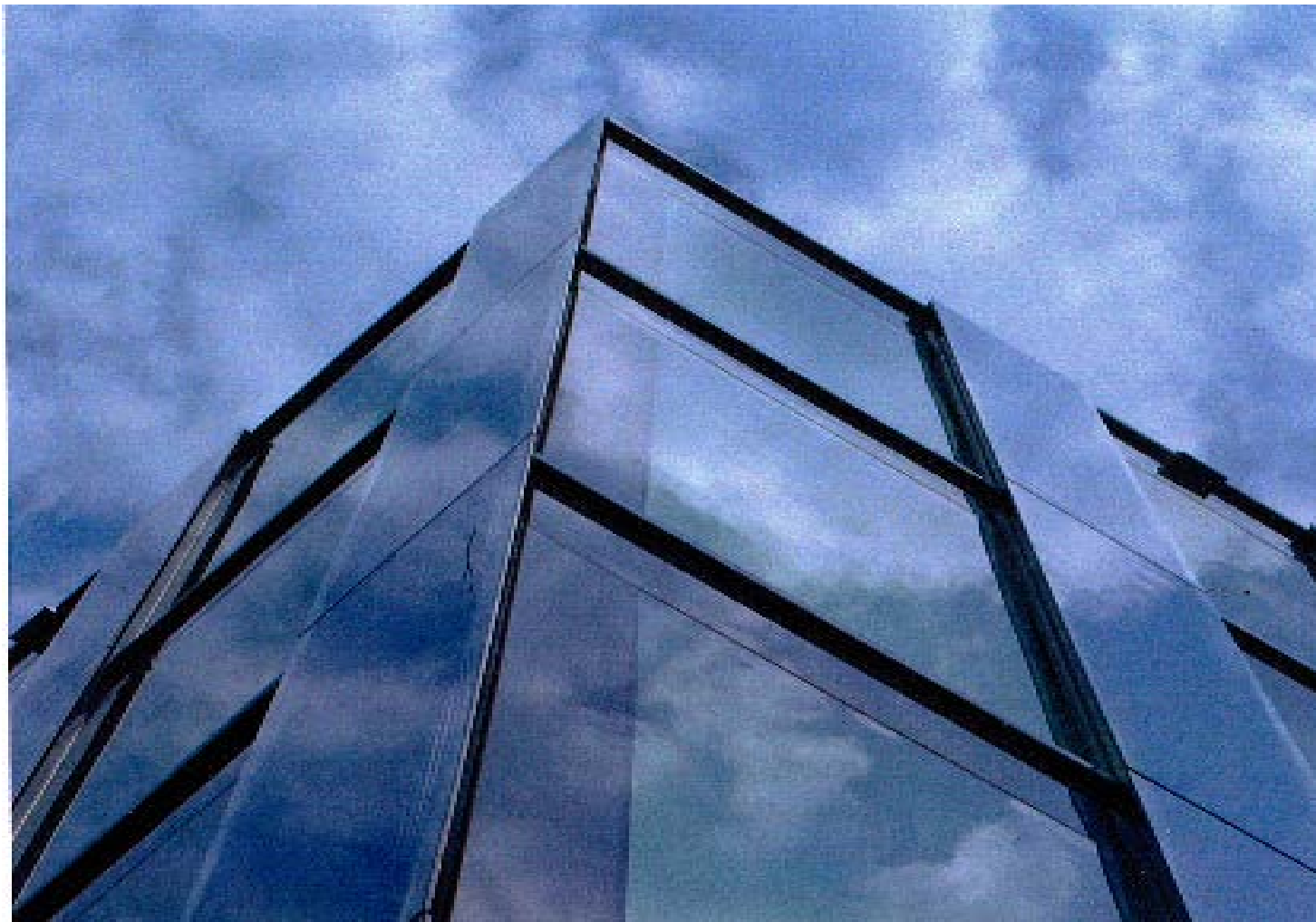
Issues for consideration (1)

- Time limits provided by CPs are diverse, ranging from 15 days to 15 months, and they are differently calculated
- 39% of the CPs provide time limits of two months or less
- The time the holder actually has to react may be shortened by:
 - Expiry of the time limit set out in the notification or to be calculated from the date of receipt by the holder
 - Way in which the notification is sent to the IB
 - Actual processing time by the IB
 - Possible requirements to appoint a local representative
 - Way in which the IB communicates with the holder or his representative

Issues for consideration (2)

- Would it be useful for the Madrid System if the time limits are harmonized or simplified?

- Possible harmonization?
 - Length of the time limit
 - Calculation of the time limit
 - Electronic communication, by Contracting Parties and by holders or representatives
 - Requirement of appointment of representatives
- Centralized procedure?
 - One time limit set out in the Common Regulations?



Thank you