

**Council for Trade-Related Aspects
of Intellectual Property Rights**

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**MAIN DEDICATED INTELLECTUAL PROPERTY LAWS AND
REGULATIONS NOTIFIED UNDER ARTICLE 63.2
OF THE AGREEMENT**

SWEDEN

Addendum

The present document reproduces the text¹ of the Act of 1 April 2004 (No. 2004:160), Amending the Act on the Protection of Plant Breeders' Rights (1997:306), as notified by Sweden under Article 63.2 of the Agreement (see document IP/N/1/SWE/1/Add.1).

**Conseil des aspects des droits de propriété
intellectuelle qui touchent au commerce**

**PRINCIPALES LOIS ET RÉGLEMENTATIONS CONSACRÉES À LA
PROPRIÉTÉ INTELLECTUELLE NOTIFIÉES AU TITRE
DE L'ARTICLE 63:2 DE L'ACCORD**

SUÈDE

Addendum

Le présent document contient le texte¹ de la Loi du 1^{er} avril 2004 (n° 2004:160), portant modification de la Loi sur la protection des droits des obtenteurs de variétés végétales (1997:306), notifiée par la Suède au titre de l'article 63:2 de l'Accord (voir le document IP/N/1/SWE/1/Add.1).

**Consejo de los Aspectos de los Derechos de Propiedad
Intelectual relacionados con el Comercio**

**PRINCIPALES LEYES Y REGLAMENTOS DEDICADOS A LA PROPIEDAD
INTELLECTUAL NOTIFICADOS EN VIRTUD DEL PÁRRAFO 2
DEL ARTÍCULO 63 DEL ACUERDO**

SUECIA

Addendum

En el presente documento se reproduce el texto¹ de la Ley de 1° de abril de 2004 (N° 2004:160), por la que se modifica la Ley de Protección de los Derechos de los Obtentores (1997:306), que Suecia ha notificado en virtud del párrafo 2 del artículo 63 del Acuerdo (véase el documento IP/N/1/SWE/1/Add.1).

¹ In English only./En anglais seulement./En inglés solamente.

**The Government Offices
The Ministry of Justice
Division for Intellectual Property and Transport Law
Henry Olsson**

May 2004

**Act
Of April 1, 2004 (No 2004:160)
Amending the Act on the Protection of Plant Breeders' Rights (1997:306)**

In accordance with the decision by Parliament it is prescribed, as regards the Act on the Protection of Plant Breeders' Rights (1997:306) *that* Chapter 7, Article 4, shall read as follows, and *that* one new Article shall be inserted in the Act, numbered Chapter 7, Article 3 a, and reading as follows.

Chapter 7

Article 3 a

The holder of a patent on a biotechnical invention who can not exploit it without infringing a prior plant breeders' right, may obtain a compulsory license to exploit the plant variety that is protected by the plant breeders' right. Such a license may be granted only if the applicant proves that the invention constitutes a significant technical progress of considerable economic interest in relation to the plant variety.

If the holder of a plant breeders' right obtains a compulsory license in a patent, the patent holder is entitled to obtain, on reasonable conditions, a compulsory license (cross-license) to exploit the protected plant variety.

Provisions on the possibility for a plant breeder to obtain, on certain conditions, a compulsory license to exploit an invention protected by a patent, are contained in Article 46 a of the Patents Act (1967:837).

Article 4

A compulsory license may be granted only to a person who can be assumed to exploit the plant variety in an acceptable manner and in accordance with the license. The applicant must also prove that he or she has unsuccessfully turned to the holder of the plant breeders' right to obtain a contractual license on reasonable conditions.

A compulsory license does not prevent the holder of the plant breeders' right from exploiting himself or herself the plant variety or to grant licenses. A compulsory license may be assigned to someone else only together with a business where it is exploited or intended to be exploited. In respect of such compulsory licenses as mentioned in Article 3 a, first Paragraph, also applies that the license may be assigned only together with the patent to which the license applies

1. This Act enters into force on May 1, 2004.
2. The new provisions apply also to plant breeders' rights, which have been granted or applied for before the entry into force.
