

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

Sweden

The present document reproduces¹ the text of the following laws and regulations, as notified by Sweden under Article 63.2 of the Agreement (see document IP/N/1/SWE/1):

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- Regulation (1970:495) on Foreign Trademarks, Etc.	2
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¹In English only

THE MINISTRY OF JUSTICE
Stockholm

REGULATION (1970:495) ON FOREIGN TRADEMARKS, ETC.

Section 1. Anyone not conducting business activities in Sweden and who applies for registration of a trademark in Sweden, shall not be requested to supply such a certificate (certificate of country of origin) as mentioned in Article 28 of the Trademarks Act where his country of origin is

1. a State party to the Paris Convention for the Protection of Industrial Property, of March 20, 1883, as revised at Lisbon in 1958,
2. a State which is bound by Articles 1 to 12 of the Paris Convention as revised at Stockholm in 1967, or
3. one of the following States, namely Bresil, Canada, Iceland, the People's Republic of China or New Zealand.

As the country of origin shall be considered the country where the person conducting business activities has a real and effective industrial or commercial establishment. Where this person does not have such an establishment within a State party to the Paris Convention, the country of origin shall be considered to be the State where he is domiciled, or, if he is not domiciled in any of the States party to the Convention, the one among those States where he is a citizen.

Section 2. If someone who is domiciled in a State party to the Paris Convention applies for registration of a trademark which is registered for him in his country of origin, the mark may be registered in Sweden such as it is registered in the foreign State.

What has been said not does not apply if the trademark

1. is such as to infringe a right which in this country has been acquired by someone else than the applicant,
2. is devoid of distinctive character or consists of signs or indications which, in business activities, may serve at designating the kind, quality, quantity, use, price or geographical origin, or the time of production, of the goods or which have become common in the current language or in bona fide and established practice of business activities in this country, or
3. is contrary to morality or public order or is such as to be likely to obviously deceive the public.

In the determination of whether a mark is eligible for registration under this Section, all the actual circumstances shall be taken into consideration and, in particular, the length of the time when the mark has been in use.

Any application for registration of a trademark which would be eligible for registration solely by virtue of this Section, as well as any application for renewal of such a registration shall be accompanied by a certificate of country of origin even where such a certificate would not otherwise be required.

Section 3. Where an application for registration has been filed in a foreign State party to the Paris Convention and a registration is applied for in this country within six months from the time when protection was first applied for in such a State, the application filed here shall, in relation to other applications and to use which has taken place of other symbols, be considered to have been filed at the same time as the application in the foreign State. The same shall apply where the trademark has

been included in such an application outside the country which the Registration Authority, for special reasons, considers to be equal to an application in a State party to the Convention.

In order to enjoy the priority under the first paragraph, the applicant shall, before a decision is made on publication of the application under Article 20 of the Trademarks Act, request priority, in writing, and submit indications about where and when the application referred to was made, and indicate, as soon as possible, the number of the application referred to.

Section 4. The Registration Authority may request the applicant to prove, within a certain time, the desired priority by filing a certificate from the authority having received the application from which priority is desired, about the date of filing and about the name of the applicant, together with a copy, certified by that authority, of the application documents, and, where appropriate, a picture attached thereto showing the trademark. The time allowed shall not be less than three months from the filing of the application in this country.

If a request under the first paragraph is not complied with, priority shall not be enjoyed.

Section 5. The provisions of the Marketing Act (Act 1975:1418) shall apply in relation to any foreign State party to the Paris Convention or the Madrid Agreement of April 14, 1891 on the Repression of False or Deceptive Indications of Source on Goods.

Section 6. The Paris Convention, which has been revised, inter alia, at the Hague in 1925, at London in 1934 and at Stockholm in 1967, applies between Sweden and the following foreign States and territories, namely (list not included here).

Section 7. The following States and territories are party to the Madrid Agreement: (list not included here).

THE MINISTRY OF JUSTICE
Stockholm

Regulation

Amending the Regulation (1970:495) on Foreign Trademarks, Etc.

(Swedish Statute Book 1995:1299, of December 7, 1995).

The Government prescribes that Section 5 of the Regulation (1970:495) on Foreign Trademarks shall read as follows.

Section 5. The provisions of Article 57 of the Marketing Act (Act 1995:450) shall apply in relation to any foreign State party to the Paris Convention or to the Madrid Agreement of April 14, 1891, on the Repression of False or Deceptive Indications of Source on Goods or which is a member of the World Trade Organization.

This Regulation enters into force on January 1, 1996.