

Sweden

Contribution on policy issues relevant for essentially derived varieties (EDVs)
(UPOV Circular E-19/232, of December 23, 2019)

Item	Excerpt from UPOV EXN	The Swedish position
Essentially Derived Varieties	<p>SECTION 1: PROVISIONS OF ESSENTIALLY DERIVED VARIETIES</p> <p>a) Relevant provisions of the 1991 Act of the UPOV Convention</p> <p>b) Defining an essentially derived variety</p> <ol style="list-style-type: none"> i. Predominantly derived from the initial variety (Article 14(5)(b)(i)) ii. Clearly distinguishable from the initial variety (Article 14(5)(b)(ii)) iii. Conformity with the initial variety in the expression of the essential characteristics (Article 14(5)(b)(iii)) iv. Examples on ways in which an essentially derived variety may be obtained (Article 14(5)(c)) v. Method of breeding vi. Direct and indirect derivation <p>c) Scope of the breeder's right with respect to initial varieties and essentially derived varieties</p> <p>d) Territoriality of protection of initial varieties and essentially derived varieties</p> <p>e) Transition from an earlier Act to the 1991 Act of the UPOV Convention</p>	<ol style="list-style-type: none"> i. In agreement with current wording. ii. 'Clearly distinguishable' may indeed be based on a phenotypic expression based on a single-gene difference, e.g. mlo-based resistance in barley or a colour mutant. iii. In agreement with current wording. iv. Considers current wording satisfactory, but term 'induced mutant' may need an amendment such as 'e.g. through techniques of genome editing'. v. Suggests to consider amending para 15 as follows: "While the genetic change may result in a mutant that no longer retains the expression of the essential characteristics that result from the genotype of the initial variety, this is rarely the effect of point mutations." vi. While the scheme in Figure 2 is theoretically, and legally, correct, it may be inferred that subsequent derivation lowers the likelihood that EDVs 'further away' from the initial variety A will retain the expression of essential characteristics of "A" and / or conform to "A" in essential characteristics. c) In agreement with current wording. d) In agreement with current wording. e) In agreement with current wording.

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	SECTION II: ASSESSMENT OF ESSENTIALLY DERIVED VARIETIES	in agreement with current wording.

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