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Ordinance

on the Protection of Designations of Origin and Geographical Indications for Agricultural Products and Processed Agricultural Products (PDO/PGI Ordinance)

of 28 May 1997 (Status as of 1 January 2015)

Please note: this translation does not yet include the amendments of 1.1.2017

The Swiss Federal Council,

based on Article 14 paragraph 1 letter d, 16 and 177 of the Agriculture Act of
29 April 1998¹ (AgricA)²

ordains:

Section 1: General Provisions

Art. 1 Principle

¹ Designations of origin and geographical indications for agricultural products and processed agricultural products that have been entered into the Swiss Federal Register are protected.

² They may only be used in accordance with the provisions set out in this Ordinance. They may be used by any operator who markets agricultural or processed agricultural products that meet the relevant product specification.³

^{2bis} Foodstuffs manufactured from agricultural products are deemed equivalent to processed agricultural products at all stages of the production process.⁴

³ The Wine Ordinance of 14 November 2007 applies to wine designations^{5,6}.

AS 1997 1198

¹ SR 910.1

² Amended by No I of the Ordinance of 26 Nov. 2003, in force since 1 Jan. 2004 (AS 2003 4867).

³ Amended by No I of the Ordinance of 14 Nov. 2007, in force since 1 Jan. 2008 (AS 2007 6109).

⁴ Inserted by No I of the Ordinance of 14 Nov. 2007, in force since 1 Jan. 2008 (AS 2007 6109).

⁵ SR 916.140

⁶ Amended by No I of the Ordinance of 14 Nov. 2007, in force since 1 Jan. 2008 (AS 2007 6109).

Art. 27 Designation of origin

¹ The name of a region, a place, or, in exceptional cases, a country used to describe an agricultural product or processed agricultural product:

- a. originating in that particular region, place or country;
- b. the quality or characteristics of which are essentially or exclusively due to a particular geographical environment with its inherent natural and human factors; and
- c. the production, processing and refining of which take place in the defined geographical area

may be registered as a designation of origin.

² Traditional names for agricultural products or processed agricultural products that meet the conditions set out in paragraph 1 may be registered as designations of origin.

Art. 3⁸ Geographical indication

¹ The name of a region, a place, or, in exceptional cases, a country used to describe an agricultural product or processed agricultural product:

- a. originating in that particular region, place or country;
- b. which possesses a specific quality, reputation or other characteristics which can be attributed to that geographical origin; and
- c. the production, processing or refining of which take place in the defined geographical area

may be registered as a geographical indication.

² Traditional names for agricultural products or processed agricultural products that meet the conditions set out in paragraph 1 may be registered as geographical indications.

Art. 4 Generic name

¹ A generic name may not be registered as a designation of origin or geographical indication.

² A generic name means the name of a product which, although it relates to the place or the region where this product was originally produced or marketed, has become the common name of the product.

³ To decide whether or not a name has become generic, account shall be taken of all relevant factors, in particular the opinions of producers and consumers, especially those in the region from which the name originates.⁹

⁷ Amended by No I of the Ordinance of 14 Nov. 2007, in force since 1 Jan. 2008 (AS 2007 6109).

⁸ Amended by No I of the Ordinance of 14 Nov. 2007, in force since 1 Jan. 2008 (AS 2007 6109).

Art. 4a¹⁰ Homonymous names

¹ Where an application for registration concerns a name homonymous with a name that has already been registered, and where the homonymous name to be registered leads the public to assume that the products come from another territory or another place, that name may not be registered even if it is the correct name of the territory or place of origin of the agricultural products or processed agricultural products.

² There must be a clear distinction between use of the homonymous name registered subsequently and use of the name already on the register, so as to ensure that the producers concerned are treated appropriately and consumers are not misled.

Art. 4b¹¹ Name of a plant variety or animal breed

¹ A name may not be registered as a designation of origin or a geographical indication where it corresponds to the name of a plant variety or an animal breed and is likely to mislead consumers as to the true origin of the product.

² Any danger of misleading consumers is in particular excluded where the name is homonymous with a local plant variety or animal breed that has not left its territory of origin or where the name of the plant variety or animal breed can be changed.

Section 2: Registration Procedure**Art. 5** Entitlement to submit an application for registration

¹ Any group of producers that is representative of a product may submit an application for registration to the Federal Office for Agriculture (FOAG¹²).

^{1bis} A group is deemed to be representative where:

- a. its members produce, process and refine at least half the production volume of the product;
- b. at least 60% of the producers, 60% of the processors and 60% of the refiners of the product are members thereof; and
- c. they can show that the group is organised on the basis of democratic principles.¹³

² In the case of designations of origin, the group must comprise producers from all production stages, and specifically for each product:

⁹ Amended by No I of the Ordinance of 14 Nov. 2007, in force since 1 Jan. 2008 (AS 2007 6109).

¹⁰ Inserted by No I of the Ordinance of 26 Nov. 2003, in force since 1 Jan. 2004 (AS 2003 4867).

¹¹ Inserted by No I of the Ordinance of 14 Nov. 2007, in force since 1 Jan. 2008 (AS 2007 6109).

¹² Term in accordance with No I of the Ordinance of 29 Oct. 2014, in force since 1 Jan. 2015 (AS 2014 3903). This amendment has been made throughout the text.

¹³ Inserted by No I of the Ordinance of 14 Nov. 2007, in force since 1 Jan. 2008 (AS 2007 6109).

- a. those that produce the raw materials;
- b. those that process the product;
- c. those that refine it.

Art. 6 Content of the application¹⁴

¹ The application must demonstrate that the requirements of this Ordinance for the protection of the relevant designation of origin or geographical indication have been met.

² It shall include in particular:

- a. the name of the applicant group and proof that it is representative;
- b. the designation of origin or geographical indication to be registered;
- c. proof that the name to be registered is not a generic name;
- d. evidence that the product originates in a geographical area in accordance with Article 2 or 3 (history of the product and its traceability);
- e. evidence demonstrating the link with the geographical environment or geographical origin in accordance with Article 2 or 3 (typical features of the product which derive from the geographically determined natural and human factors [“*terroir*”]);
- f. a description of any relevant local, fair and consistently-applied procedures;
- g.¹⁵ a summary giving the following information:
 - name, address and composition of the applicant group,
 - name of the product,
 - protection applied for,
 - type of product in question,
 - proof that the applicant group is representative,
 - proof that it is not a generic name,
 - description of the product’s history,
 - the typical characteristics of the product derived from the “*terroir*”,
 - description of the local, fair and consistently-applied procedures,
 - the most important elements of the product’s specification (geographical area, description of the product and its main characteristics, description of the production method, certification body, labelling and traceability).

¹⁴ Amended by No I of the Ordinance of 29 Oct. 2014, in force since 1 Jan. 2015 (AS 2014 3903).

¹⁵ Inserted by No I of the Ordinance of 14 Nov. 2007, in force since 1 Jan. 2008 (AS 2007 6109).

³ The application must be accompanied by the product specification and proof that the application has been approved by the representatives' meeting of the group.¹⁶

Art. 7 Product specification

¹ The product specification shall contain the following information:

- a. the name of the product comprising the designation of origin or the geographical indication;
- b. the definition of the geographical area;
- c.¹⁷ a description of the product, in particular its raw materials and its principal physical, chemical, microbiological and organoleptic characteristics;
- d. a description of the production process;
- e.¹⁸ the designation of one or more certification bodies and the minimum requirements for the control procedures;
- f. ...¹⁹

² It may also contain the following information:

- a. specific elements of the labelling;
- b. a description of any specific shape of the product;
- c. elements of the packaging, where the applicant group is able to justify that the packaging is necessary in order to ensure product quality, as well as to guarantee traceability or control in the defined geographical area.²⁰

Art. 8 Opinions of other bodies

¹ The FOAG shall obtain the opinion of the Commission for Designations of Origin and Geographical Indications (Commission, Art. 22).

² It shall also call upon the relevant cantonal and federal authorities for their opinions.

Art. 8a²¹ Procedure for the registration of names from other countries

¹ Where the registration application is submitted by a group from a third country, it must meet the requirements laid down in Articles 5 to 7 and contain proof that the name in question is protected in its country of origin.

¹⁶ Amended by No I of the Ordinance of 29 Oct. 2014, in force since 1 Jan. 2015 (AS 2014 3903).

¹⁷ Amended by No I 10 of the Ordinance of 7 Dec. 1998 (AS 1999 303).

¹⁸ Amended by No I of the Ordinance of 29 Oct. 2014, in force since 1 Jan. 2015 (AS 2014 3903).

¹⁹ Repealed by No I of the Ordinance of 14 Nov. 2007, with effect from 1 Jan. 2008 (AS 2007 6109).

²⁰ Inserted by No I of the Ordinance of 26 Nov. 2003 (AS 2003 4867). Amended by No I of the Ordinance of 14 Nov. 2007, in force since 1 Jan. 2008 (AS 2007 6109).

²¹ Inserted by No I of the Ordinance of 14 Nov. 2007, in force since 1 Jan. 2008 (AS 2007 6109).

² In the case of a name designating a trans-border geographical area or a traditional name connected to a trans-border geographical area, several groups may submit a joint application.

³ The application shall be submitted to the FOAG in one of the three official languages, or accompanied by a certified translation into one of these languages, either by the applicant group directly or through the authorities of the third country in question. Where the application is written in another language, the FOAG may order a translation to be provided.

⁴ Where the original name is not written in letters of the Latin alphabet, it must also be transcribed into such letters.

⁵ The FOAG shall obtain the opinion of the Commission and the relevant federal authorities.

Art. 9 Decision and publication

¹ The FOAG shall decide whether the application meets the requirements of Articles 2–7; in particular, it shall take into consideration the opinion of the Commission.

² If the FOAG approves the application, it shall publish its decision together with the most important elements of the product specification in the Swiss Official Gazette of Commerce.

Art. 10 Objections

¹ The following may object to the registration:

- a. persons asserting a legitimate interest;
- b.²² the cantons, provided the case relates to a Swiss name, a trans-border name in terms of Article 8a paragraph 2 or a foreign name that is the same as or similar to that of a cantonal geographical unit.

² An objection must be submitted in writing to the FOAG within three months of publication of the registration application.

³ In particular, the following grounds for objection may be asserted:

- a. the name does not meet the requirements of Article 2 or 3;
- b. the name is a generic name;
- c. the group is not representative;
- d.²³ the proposed registration would be disadvantageous to a trademark or to an entirely or partly homonymous name in longstanding use.

²² Amended by No I of the Ordinance of 29 Oct. 2014, in force since 1 Jan. 2015 (AS 2014 3903).

²³ Amended by No I of the Ordinance of 26 Nov. 2003, in force since 1 Jan. 2004 (AS 2003 4867).

Art. 11 Decision regarding an objection

¹ The FOAG shall take a decision regarding an objection after hearing the Commission.

² It shall also hear the Institute for Intellectual Property in the event that the objection is based on the grounds set out in Article 10 (3) (d).

Art. 12 Registration and publication

¹ The name shall be entered in the Register of Designations of Origin and Geographical Indications where:

- a. there has been no objection within the time limit provided;
- b.²⁴ any objections and appeals have been rejected.

² Registration shall be published in the Swiss Official Gazette of Commerce.

Art. 13 Register

¹ The Register of Designations of Origin and Geographical Indications shall be maintained by the FOAG.

² The Register shall contain:

- a. the name, the designation "PDO" (Protected Designation of Origin) or "PGI" (Protected Geographical Indication) and its number;
- b. the name of the group;
- c. the product specification;
- d. the date of registration;
- e. the date of publication of the registration.

³ Anyone may consult the Register and request extracts from it.

Art. 14 Applications to amend the product specification

¹ For amendments to the product specification, the same procedure applies as for registrations.

² Where the group applies to include new or to delete previous certification bodies, the FOAG shall decide without applying the registration procedure.

² The following amendments to the product specification shall be decided under the simplified procedure:

- a. inclusion of new certification bodies or deletion of existing bodies;
- b. amendment of specific elements of the labelling;

²⁴ Amended by No I of the Ordinance of 14 Nov. 2007, in force since 1 Jan. 2008 (AS 2007 6109).

- c. amendment of the description of the geographical area due to changes in the names of the geographical units, in particular in the case of commune mergers.²⁵

³ In the simplified procedure, opinions need not be obtained in accordance with Article 8, the decision need not be published in accordance with Article 9, and the objection procedure under Articles 10 and 11 does not apply.²⁶

Section 2a: Cancellation Procedure²⁷

Art. 15²⁸

¹ The FOAG shall cancel the registration of a protected indication:

- a. on request, where the protected name is no longer used or where all users and the relevant cantons are no longer interested in maintaining the registration;
- b. if it is established that compliance with the product specification of the protected name is no longer ensured for good reason.
- c.²⁹ if it is no longer protected in its country of origin in accordance with Article 8a.

² In the case of a Swiss name or a trans-border name in terms of Article 8a paragraph 2, the FOAG shall consult the cantonal authorities, the federal authorities and the Commission in advance. It shall hear the parties pursuant to Article 30a of the Federal Act of 20 December 1968³⁰ on Administrative Procedure.³¹

³ Cancellation of the registration shall be published in the Swiss Official Gazette of Commerce.

²⁵ Amended by No I of the Ordinance of 29 Oct. 2014, in force since 1 Jan. 2015 (AS 2014 3903).

²⁶ Inserted by No I of the Ordinance of 29 Oct. 2014, in force since 1 Jan. 2015 (AS 2014 3903).

²⁷ Inserted by No I of the Ordinance of 26 Nov. 2003, in force since 1 Jan. 2004 (AS 2003 4867).

²⁸ Repealed by No I 10 of the Ordinance of 7 Dec. 1998 (AS 1999 303). Amended by No I of the Ordinance of 26 Nov. 2003, in force since 1 Jan. 2004 (AS 2003 4867).

²⁹ Inserted by No I of the Ordinance of 29 Oct. 2014, in force since 1 Jan. 2015 (AS 2014 3903).

³⁰ SR 172.021

³¹ Amended by No I of the Ordinance of 29 Oct. 2014, in force since 1 Jan. 2015 (AS 2014 3903).

Section 3: Protection

Art. 16³² Unlawful use of the designations "AOC", "PDO" or "PGI" or similar designations

¹ The designations "Registered Designation of Origin", "Protected Designation of Origin" or "Protected Geographical Indication" and their corresponding acronyms (AOC, PDO, PGI) may not be used for agricultural products and processed agricultural products whose name has not been registered in accordance with this Ordinance.

² The use of designations which are similar to those under paragraph 1 or misleading is also prohibited.

³ Paragraphs 1 and 2 also apply to agricultural products and processed agricultural products whose names, although registered, have not been certified in accordance with Article 18 of this Ordinance.

⁴ Foreign names which are registered in their country of origin are reserved.

Art. 16a³³ Designations "AOC", "PDO" and "PGI"

¹ The designations "Registered Designation of Origin", "Protected Designation of Origin" and "Protected Geographical Indication" or their corresponding acronyms (AOC, PDO, PGI) must be written in one of the official languages on the labelling of agricultural products or processed agricultural products whose name has been registered in accordance with this Ordinance.

² The designations and acronyms in paragraph 1 are optional for agricultural products and processed agricultural products whose names have been registered in accordance with Article 8a of this Ordinance.

Art. 17 Scope of protection

¹ The direct or indirect commercial use of a protected name is prohibited:

- a. for similar products which do not meet the product specification;
- b. for dissimilar products where such use relies on the reputation of the protected name.

² Paragraph 1 applies in particular where:

- a. the protected name is imitated or alluded to;
- b. the protected name is translated;
- c. the protected name is accompanied by an expression such as "style", "type", "method", "as produced in", "imitation", "using the recipe" or similar;

³² Amended by No I of the Ordinance of 14 Nov. 2007, in force since 1 Jan. 2008 (AS 2007 6109).

³³ Inserted by No I of the Ordinance of 14 Nov. 2007, in force since 1 Jan. 2008 (AS 2007 6109).

- d. the origin of the product is indicated.
- e.³⁴ the product is used as an ingredient.

³ The following are also prohibited:

- a. any false or misleading indication as to its true origin, provenance, manufacturing process, nature or essential characteristics on the inner or outer packaging, advertising material or accompanying documentation of the product;
- b. any use of a container or packaging which could give rise to a false impression as to the origin of the product;
- c.³⁵ any use of the specific shape of the product referred to in Article 7 (2) (b).

Art. 17a³⁶ Products which fail to meet the product specification

¹ Agricultural products and processed agricultural products which fail to meet the requirements for the use of a registered designation of origin or geographical indication, but which have been legally marketed under such indications for at least five years prior to publication of the application for registration, may continue to be produced, packaged and labelled under this indication in accordance with previous legislation for a period of up to two years following publication of the registration. They may continue to be marketed for a period of up to three years following the aforesaid publication.

² If the product specification referred to in Article 14 (1) is amended, the agricultural and processed agricultural products in question may continue to be produced, packaged, labelled and marketed under previous legislation for a period of up to two years following publication of the amendment.

Section 4: Control Procedures

Art. 18 Designation of certification body

¹ Anyone who uses a designation of origin or geographical indication must entrust one of the certification bodies listed in the product specification with control of the production, processing or refining of the product in question.

² The Federal Department of Economic Affairs, Education and Research³⁷ shall lay down the minimum requirements for control procedures.³⁸

³⁴ Inserted by No I of the Ordinance of 29 Oct. 2014, in force since 1 Jan. 2015 (AS 2014 3903).

³⁵ Amended by No I of the Ordinance of 14 Nov. 2007, in force since 1 Jan. 2008 (AS 2007 6109).

³⁶ Inserted by No I of the Ordinance of 12 Jan. 2000 (AS 2000 379). Amended by No I of the Ordinance of 14 Nov. 2007, in force since 1 Jan. 2008 (AS 2007 6109).

³⁷ The name of this administrative unit was amended in application of Art. 16 para. 3 of the Publications Ordinance of 17 Nov. 2004 (SR 170.512.1) on 1 Jan. 2013.

³⁸ Inserted by No I 10 of the Ordinance of 7 Dec. 1998 (AS 1999 303).

Art. 19 Certification bodies

¹ The certification bodies must be accredited for the product in question in accordance with the Ordinance of 17 June 1996³⁹ on Accreditation and Indications. Their scope of accreditation in respect of each name for which the certification bodies carry out control procedures must be extended to include the product in question.⁴⁰

^{1bis} Foreign certification bodies that certify products with foreign names under Article 8a must be accredited in accordance with international standards that meet the requirements of paragraph 1.⁴¹

² Following consultation with the Swiss accreditation body, the FOAG shall recognize foreign certification bodies as practising in Switzerland if the latter are able to show that they hold qualifications equivalent to those required in Switzerland. In particular, they must demonstrate that they are familiar with the relevant Swiss legislation.

³ Article 18 (3) of the Federal Act of 6 October 1995⁴² on Technical Barriers to Trade is reserved.

Art. 20⁴³ Notification of irregularities

The certification bodies shall notify the FOAG, the cantonal chemist and the groups of any irregularities they find when carrying out control procedures.

Art. 21⁴⁴ Implementation

¹ The FOAG shall implement this Ordinance subject to paragraph 2. Where foodstuffs are not concerned, it shall apply the legislation relating to agriculture.

² The cantonal food inspection agencies shall implement Section 3 of this Ordinance in accordance with the legislation on foodstuffs.

³ The cantonal food inspection agencies shall notify the FOAG, the certification bodies and the groups of any irregularities they find.⁴⁵

⁴ The FOAG shall oversee the certification bodies subject to supervision exercised under the Ordinance of 17 June 1996⁴⁶ on Accreditation and Indications. It may issue instructions.

³⁹ SR 946.512

⁴⁰ Amended by No I of the Ordinance of 14 Nov. 2007, in force since 1 Jan. 2008 (AS 2007 6109).

⁴¹ Inserted by No I of the Ordinance of 29 Oct. 2014, in force since 1 Jan. 2015 (AS 2014 3903).

⁴² SR 946.51

⁴³ Amended by No I of the Ordinance of 29 Oct. 2014, in force since 1 Jan. 2015 (AS 2014 3903).

⁴⁴ Amended by No I of the Ordinance of 26 Nov. 2003, in force since 1 Jan. 2004 (AS 2003 4867).

⁴⁵ Amended by No I of the Ordinance of 14 Nov. 2007, in force since 1 Jan. 2008 (AS 2007 6109).

⁴⁶ SR 946.512

Section 5: Final Provisions

Art. 22 Federal Commission for Designations of Origin and Geographical Indications

¹ The Federal Council shall appoint a Federal Commission for Designations of Origin and Geographical Indications.⁴⁷

² The Commission shall advise the Federal Council with regard to implementation of this Ordinance.

³ ...⁴⁸

Art. 23⁴⁹ Transitional provisions relating to the amendment of 14 November 2007.

¹ Applications for registration which were pending when the amendment of 14 November 2007 comes into force shall be processed in accordance with the new legislation.

² Agricultural products and processed agricultural products which use a registered name may, in derogation from Article 16a, continue to be labelled under existing law until 1 June 2008, and be marketed until their expiry dates run out.

³ The previous Article 17a applies to all registered names for which the transitional period has not yet expired.

Art. 24 Amendment of current legislation

...⁵⁰

Art. 25⁵¹

Art. 26⁵² Commencement

This Ordinance comes into force on 1 July 1997.

⁴⁷ Amended by No I 6.6 of the Ordinance of 9 Nov. 2011 (Review of Extra-Parliamentary Commissions), in force since 1 Jan. 2012 (AS **2011** 5227).

⁴⁸ Repealed by No I of the Ordinance of 14 Nov. 2007, with effect from 1 Jan. 2008 (AS **2007** 6109).

⁴⁹ Amended by No I of the Ordinance of 14 Nov. 2007, in force since 1 Jan. 2008 (AS **2007** 6109).

⁵⁰ The amendments may be consulted under AS **1997** 1198.

⁵¹ Repealed by No I of the Ordinance of 12 Jan. 2000 (AS **2000** 379).

⁵² Amended by No III para. 2 No 2 of the Ordinance of 27 March 2002, in force since 1 May 2002 (AS **2002** 573).

*Annex*⁵³

⁵³ Repealed by No I 10 of the Ordinance of 7 Dec. 1998 (AS **1999** 303).

