

## EXPORTHELP

### SWISSNESS

The designation «Switzerland/Swissness» indicates the origin, i.e. it is a direct reference to the geographical origin of the goods or services for which it is used. The use of such origin information is essentially discretionary.



Swissness

However, use of such information is not permitted, if this is incorrect or liable to misinterpretation. Additional or special conditions may be applied to the use of such information.

Information about the origin is deemed to be incorrect, if the actual origin of the product or service does not correspond to that to which it refers. This consequently means that the name «Switzerland/Swissness», designations such as «Swiss», «Swiss quality», «Made in Switzerland», «Swiss Made» or other designations containing the name of Switzerland as well as translations thereof into other languages may only be used for products manufactured in Switzerland or services from Switzerland.

The new 'Swissness' legislation comes into force on 1 January 2017. You will find here frequently asked questions about "Swissness" legislation: (Source: Swiss Federal Institute of Intellectual Property, Revision of the Ordinance on the Protection of Trademarks, explanatory report regarding the "Swissness" implementation law, 02.09.2015)





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## What is the difference between geographical indications of source and indications of origin under customs law?

Geographical indications of source are identifiers which indicate the geographical source of goods or services, either directly or indirectly (e.g. "Made in Switzerland" or the use of the Swiss cross). They help to protect consumers and facilitate deception-free competition. Indications of origin under customs law help to implement foreign economic and customs-tariff measures such as, for example, the establishment of customs tariffs. Proof of origin or certificates of origin confirm that a product has been completely produced or has undergone "sufficient processing" in a particular country.

In addition, a distinction is made between preferential and non-preferential origin. Both the rules for determining preferential origin (in accordance with free trade agreements) are becoming increasingly important within the context of international commerce. Given the different written laws and forms of legal practice that exist across the world and the different interpretations of the law that are culturally conditioned, it is impossible to devote too much attention to devising "good" agreements. Model agreements have proven to be useful, particularly for companies with little experience in this area.) and the rules for determining non-preferential origin (in pursuance of the relevant ordinance of the Federal Department of Economic Affairs, Education and Research) apply regardless of the law on distinctive signs for indications of source.

It is therefore possible that a product is not allowed to be advertised with the indication "Made in Switzerland", even though it satisfies Switzerland's criteria regarding origin under customs law."

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## Does the use of indications of source require approval?

Basically, not only is the use of indications of source voluntary, but it also does not require approval and is free of charge. The indication of "Switzerland" as the source may be used as long as the statutory criteria are met. The responsibility for using the indication of source within the law lies with the relevant company.

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## Which rules apply to industrial products?

Two criteria are crucial for the determination of Switzerland as the source of an industrial product; firstly, at least 60 percent of the manufacturing costs must be incurred in Switzerland and, secondly, the most important production step must take place in Switzerland. (-> until now, the requirement was only 50%).



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### **What is meant by manufacturing costs?**



Research and development costs, material costs as well as production costs (including the costs of quality assurance and certification) are deemed to be manufacturing costs.

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### **What is not part of the manufacturing costs?**



Packaging and transport costs, administrative and sales costs as well as marketing and service costs are not part of the manufacturing costs.

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### **Under customs law the profit margin may be included in the calculation of the Swiss proportion, does this also apply to the calculation of the manufacturing costs in pursuance of the Swissness legislation?**



No, the profit margin must not be included in the calculation of the manufacturing costs in pursuance of the Swissness legislation.

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### **May the Swiss cross be used?**



The Swiss cross may now be used for both Swiss services and Swiss products.





### When is a service deemed to be Swiss?



If both the registered office and the location which actually manages the service provider are located in Switzerland.

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### Will there be a transitional period?



There will not be a transitional period. However, industrial products which were manufactured prior to the entry into force and which satisfy the criteria under current law may still be marketed for a maximum of two years following the entry into force (deadline for using up stock). Foods may still be marketed until the Best Before date is reached.

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## LINKS

[Frequently asked questions – Swissness](#)

[Swiss Federal Institute of Intellectual Property - Legislation, information and FAQ about Swissness](#)

["Swissness" calculator for industrial products \(only available in German and French\)](#)

[Working Together to Tackle the Misuse of "Swissness" Abroad](#)

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