



# Legal Framework and Requirements in Switzerland

## Requirements

Pursuant to art. 16a para 1 LETC the principle applies that products may be marketed if they meet the technical regulations of the European Union (EU) and, for incomplete ones or in the absence of harmonisation in the EU, they correspond to the technical regulations of a member state of the EU or of the European Economic Area (EEA); and are legally marketed pursuant to letter a in this EU or EEA member state.

Pursuant to art. 16a para 1 LETC, authorisation from the FSVO is required for marketing foods. This authorisation is granted by the FSVO in the form of a general ruling that is also valid for similar foods. For this purpose the applicant must prove that the food corresponds to the technical regulations pursuant to article 16a para 1 letter a and must establish that the food is legally marketed in an EU or EEA member state. Furthermore, pursuant to art. 4 para 4 letters a-e LETC, no overriding public interest (e.g. protection of the life and the health of persons, animals and plants) may be endangered.

## Exceptions

Pursuant to art. 16a para 2 letter e of the LETC, the Federal Council can decide exceptions to the Cassis de Dijon Principle and incorporate them in the regulation. Those exceptions are defined in article 2 letter b and article 19 of the Ordinance concerning the marketing of products manufactured in accordance with foreign technical regulations (OPPEtr).

## Criteria for the Safety of Foodstuffs

However, **foodstuffs** form an **exception** in the application of the Cassis de Dijon Principle. Foodstuffs that do not fully correspond to the technical regulations of Switzerland may only be offered on the Swiss market if the Federal Food Safety and Veterinary Office (FSVO) has issued an authorisation. This is in the form of a general ruling decree, once it has been ascertained that the foodstuff in question is in no way dangerous to health and the contents correspond to the declared product information.

## Entry into force of the EU Regulation 1223/2009 in the cosmetics sector

The Cassis de Dijon Principle is also applicable to cosmetic products. If imported cosmetic products do not comply with Swiss foodstuff legislation, the person responsible for placing them on the market may still market them in Switzerland provided that they comply with the provisions of the TBA. Article 16e paragraph 2 TBA states that (deviating from the Swiss regulation) it is permissible for the warning and safety information on cosmetic products, including instructions relevant to the safety of persons, to be shown only in the official language or official languages of the place in which such products are placed on the market.

The Regulation (EU) 1223/2009 of the European Parliament and of the Council of 30 November 2009 on cosmetic products entered into force on 11 July 2013. This means that cosmetic products that are placed on the market in Switzerland based on the Cassis de Dijon Principle have to satisfy the requirements of this Regulation.

It is important to understand that the Swiss cantonal enforcement authorities, in the absence of an agreement with the EU, have no right of access to the European Notification Databank (Cosmetic Products Notification Portal, CPNP). In order that the legality can be checked, the data required pursuant to the new EU Regulation have to be submitted.