When is an application not an application according to Article 16c LETC?

An application has already been submitted
If the Federal Food Safety and Veterinary Office (FSVO) is already processing an application for a similar foodstuff, the new application will be suspended until a decision has been reached on the first application. A list of applications which have been submitted can be found at www.cassis.admin.ch under "Pending Applications". We therefore recommend that, before submitting an application, applicants check the list of applications submitted to see whether an application has already been submitted for a similar foodstuff.

A general ruling has already been issued
If a general ruling has been issued, similar foodstuffs do not require additional approval for marketing in Switzerland. If an identical general ruling is nonetheless requested, the FSVO will not respond to this application.

The general ruling applies to similar foodstuffs. This means: If the foodstuff originates from an European Union (EU) or European Economic Area (EEA) member state it must
  1. comply with the description in the general ruling which identifies the foodstuff, and
  2. comply with the technical regulations on which the general ruling is based, and
  3. be on the market lawfully in the EU or EEA member state to whose regulations the ruling refers.

If a foodstuff originates from Switzerland it must
  1. comply with the description in the general ruling which identifies the foodstuff, and
  2. comply with the technical regulations on which the general ruling is based.
  3. In addition, manufacture of the product must comply with Swiss regulations governing employee protection and animal welfare.

The general rulings are published at www.cassis.admin.ch under “Issued general rulings”. The person bringing the product onto the market is responsible for ensuring the conformity of the product with the general ruling. He must demonstrate this conformity to the cantonal authority on request.

The application is based on technical regulations from a non-EU/EEA member state
An application must be based on technical regulations in force in the EU or in an EU/EEA member state. If this is not the case, the application must be rejected.
The application does not concern a foodstuff
Utility articles and cosmetics may be brought onto the market in Switzerland without an approval according to Article 16c of the Federal Law on Technical Barriers to Trade (LETC) provided that they fulfill the relevant conditions in the revised LETC (in French) and the Ordinance concerning the marketing of products manufactured in accordance with foreign technical regulations (OPPEtr) (in French). The Swiss provisions for medicinal products remain in force. Foodstuffs must not be advertised as medicinal products in Switzerland. The Swiss regulation distinguishing between foodstuffs and medicinal products (Article 3 of the Foodstuffs Act, FSA) therefore applies to applications according to Article 16c LETC. This means that if a foodstuff is advertised as having medicinal properties in a way which is not permitted under Swiss law, the application for approval will be rejected.

It is an exception to the Cassis de Dijon principle
The Federal Council has established exceptions to the Cassis de Dijon principle in the Ordinance concerning the marketing of products manufactured in accordance with foreign technical regulations (OPPEtr) on the basis of Article 16a paragraph 2 letter e LETC. The exceptions for foodstuffs are governed by Article 2 letter b OPPEtr. Foodstuffs which come under these exceptions must continue to comply with the regulations set out in the Swiss foodstuff legislation. The health-related information detailed in the transitional provisions of the Ordinance (Article 19 OPPEtr) are also exempt from the Cassis de Dijon principle for a limited period. The foodstuff may thus only be advertised using information which is permissible under Swiss foodstuff legislation. If the foodstuff is an exception as described here, the FSVO will not process the application as an application according to Article 16c LETC and it will be rejected.

The product or substance is subject to mandatory reporting or notification
If the foodstuff or an additive is subject to mandatory reporting or notification (Articles 17b and 20a of the Ordinance on special foodstuffs and Article 2 paragraph 3 of the Additives Ordinance), this is not an application according to Article 16c LETC and the FSVO will reject it. If, however, all the necessary documents have been submitted, a reporting or notification procedure will be initiated internally.

The product complies with Swiss technical regulations
If the product complies fully with Swiss technical regulations, it is not a use case of the Cassis de Dijon principle. The FSVO will not issue a general ruling for this product and will reject the application.