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## **Ordinance on the Use of Swiss Indications of Source for Cosmetic Products**

of 23 November 2016 (Status as of 1 January 2017)

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*The Swiss Federal Council,*

on the basis of Article 50 paragraph 2 of the Trade Mark Protection Act of 28 August 1992<sup>1</sup>,

*ordains:*

### **Art. 1** Subject matter and scope

<sup>1</sup> This Ordinance regulates the use of Swiss indications of source for cosmetic products.

<sup>2</sup> In the absence of specific provisions in this Ordinance, the provisions of the Trade Mark Protection Ordinance of 23 December 1992<sup>2</sup> apply.

### **Art. 2** Definitions

In this Ordinance:

- a. *cosmetic products* means cosmetic products in accordance with the Swiss legislation on foodstuffs and utility articles;
- b. *bulk product* means the substances and mixtures of substances used in a cosmetic product before it is filled into the primary packaging, or before it is combined with the applicator;
- c. *applicator* means a device that forms part of a cosmetic product or its packaging and that is used, in particular, to apply the cosmetic product;
- d. *research, development and production costs* means the manufacturing costs under Article 4, excluding cost of materials;
- e. *primary packaging* means the packaging material that is used to store a cosmetic product and thereby comes into direct contact with the cosmetic product.

AS 2016 4521

<sup>1</sup> SR 232.11

<sup>2</sup> SR 232.111

**Art. 3** Principle

The Swiss indication of source for a cosmetic product is considered to be correct if:

- a. at least 60 per cent of the manufacturing costs are incurred in Switzerland;
- b. at least 80 per cent of the research, development and production costs are incurred in Switzerland; and
- c. the following activities take place in Switzerland or at the location specified in Switzerland:
  1. the manufacture of the bulk product,
  2. filling the primary packaging with the cosmetic product or combining the bulk product and the applicator to make a ready-to-use cosmetic product, and
  3. the quality controls and certifications which are required by law or uniformly regulated in the economic sector.

**Art. 4** Relevant manufacturing costs

<sup>1</sup> In the calculation of the manufacturing costs, only the following costs are taken into account:

- a. the costs of research and development, in particular the costs of testing the stability of a cosmetic product, of testing the compatibility of packaging, of microbiological challenge testing and of transferring laboratory processes into industrial production (upscaling costs);
- b. the costs of manufacturing the bulk product, including the cost of materials;
- c. the costs of filling the primary packaging with the cosmetic product and of combining the bulk product with an applicator to form a ready-to-use cosmetic product;
- d. the costs incurred in connection with manufacturing a cosmetic product in compliance with provisions regarding health protection, consumer information and safety assessment, particularly the costs of preparing a dossier on the safety assessment, for the authorisation, registration or notification of a cosmetic product, and of maintaining a product information file, unless these costs must be incurred abroad;
- e. the costs for quality controls and certifications under Article 3 letter c number 3.

<sup>2</sup> Excluded from the calculation under paragraph 1 are, in particular:

- a. the costs of tests primarily used for the purpose of marketing the cosmetic product;
- b. the costs of packaging and applicators, unless the costs in question are those specified under paragraph 1 letters a and c;
- c. the transport costs for the cosmetic product;