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**Switzerland
and
Jamaica**

Agreement on the mutual recognition and protection of geographical indications between the Federal Council of the Swiss Confederation and the Government of Jamaica (with annexes). Geneva, 23 September 2013

Entry into force: *1 September 2014, in accordance with article 14*

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**Suisse
et
Jamaïque**

Accord entre le Conseil fédéral de la Confédération suisse et le Gouvernement de la Jamaïque concernant la reconnaissance mutuelle et la protection des indications géographiques (avec annexes). Genève, 23 septembre 2013

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**Agreement on the Mutual Recognition and Protection of
Geographical Indications between the Federal Council of the Swiss Confederation and
the Government of Jamaica**

ARTICLE 1: Objective & Coverage

1. The Swiss Federal Council and the Government of Jamaica hereinafter referred to as "Party" or "Parties", as the case may require, agree, in accordance with the principles of non-discrimination and reciprocity; and considering their commitment to the rules and principles under the World Trade Organization Agreement on Trade-Related Aspects of Intellectual Property Rights (hereinafter called the TRIPS Agreement) to mutually recognise and protect geographical indications in order to facilitate and promote trade with each other for products and services identified with such designations.
2. This Agreement shall apply to all products and services identified with a designation referred to in Article 2 and originating in the territory of the Parties.
3. The Annexes shall form an integral part of the Agreement.

ARTICLE 2: Protected Designations

The following shall be protected designations:

1. as regards products and services originating in Jamaica:
 - (a) the name "Jamaica/Jamalcan", the names of official territorial divisions of Jamaica (listed in the Annex I) and any other designation designating that country or its official territorial divisions,
 - (b) the geographical indications of Jamaica listed in the Annex II,
 - (c) other geographical indications complying with the definition of Article 22 of the TRIPS Agreement.
2. as regards products and services originating in Switzerland:
 - (a) the name "Switzerland/Swiss", the names of the Swiss cantons (listed in the Annex I) and any other designation designating that country or its cantons,
 - (b) the geographical indications of Switzerland listed in the Annex II,
 - (c) other geographical indications complying with the definition of Article 22 of the TRIPS Agreement.

ARTICLE 3: Extent of Protection

1. Without prejudice to Article 22 and 23 of the TRIPS Agreement, the Parties shall take all such necessary measures, as may be reasonable, in accordance with this Agreement, to ensure mutual protection of the designations referred to in Article 2 that are used to refer to products originating in the territory of the Parties. Each Party shall provide interested parties with the legal means to prevent the use of such designations for:
 - (a) identical or comparable products not originating in the place indicated by the designation in question or in non-compliance with the other conditions laid down in the laws and regulations of the relevant Party;
 - (b) other products not originating in the place indicated by the designation in question, in a manner which misleads the public as to the geographical origin of the product.
2. The protection afforded by Paragraph 1 shall also apply where the true origin of the product is indicated or where the protected designation is used in translation or is accompanied by terms such as 'kind', 'type', 'style', 'way', 'imitation', 'method' or other analogous expressions, including graphic symbols which may lead to confusion.

3. The protection afforded by Paragraph 1 and 2 shall also apply in cases where products originating in the territory of the Parties are for export and marketing outside their territory.
4. The registration of trademarks infringing Paragraph 1 or 2 shall be refused or invalidated, ex officio if the legislation of the Parties so permits or at the request of an interested party to the relevant authorities. If such trademark has been applied for or registered in good faith or has been established by use in good faith, before the entry into force of this Agreement, it may continue to be used notwithstanding the protection and the use of the geographical indication under this Agreement, provided that no other grounds for the invalidity of the trademark or its revocation exist as specified by the law of the Party.
5. For protected designations referred to in Article 2.1(a), (b) and 2.2(a), (b) of this Agreement, the exceptions of Article 24.4, 24.6 and 24.7 of the TRIPS Agreement shall not apply.
6. With regard to the use of geographical indications for services, the Parties shall provide in their national laws for adequate and effective means to prevent the use of such indications in a manner that misleads the public regarding the geographical origin of the service or that otherwise constitutes an act of unfair competition.
7. The Parties, in accordance with their obligations under Article 6^{ter} of the Paris Convention, shall prevent armorial bearings, flags and other State or regional emblems of the other Party from being used or registered as trademarks, geographical indications or as any other protected titles such as company names or names of associations in non-compliance with the conditions laid down in the laws and regulations of that Party. This protection shall also apply to signs that may be confused with armorial bearings, flags and other State or regional emblems of the Parties.

ARTICLE 4: Homonymous Designations

1. In the case of homonymous designations:
 - (a) where a protected indication of a Party is identical with a protected indication of the other Party, protection shall be accorded to each indication, provided that the geographical name in question has been used traditionally and consistently and that the product or the service is not falsely represented to consumers as originating in the territory of the other Party;
 - (b) where a protected indication of a Party is identical with a geographical name outside the territories of the Parties, the latter name may be used to describe and present a product produced in the geographical area to which it refers or a service originating in the country to which it refers, provided that the geographical name in question has been used traditionally and consistently, that its use for this purpose is regulated by the country of origin and that the product or the service is not falsely represented to consumers as originating in the territory of the Party concerned.
2. In cases referred to in Paragraph 1, the Parties shall determine the practical conditions under which the homonymous indications in question will be differentiated from each other, taking into account the need to ensure equitable treatment of the producers or the providers of services concerned and that consumers are not misled.

ARTICLE 5: Exceptions

1. The provisions of this Agreement shall in no way prejudice the right of any person to use, in the course of trade, their own name or the name of their predecessor in business, provided that such name is not used in a way that misleads consumers.
2. Nothing in this Agreement shall oblige a Party to protect a designation of the other Party which is not protected or ceases to be protected in its country of origin or which has fallen into disuse in that country.

ARTICLE 6: Beneficiaries

The beneficiaries of the protection granted by this Agreement shall include natural and legal persons, federations, associations and organisations of producers, providers of services, traders or consumers who will be deemed to be interested parties in accordance with Article 3, provided that they have a legitimate interest and that their residence and respective head offices are on the territory of one of the Parties. The Parties shall ensure that the protection granted by this Agreement is enforceable by interested parties in their domestic law.

ARTICLE 7: Presentation and Labelling

If the description or presentation of a product or a service, in particular on the labelling, in official or commercial documents or in advertising, is in breach of this Agreement, the Parties will put in place the necessary administrative mechanisms and enable the competent authorities to take the required legal action with a view to combating unfair competition or preventing the misleading or false use of the protected designation in any other way.

ARTICLE 8: Contact Points

1. The authorities designated in Annex III of this Agreement shall act as contact points between the Parties on any matter covered by this Agreement.
2. Upon request, the contact point shall indicate the authority responsible for the particular matter and assist, if necessary, in facilitating communication with the requesting Party.

ARTICLE 9: Procedure for non-compliant products and services

1. If a Party has reason to suspect that:
 - (a) a product or a service as defined in Article 2, being or having been traded between the Parties, does not comply with this Agreement; and
 - (b) this non-compliance is of particular interest to a Party and could result in administrative measures or legal proceedings being taken,that Party shall immediately inform the contact point of the other Party.
2. The information to be provided in accordance with Paragraph 1 shall be accompanied by official, commercial or other appropriate documents and specify any administrative measures or legal proceedings that may be taken. The information shall include, in particular, the following details concerning the product or the service in question:
 - (a) the producer and any person holding the product, or the provider of the service;
 - (b) the composition of that product or the content of that service;
 - (c) the description and presentation of that product or service;
 - (d) the description of the suspected non-compliance with the applicable rules
 - on the production of that product or on the provision of that service, or
 - on the marketing of that product or service.
3. The other Party shall examine the matter and inform the Party on the outcome of the examination and any measure taken based on Article 3.

ARTICLE 10: National registers

The registrations of geographical indications in national registers listed in Annex IV of this Agreement shall be admitted by the relevant national authorities of the Parties as evidence that these designations comply with Article 2.1 (c), 2.2 (c) and are entitled to be protected under the present Agreement.

ARTICLE 11: Amendments to the Agreement and to the Annexes

1. Either Party may request in writing an amendment to this Agreement.
2. Amendments to the Agreement are adopted by mutual consent between the Parties. Any amendment to this Agreement shall enter into force on the first day of the second month following the date of the last notification through diplomatic channels of the completion by the Parties of all constitutional or legal requirements necessary for its entry into force.
3. Where a Party amends its legislation to protect designations other than those listed in the Annex II hereto or expressly recognises and protects designations other than those listed in the Annex II hereto, the Party shall then notify those new designations to the other Party through the contact points pursuant to Article 8.1. If the other Party does not raise any objection to their inclusion within six months these designations shall be included in the Annex II of this Agreement.
4. Either Party may notify, through diplomatic channels, amendments to its lists as contained in Annexes I, III and IV to this Agreement. Such amendments shall enter into force on the date of receipt of such notification by the other Party.

ARTICLE 12: Transitional Measures

1. Products or services identified with a designation referred to in Article 2 which, at the time of entry into force of the Agreement, have been legally produced or provided, designated and presented, but which are prohibited by this Agreement, may be marketed by wholesalers or producers or providers of services for a period of four years from the entry into force of the Agreement and by retailers until stocks are exhausted.
2. Products produced or providers of services, designated and presented in accordance with this Agreement whose description and presentation ceases to conform to this Agreement following an amendment thereto may continue to be marketed until stocks are exhausted, unless otherwise agreed by the Parties.

Article 13: Settlement of Disputes

1. If an objection is raised under Article 11.3 the Parties shall initiate consultations, by any means agreed between them, within one month of the notification of the objection. The Parties shall use their best endeavours to arrive at an amicable solution within one year from the initiation of consultations.
2. Any other dispute arising out of the interpretation or application of the present Agreement shall be settled amicably through consultations and negotiations between the Parties.

ARTICLE 14: Entry into Force & Termination

1. This Agreement shall enter into force on the first day of the second month following the date of the last notification through diplomatic channels of the completion by the Parties of all constitutional and legal requirements necessary for its entry into force.
2. This Agreement shall remain in force unless one of the Parties terminates the Agreement by giving the other Party six (6) months notice in writing through diplomatic channels.