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Why are geographical indications important for Switzerland?

1. What are geographical indications?

A geographical indication (GI)¹ is a name, consisting of one or several words, which is used to designate goods that have a specific geographical origin and possess qualities and/or a reputation due to that origin.

Appellations of origin (AO)² are a sub-category of GIs. The concept of the appellation of origin is older, and it continues to be used in particular because of its closer link to the geographical origin and special recognition on the market.

Most commonly, a GI consists of the geographical name of the place of origin of a product, and it belongs to the public domain. A GI may also be a traditional denomination which, although it is not a place name, indicates a geographical origin in the mind of the public. These names are traditionally used by producers from the designated place who adhere to certain production methods that give the product its characteristics.

GIs are a legal instrument that belong to the family of intellectual property rights (IPRs). The aim is to guarantee that a name is only used in connection with products that respect certain production processes. The protection of GIs is therefore in both the private interest of producers of a region and in the public interest of preventing consumer deception.

Under Swiss law, a recognised GI is an IPR

- which is defined by a specific title of protection, accompanied by control mechanisms supervised by public authorities
- which has no formal owner
- whose beneficiaries are defined as a collective
- which is protected for an unlimited duration, without the need for renewal
- whose rules of use are validated by the public authorities, taking into account the interests of all stakeholders and the expectations of the public

¹ GIs are defined in Art. 22 para. 1 of the World Trade Organization's Agreement on Trade-Related Aspects of Intellectual Property Rights.

² AOs are defined in Art. 2 para. 2 of the World Intellectual Property Organization's Geneva Act of the Lisbon Agreement.

2. Geographical indications as a collective right

In principle, a protected GI provides the right to use a name, but not the proprietary right over that name, in relation to a specific product and a defined geographical area. Therefore, contrary to patents or trade marks, GIs cannot be sold, transferred or licensed as IPRs.

A protected GI is a collective right which is dependent on compliance with criteria relating to production methods and the quality of the end product. The object of protection is the combination of the name, the delimited geographical area and the product standard defined by specific requirements (production and final quality).

Unlike other IPRs, GIs do not just function as individual titles of protection; they also act as a horizontal quality label (based on tradition, culture and origin), which is recognisable on a variety of domestic and foreign GI products thanks to official terms such as 'protected geographical indication', 'appellation d'origine protégée' or acronyms such as 'AOC', 'PDO' or 'PGI' and related official symbols and private logos. The fact that all GIs belong to the same big 'family' justifies the collective promotion of the GI concept towards consumers.

3. What are the benefits of GIs and why must they be protected effectively?

Effective protection of GIs promotes:

- fair competition between the producers of the same GI product, as well as producers of non-GI products, thanks to internal and external controls
- reliable and accurate information for consumers on the geographical origin, characteristics and quality of goods, allowing them to make their choice accordingly
- a fair distribution of added value between the different levels of the GI supply chain (producers of raw materials, processors, traders)
- preservation of cultural heritage as well as environmental and social sustainability
- local development of activities linked to the GI's reputation, particularly tourism activities

These benefits can only be achieved if there is broad support from stakeholders in the GI supply chain and a functional legal and institutional framework. Defining the requirements linked to the use of the GI (product specifications) is crucial to obtaining effects in terms of market success, redistribution of added value, environmental impact (landscape, biodiversity, etc.) and socio-economic development.

The spirit of geographical indications

- Produce local, sell global!
- Specialty products – not just commodities!
- Cultural identity inside – enjoy the diversity of authenticity!
- No freeriding – rely on your own brand!
- All IPRs are created equal!

4. Switzerland's vision and actions for the international protection of GIs

- GIs should be recognised internationally as a distinct category and a fully-fledged IPR. GIs and trade marks are fundamentally different in nature and function. Therefore, GIs cannot be adequately defined and protected as trade marks.
- As with the other IPRs, there is no reason to distinguish between different levels of protection according to the type of product, as is still the case in the WTO TRIPS Agreement (higher protection only for wine and spirit GIs) and some national laws that replicate this approach.
- As a GI is based on tradition and collective use, it exists even before it is officially recognised or registered. Therefore, all GIs should already benefit from protection, at least as indications of source, before they are recognised or registered as GIs. However, the recognition/registration of a GI as such is the best way to ensure enforceable protection of the GI, legal certainty, a basis for collective organisation and the possibility to extend the protection abroad.
- National and international law should provide a high and efficient level of protection for all GIs. Beyond Art. 23 of the TRIPS Agreement, the standard of protection set out in the Geneva Act of the Lisbon Agreement (2015) is the new point of reference.
- Switzerland is committed to better international protection of GIs in the relevant multilateral bodies (WIPO, WTO), in the free trade network (EFTA FTAs) and in bilateral relations (bilateral GI agreements, international cooperation projects) where reciprocal direct protection of a list of denominations can be obtained.
- In particular, Switzerland supports the development of the Lisbon System (high standard of protection for all GIs and international register of protected GIs) through the expansion of its membership and sustainability of its administration by WIPO.
- For GIs, like for the other IPRs, the primary responsibility for their enforcement lies with those entitled to the use of the GI. Therefore, Switzerland is committed to improving the international legal framework to guarantee a simple and fair registration process, as well as effective enforcement means for GIs beneficiaries.
- GIs and trade marks are not in conflict – they complement each other. A GI protects a shared common asset collectively, while individual companies can still compete using their own trade marks. Switzerland is in favour of a harmonious coexistence between GIs and trade marks, including trade marks that predate the recognition/registration of a GI.
- Switzerland also supports protecting GIs in the internet domain system, at least to the same extent as trade marks.
- It is important that GI beneficiaries' organisations have the legal basis and resources to enable them to fulfil their collective management role, particularly as regards controls, promotion and innovation.
- The notion of sustainability is inherent in the GI concept. In fact, it is in the interests of those involved in the defined geographical area to ensure that the economic, social and environmental aspects of production in that area are maintained. Switzerland actively participates in the current developments and debates aimed at clarifying and developing this dimension of sustainability in GI systems.
- In the context of international trade, Switzerland is in favour of promoting trade in GI products, i.e. products that are not substitutable, have high added value and contribute to the well-being of consumers through their high quality and cultural authenticity.
- Together with the international organisation of GI producers oriGIn, Switzerland is in favour of greater legal and operational harmonisation of the concept of GIs, at both national

- and international level. This harmonisation should cover in particular the definition, the standard of protection and the recognition/registration procedure, for all types of products.
- In the context of international cooperation, demand from partner countries in regard to the development of GIs is very strong on all levels: policy, administration, and product value chains / market access. Switzerland encourages the sharing of experience, between Switzerland, Europe and developing countries, so that public authorities and producers in partner countries can decide on the best way to define their GIs in order to achieve their own objectives. Sustainability measures are included in the planning and implementation of international cooperation projects.