

No. 14495

FRANCE
and
SWITZERLAND

**Treaty on the protection of indications of source,
appellations of origin and other geographical designa-
tions (with protocol, annexes and exchange of letters).
Signed at Bern on 14 May 1974**

Authentic text: French.

Registered by France on 29 December 1975.

FRANCE
et
SUISSE

**Traité sur la protection des indications de provenance, des
appellations d'origine et d'autres dénominations géo-
graphiques (avec protocole, annexes et échange de
lettres). Signé à Berne le 14 mai 1974**

Texte authentique : français.

Enregistré par la France le 29 décembre 1975.

[TRANSLATION—TRADUCTION]

TREATY¹ BETWEEN THE FRENCH REPUBLIC AND THE SWISS CONFEDERATION ON THE PROTECTION OF INDICATIONS OF SOURCE, APPELLATIONS OF ORIGIN AND OTHER GEOGRAPHICAL DESIGNATIONS

The President of the Senate, provisionally exercising the functions of the President of the French Republic, and the Swiss Federal Council, considering that the two Contracting States have an interest in effectively protecting against unfair competition natural and manufactured products, and in particular indications of source, including appellations of origin, and other geographical designations reserved for certain specified products and goods, have agreed to conclude a treaty to that end and have designated as their plenipotentiaries:

The President of the Senate, provisionally exercising the functions of the President of the French Republic: Mr. Bernard Dufournier, Ambassador Extraordinary and Plenipotentiary of the French Republic to Switzerland;
The Swiss Federal Council: Mr. Pierre Graber, Federal Counsellor, Head of the Federal Political Department.

The plenipotentiaries, having exchanged their full powers, found in good and due form, have agreed as follows:

Article 1. Each Contracting State shall take all necessary measures effectively to protect:

1. natural and manufactured products originating in the territory of the other Contracting State against unfair competition in industrial and commercial activities;
2. the names, designations and graphic illustrations mentioned in articles 2, 3 and 5 (para. 2) and also the designations specified in annexes A and B to this Treaty, in accordance with this Treaty and the Protocol annexed thereto.

Article 2. 1. The names “French Republic”, “France”, those of former French provinces and the designations specified in annex A to this Treaty, except as otherwise provided in paragraphs 2 to 4, shall be reserved exclusively in the territory of the Swiss Confederation for French products or goods and may be used there only in accordance with the conditions laid down in the legislation of the French Republic. Certain provisions of that legislation may, however, be declared inapplicable by means of a protocol.

2. If any designation specified in annex A to this Treaty is used for products or goods other than those to which it is attributed in annex A, paragraph 1 shall be applicable only:

- (1) when its use is likely to be detrimental, in the matter of competition, to enterprises which lawfully use the designation for French goods or products specified in annex A, unless a legitimate interest exists in using the designation in the territory of the Swiss Confederation for products or goods which are not of French origin; or

¹ Came into force on 10 October 1975, i.e. three months after the date of the exchange of the instruments of ratification, which took place at Paris on 10 July 1975, in accordance with article 12 (1) and (2).

(2) when its use is likely to diminish the distinctive reputation or drawing power of the designation.

3. If one of the designations protected under paragraph 1 constitutes the name of a region or place situated outside the territory of the French Republic, paragraph 1 shall be without prejudice to the use of the designation for products or goods manufactured in that region or place. Nevertheless, additional requirements may be laid down by a protocol.

4. The provisions of paragraph 1 shall not preclude the indication of a person's name or trade name if it includes the name of a person and of his domicile or place of business on products or goods or their packaging, in business documents or in advertising to the extent that such indication does not serve to distinguish the products or goods. The use of the name and trade name as distinguishing marks shall be lawful, however, if justified by a legitimate interest.

5. Paragraphs 2 and 4 shall be applicable unless article 5 requires otherwise.

Article 3. 1. The names "Swiss Confederation", "Confederation", "Swiss", the names of the Swiss cantons and the designations specified in annex B to this Treaty shall, except as otherwise provided in paragraphs 2 and 4, be reserved exclusively in the territory of the French Republic for Swiss products or goods and be used there only in accordance with the conditions laid down in Swiss legislation. Certain provisions of that legislation may, however, be declared inapplicable by means of a protocol.

2. If any one of the designations specified in annex B to this Treaty is used for products or goods other than those to which it is attributed in annex B, paragraph 1 shall be applicable only:

(1) when its use is likely to be detrimental, in the matter of competition, to enterprises which lawfully use the designation for Swiss goods or products specified in annex B, unless a legitimate interest exists in using the designation in the territory of the French Republic for products or goods which are not of Swiss origin; or

(2) when its use is likely to diminish the distinctive reputation or drawing power of the designation.

3. If one of the designations protected under paragraph 1 constitutes the name of a region or place situated outside the territory of the Swiss Confederation, paragraph 1 shall be without prejudice to the use of the designation for products or goods manufactured in that region or place. Nevertheless, additional requirements may be laid down by a protocol.

4. The provisions of paragraph 1 shall not preclude the indication of a person's name, or trade name if it includes the name of a person, and of his domicile or place of business or headquarters on products or goods or their packaging, in business documents or in advertising to the extent that such indication does not serve to distinguish the products or goods. The use of the name and trade name as distinguishing marks shall be lawful, however, if justified by a legitimate interest.

5. Paragraphs 2 and 4 shall be applicable unless article 5 requires otherwise.

Article 4. 1. If names or designations protected under articles 2 and 3 are used in industrial and commercial activities in violation of those provisions for products or goods, on their inner or outer packaging, on invoices, waybills or

other business documents, or in advertising, their use shall be subject, by virtue of the Treaty, to all the legal or administrative penalties, including seizure, which, under the legislation of the Contracting State in which protection is claimed, may be used to combat unfair competition or in any other way to prevent the unlawful use of designation.

2. The provisions of this article shall apply even when these names or designations are used in translation, with an indication of the true source, with the addition of such words as “-like”, “type”, “style”, “imitation” or similar terms, or in a modified form, if the risk of confusion remains despite the modification.

3. The provisions of this article shall not apply to products or goods in transit.

Article 5. 1. The provisions of article 4 shall likewise apply when use is made on products or goods, on their inner or outer packaging, in invoices, waybills or other business documents, or in advertising of distinguishing marks, trade marks, names, inscriptions or graphic illustrations which directly or indirectly embody false or misleading information on the source, origin, nature, variety or essential qualities of the products or goods.

2. The names or graphic illustrations of places, buildings, monuments, rivers, mountains, etc., which, for a large proportion of the public or of interested commercial circles in the Contracting State in which protection is claimed, are associated with the other Contracting State or a place or region in that State shall be considered as false or misleading information on the source, within the meaning of paragraph 1, if they are used for products or goods which do not originate in that State unless in a particular case the name or graphic illustration can reasonably be held to be merely an indication of quality or fanciful.

Article 6. Proceedings for violation of this Treaty may be instituted in the courts of the Contracting States not only by persons and companies having, under the legislation of the Contracting States, competence to do so, but also by associations and groups which, directly or indirectly, represent producers, manufacturers, merchants or consumers concerned and have their headquarters in one of the Contracting States, provided that the legislation of the State in which the headquarters is situated gives them capacity to be Parties to civil actions and that the legislation of the State in which proceedings are contemplated permits associations and similar groups of the latter State to do likewise. Subject to the same conditions, they may claim rights, including the right of actions in criminal proceedings to the extent allowed by the legislation of the State in which the proceedings are instituted.

Article 7. 1. Products and goods, packaging, invoices, waybills or other business documents and advertising materials which, on the date of the entry into force of this Treaty, are in the territory of one of the Contracting States and have lawfully been marked with indications the use of which is prohibited by this Treaty may be sold or used within a period of two years after the entry into force of this Treaty.

2. Furthermore, persons or companies that, on the date of the signing of the Treaty, have already lawfully used one of the designations protected under articles 2 and 3 shall be entitled to continue to use it for a period expiring six years after the entry into force of the Treaty. This right may be transferred by inheritance or acts *inter vivos* only with the consent of the enterprise or the part of the enterprise concerned.

3. When one of the designations protected under articles 2 and 3 constitutes part of a trade name which is already lawfully in use at the time of the signing of the Treaty, the provisions of article 2, paragraph 4, first sentence, and article 3, paragraph 4, first sentence, shall be applicable even if such trade name does not include the name of a person. Paragraph 2, second sentence, shall be applicable.

4. This article shall be applicable unless article 5 requires otherwise.

Article 8. 1. The lists contained in annexes A and B to this Treaty may be modified or extended by an exchange of notes. Nevertheless, each Contracting State may make deletions from the list of designations covering products or goods originating in its territory without the agreement of the other Contracting State.

2. The provisions of article 7 shall apply in the event of modification or extension of the list of designations relating to products or goods originating in the territory of one of the Contracting States; the date of publication of the modification or extension by the other Contracting State, not that of the signature and entry into force of the Treaty, shall be the operative date.

Article 9. The provisions of this Treaty shall be without prejudice to the more extensive protection which, in one of the Contracting States, is or may be accorded under domestic legislation or other international Conventions to designations and graphic illustrations of the other Contracting State which are protected under articles 2, 3 and 5, paragraph 2.

Article 10. 1. In order to facilitate the enforcement of this Treaty, a Joint Commission composed of representatives of the Governments of each Contracting State shall be established.

2. The Joint Commission shall be responsible for reviewing proposals to modify or extend the lists contained in annexes A and B to this Treaty which require the approval of the Contracting States and for discussing any question relating to the application of this Treaty.

3. Either Contracting State may request a meeting of the Joint Commission.

Article 11. This Treaty shall apply to the territories of the French Republic.

Article 12. 1. This Treaty shall be subject to ratification; the instruments of ratification shall be exchanged at Paris as soon as possible.

2. This Treaty shall enter into force three months after the exchange of the instruments of ratification and shall remain in force indefinitely.

3. Either Contracting State may denounce this Treaty at any time by giving one year's notice in writing to the other State.

IN WITNESS WHEREOF the above-named plenipotentiaries have signed this Treaty.

DONE at Bern, on 14 May 1974, in two original copies in the French language.

For the French Republic:

[Signed]

B. DUFOURNIER

For the Swiss Confederation:

[Signed]

P. GRABER

PROTOCOL

The High Contracting Parties, desiring to deal in detail with the application of certain provisions of the Treaty on the protection of indications of source, appellations of origin and other geographical designations, of today's date, have agreed on the following provisions, which form an integral part of the Treaty:

1. Articles 2 and 3 of this Treaty shall not require a Contracting State to apply, when products or goods covered by the designations protected under articles 2 and 3 of the Treaty are marketed in its territory, the legislative and administrative provisions of the other Contracting State relating to administrative supervision, specifically those concerning the keeping of registers of entry and egress of such products or goods and their distribution.

2. Articles 2 and 3 of the Treaty shall not be applicable to designations of breeds of animal.

The same shall apply to designations which, by virtue of the International Convention of 2 December 1961¹ for the protection of new varieties of plants must be used to designate varieties, provided that that Convention has entered into force in relations between the Contracting States.

3. The Treaty shall not affect the provisions in either Contracting State governing the import of products and goods.

4. The corresponding Latin phrases shall be considered as translations of designations protected under articles 2 and 3 of the Treaty (article 4, paragraph 2, of the Treaty); the same shall apply to the term "romand" vis-à-vis the designation "Suisse française". The protection accorded by article 4, paragraph 2, of the Treaty, to adjectives derived from protected designations shall also extend to the abbreviation "Bündner" in the case of the name of the canton of Grisons.

5. The names of former French provinces referred to in article 2, paragraph 1, of the Treaty are the following:

Alsace
 Angoumois
 Anjou
 Artois
 Aunis
 Auvergne
 Béarn
 Berry
 Bourbonnais
 Bourgogne
 Bretagne
 Champagne
 Corse
 Dauphiné
 Flandre
 Comté de Foix
 Franche-Comté
 Gascogne
 Guyenne

Ile-de-France
 Languedoc
 Limousin
 Lorraine
 Lyonnais
 Maine
 Marche
 Comté de Nice
 Nivernais
 Normandie
 Orléanais
 Picardie
 Poitou
 Provence
 Roussillon
 Saintonge
 Savoie
 Touraine
 Comtat Venaissin.

¹ United Nations, *Treaty Series*, vol. 815, p. 89.

6. The protection of the name « Suisse » under article 3 of the Treaty shall be without prejudice to the use in France of the designation « Petit Suisse » for cheeses manufactured in France.

7. The following homonymous designations specified in annexes A and B to the Treaty may be used in the other Contracting State only in conjunction with the name of the country of origin or other geographical designation clearly indicating the source of the product :

- wines : Hermitage ; Montagny ; Saint-Aubin.
- mineral waters : Vals.

The list of these designations may be modified in accordance with the procedure laid down in article 8 of the Treaty.

8. The time-limit provided for in article 7, paragraph 2, of the Treaty, shall be extended to 20 years in the case of persons and companies when either they or their legal predecessors have at the time of signature of the Treaty lawfully used one of the designations protected under articles 2 or 3 of the Treaty for more than 50 years. This provision shall not apply to the names “France” and “Switzerland”.

9. The inclusion of the designation “Sbrinz” in annex B to the Treaty shall be without prejudice to its utilization in France for cheeses which are not of Swiss origin, provided that it is accompanied by an indication of the country of manufacture in lettering identical in type, size and colour to that of the designation. This provision shall be valid only while France and Switzerland remain Parties to the Convention signed at Stresa on 1 June 1951 and provided that the said designation has not been removed from annex B to the said Convention; interim provisions relating to acquired rights may be adopted by agreement between the two Governments.

10. The inclusion of the designation “Vacherin Mont d’Or” in annex B to the Treaty shall be without prejudice to the use in France of the designations “Vacherin” or “Mont d’Or” for cheeses manufactured in France.

11. The inclusion of the designation “Clevner” in annex B to the Treaty shall be without prejudice to its use in France to designate wine made from a variety of the grape of that name, together with a geographical designation.

12. Either Contracting State may request the other State to permit the import of products or goods covered by one of the designations specified in annexes A and B to this Treaty only if those products or goods are accompanied by a document proving that they are entitled to the said designation. In such event, products or goods which are not accompanied by such a document shall be refused entry.

The Contracting State which makes the request mentioned in the foregoing paragraph shall notify the other Contracting State as to which authorities are competent to issue the document in question. A specimen of the document shall accompany such notification. The State receiving such a request may demand a meeting of the Joint Commission for the purpose of considering the request.

13. As far as wines, fortified wines and brandies having French appellations of origin are concerned, their import into Switzerland shall be subject to the

presentation of a bond note issued by the French administration attesting to the right to use the appellation of origin.

DONE at Bern, on 14 May 1974, in two original copies in the French language.

For the French Republic:
[Signed]
B. DUFOURNIER

For the Swiss Confederation:
[Signed]
P. GRABER

ANNEXES

[For the English translation of the annexes, which is published together with the French authentic text, see p. 130 of this volume.]

EXCHANGE OF LETTERS

I

HEAD OF THE FEDERAL POLITICAL DEPARTMENT

Bern, 14 May 1974

Sir,

With reference to the Treaty between the Swiss Confederation and the French Republic on the protection of indications of source, appellations of origin and other geographical designations, signed today, I have the honour, on behalf of the Swiss Federal Council, to confirm that, by virtue of article 3, paragraph 3, the absolute protection conferred by paragraph 1 of that article on the names of the Swiss cantons—whether used as substantives or adjectivally—shall, except where paragraphs 2 to 4 provide otherwise, be without prejudice to the continued use in France of the term “vaudois” to designate cheeses manufactured in the area traditionally called “vaudois champenois”, provided that the term “vaudois” is accompanied by the name of the region of production in clear lettering, so that there is no risk of misleading the public.

If the content of this declaration is assented to by the Government of the French Republic, I suggest that this letter and Your Excellency’s reply constitute

a Convention between the two Contracting States which will enter into force on the same date as the above-mentioned Treaty.

Accept, Sir, etc.

[Signed]
P. GRABER

His Excellency Mr. Bernard Dufournier
French Ambassador to Switzerland

II

FRENCH AMBASSADOR TO SWITZERLAND

Bern, 14 May 1974

Sir,

I have the honour to acknowledge receipt of your letter of today's date, which reads as follows:

[See letter I]

I have the honour to inform you that the content of the declaration made on behalf of the Swiss Federal Council is assented to by the Government of the French Republic. The Government also agrees that your letter and this reply constitute a Convention between the two Contracting States which will enter into force on the same date as the Treaty to which they refer.

Accept, Sir, etc.

[Signed]
B. DUFURNIER

Mr. Pierre Graber
Federal Counsellor
Head of the Federal Political Department
