SWITZERLAND

TRADE SUMMARY

The U.S. trade deficit with Switzerland was $2.0 billion in 2003, an increase of $408 million from 2002. U.S. goods exports in 2002 were $8.7 billion, up 11.3 percent from the previous year. Corresponding U.S. imports from Switzerland were $10.7 billion, up 13.7 percent. Switzerland is currently the 18th largest export market for U.S. goods.

U.S. exports of private commercial services (i.e., excluding military and government) to Switzerland were $6.7 billion in 2002 (latest data available), and U.S. imports were $6.6 billion. Sales of services in Switzerland by majority U.S.-owned affiliates were $5.9 billion in 2001 (latest data available), while sales of services in the United States by majority Switzerland-owned firms were $31.4 billion.

The stock of U.S. foreign direct investment (FDI) in Switzerland in 2002 was $70.1 billion, up from $60.7 billion in 2001. U.S. FDI in Switzerland is concentrated mainly in the wholesale, banking and manufacturing sectors.

IMPORT POLICIES

The simple average tariff in Switzerland on imports of agricultural products is 34.3 percent, while the average for manufactured products is 2.3 percent. Due to high tariffs on certain agricultural products and preferential tariff-rates for other countries, Switzerland is a relatively difficult market for many U.S. agricultural products to enter. The U.S. share of the agricultural import market is about 3.8 percent.

Imports of nearly all agriculture products, no matter the country of origin, are subject to import duties and variable import quotas. The Swiss agricultural sector remains among the most heavily subsidized in the world. Swiss statistics show that 3,100 farms were forced out of business over the last two years, representing a decline of 2.2 percent per annum. However, the number of organic farms grew by eight per cent between 2001 and 2002, representing 9.6 percent of all exploited land and 11 percent of total Swiss agricultural output.

In its 2003 annual report, the OECD expressed concerns that farmers in many OECD countries remain shielded from world market signals. Prices received by farmers in Switzerland are more than 100 percent higher than world market prices. The OECD estimates that Switzerland subsidizes more than 70 percent of its agriculture, compared with 35 percent in the European Union. According to the A2007 Agricultural Program recently adopted by the Swiss Parliament, the funds allocated to Swiss agriculture will increase by $47 million (SFr 63 million), totaling $10.6 billion (SFr 14 billion) from 2004 to 2007. However, milk quotas will be abolished starting in May 2009.

Federal direct payments for food and agriculture increased from $1.7 billion (SFr 2.3 billion) in 2001 to $1.83 billion (SFr 2.4 billion) in 2002, and are set to increase by 5 percent over the next three years. Following severe summer droughts, in September 2003, the federal government agreed to increase payments for Swiss farmers most severely affected. In 2002, the Swiss government had already increased agricultural subsidies by $24.8 million (SFr 37 million) for the 2003 federal budget.

Agricultural tariff-rate quotas also present problems for U.S. exporters, since Swiss regulations often allocate quotas to importers that have incentives to purchase domestic products. This practice has increased protection for domestic producers and in some cases, such as potato products, has effectively blocked U.S. imports. Although public resistance to agricultural biotechnology products or the use of growth hormones remains strong, U.S. agricultural exports to Switzerland have shown solid growth in recent years. If Switzerland removed impediments to trade in the agriculture sector, U.S. industries estimate that U.S. exports would increase by $25 million.

SWITZERLAND

STANDARDS, TESTING, LABELING AND CERTIFICATION

Switzerland has taken a case-by-case approach to bio-engineered products since voters rejected a moratorium on biotechnology research and products in 1998. Bio-engineered foods and additives need approval for consumer marketing through certification by the Federal Food Safety Office, and the manufacturer of bio-engineered food products must submit detailed information concerning the modifications. The Swiss authorities must review the product for toxicity, resistance to antibiotics, and allergenic characteristics. Bio-engineered products that are substantially equivalent to a conventional organism may have an easier path to approval. Swiss approval of agricultural products from modern biotechnology generally mirrors approvals by the European Commission. Certificates of approval are valid for five years.

Switzerland has required labeling for foods containing bio-engineered products since 1996. In 1999, the Government of Switzerland modified its regulations to require labeling only if the percentage of bio-engineered ingredients reaches one percent. A notable exception to the labeling requirement is the use of substances in the production process extracted or refined from bio-engineered substances, such as refined soy oil. According to Swiss officials, these ingredients do not require a biotechnology label because testing cannot show they are derived from bio-engineered commodities.

The pharmaceutical industry has been influential in deflecting harmful regulation and maintaining a receptive market climate. The animal feed industry has succeeded in reaching consumers for agricultural biotechnology products via a transparent approval system. However, the planting of bio-engineered seed crops faces difficult environmental approval hurdles, including a renewed joint effort of consumer and farm organizations to enforce a time-limited moratorium on the introduction of agri-biotechnology.

The most significant barriers for bio-engineered food and agricultural products in Switzerland stem from policies by the major food retailers and Swiss farmers not to purchase such products. Swiss groups opposed to bio-engineered products in the food chain have been very effective in convincing supermarket purchasing executives and Swiss farm groups to boycott agricultural products, such as food, feed and seed, derived from biotechnology.

Since January 2000, imports of fresh meat and eggs produced in a manner not permitted in Switzerland must be clearly labeled as such. Methods not allowed in Switzerland include the use of growth hormones, antibiotics, and other anti-microbial substances in the raising of beef and pork, as well as the production of eggs from chickens kept in certain types of cages.

The Swiss Veterinary Agency continues to refuse to list new U.S. facilities as eligible to export beef to Switzerland, and despite repeated requests, has not produced science-based reasons for not doing so. Swiss inaction has blocked three plants that the United States requested be listed since early 2002. The Swiss government has made clear that the situation is due to its dissatisfaction with current U.S. regulations that block certain Swiss processed beef exports to the United States due to sanitary and disease reasons.

GOVERNMENT PROCUREMENT

Switzerland is a signatory of the WTO Government Procurement Agreement. On the cantonal and local levels, a law passed by Parliament in 1995 provides for nondiscriminatory access to public procurement. The United States and Switzerland reached an agreement in 1996 to expand the scope of public procurement access on a bilateral basis.

According to the July 2002 revised Ordinance on Public Procurement, all private or state-owned companies such as utilities, transportation, communications, defense, and construction that submit tenders for government procurement must make their bids public if the contract exceeds $148,800 (SFr 250,000). Total Swiss federal government procurement is approximately $2.5 billion (SFr 4.2 billion), and foreign purchases totaled $446 million (SFr 750 million). Cantonal and communal governments carry out many public projects B their procurement is 2-3 times that of the federal government.

In general, quality and technical criteria are as important as price in the evaluation of tenders. Cantons and communes usually prefer local suppliers because they can recover part of their outlays through income taxes. Foreign firms may be required to guarantee technical support and after-sale service if they have no local office or representation.

Notices of Swiss government tenders are published in the Swiss Official Gazette of Commerce (www.shab-online.admin.ch). Tender documents can be obtained free from the Gazette's website. There is no requirement to have a local agent to bid.

EXPORT SUBSIDIES

In recent decades, agriculture has lost its relative importance in the Swiss economy (though not in society or politics), and preservation in its current form has been due largely to governmental intervention and support. The Swiss system for protecting and aiding its farmers is now undergoing reform, both to reduce budgetary outlays and in response to pressure from consumers and Switzerland's trading partners. WTO agreements require Switzerland to eliminate non-tariff barriers, reduce export subsidies, make binding commitments on its schedule of agricultural tariffs, and decrease levels of domestic support payments. Consequently, the Swiss agricultural sector will gradually become more responsive to market forces and open to foreign goods. The Swiss government has ratified an agreement with the EU under which both sides will remove dairy product import quotas by 2008.

SERVICES BARRIERS

Financial Services

Foreign insurers wishing to do business in Switzerland are required to establish a subsidiary or a branch in Switzerland and may offer only those types of insurance for which they are licensed in their home countries. Foreign lawyers are not forbidden to work in Switzerland, but there are practical and legal limits to their activities. For example, a foreign lawyer not licensed in Switzerland must follow carefully the complex requirements of several international conventions to obtain testimony or to serve process in civil matters in Switzerland.

Telecommunications

The 1998 Telecommunications Act brought liberalization and privatization to the Swiss telecommunications sector, opening the market to investment and competition from foreign firms. More than 50 Swiss and foreign companies now offer fixed line services. Three different operators, Swisscom, Sunrise (TeleDanmark), and Orange (France Telecom), share the mobile telephone market, and each of the companies also owns third generation mobile telephony licenses (UMTS). Southern Bell Corporation's 40 percent stake in Sunrise's parent company represents the only significant U.S. presence in the Swiss telecommunications market. The incumbent state monopoly, Swisscom, has often blocked the Swiss government's efforts to open the market to competition. For example, Swisscom won a Swiss Supreme Court decision in 2001 against a Competition Commission decision to unbundle the local loop and provide leased lines at cost-oriented prices. In response, the government has begun the legal process of reforming the telecommunications law and the law's implementing ordinances in order to create the necessary legal authority for the regulator to implement the initiative.

In February 2003, the Swiss Cabinet approved a proposal for a two-pronged telecommunications reform package. A portion was accomplished by regulatory reform needing only the approval of the Swiss Cabinet, while the rest will go through Parliament as legislative reform.

The regulatory reform took effect on April 1, 2003 and gave the independent regulator, the Competition Commission (ComCom), legal authority to order Swisscom to provision leased lines at cost-oriented prices. On November 7, 2003, ComCom ordered Swisscom to lower its interconnection rates by 25 percent to 35 percent, starting January 1, 2004. The ComCom decision is retroactive for the past three years and will ultimately force Swisscom to reimburse tens of millions of Swiss francs to Sunrise and MCI WorldCom, Swisscom's direct competitors. As expected, Swisscom criticized ComCom's decision, claiming its rates were in line with EU standards, and announced that it would challenge the ruling in court.

The cabinet submitted a bill to Parliament in November 2003 to amend the 1997 Telecom Act and give ComCom more robust authority to order Swisscom to unbundle the local loop. In addition, the provisions ensuring effective competition would be strengthened and consumer protection and the protection of personal data improved. Parliament will not likely pass the bill before 2005. Swisscom has stated that it also will challenge any such legislation in court.

Audiovisual Services

Switzerland has no limitations on the amount of non-Swiss or non-European origin programming that can be broadcast, but film distributors and cinema companies must maintain, through self-regulatory solutions, an appropriate diversity (not yet defined) in the products offered within a region. Beginning in 2004, the government may levy a nominal development tax on a region's movie theater tickets if the appropriate diversity is not present. The development tax receipts would be used to finance new theaters that would offer greater diversity in the films being shown within a region.

INVESTMENT BARRIERS

Switzerland welcomes foreign investment and accords national treatment. The federal government's approach is to create and maintain general conditions that are favorable both to Swiss and foreign investors. Swiss banking laws encourage the formation of abundant pools of capital from overseas investors. Some cantons have income tax incentive programs to encourage foreign investment.

The major laws governing foreign investment in Switzerland are the Swiss Code of Obligations, the Lex Friedrich/Koller, the Securities Law, and the Cartel Law. There is no screening of foreign investment (except land ownership and national security establishments), nor are there any sectoral or geographical preferences or restrictions. Following the implementation of the Swiss-EU bilateral agreement on the free movement of persons on June 1, 2002, all restrictions on work by EU and EFTA citizens have been removed. Cantons have also been granted extensive decision making powers when allowing foreigners to buy a property. Investment areas considered national security establishments include hydroelectric and nuclear power, operation of oil pipelines, transportation of explosive materials, operation of airlines, and marine navigation.

ANTICOMPETITIVE PRACTICES

SWITZERLAND

The Swiss economy has long been characterized by a high degree of cartelization, primarily among domestically-oriented firms and industries. The Swiss Cartel Law specifically allows cartels unless the government concludes that they are harmful to society or the economy.

While Switzerland enacted a stronger anti-cartel law in 1996, which gave increased power to the competition commission to prohibit/penalize cartels, the country's anti-cartel regime remains weak by U.S. and EU standards. For example, the 1996 law allows firms engaged in anticompetitive behavior to avoid penalties for first violations after receiving a warning to cease the anticompetitive practice. Penalties and fines for subsequent violations are not particularly severe. In June 2003, the Swiss Parliament adopted a revised competition bill, which is expected to take effect on April 1, 2004. The most significant improvements in the revised law include the possibility to sanction anticompetitive behavior without prior warning, with a maximum fine of ten percent of a firm's total combined revenue for the past three years. Whistle blower companies that cooperate with regulators will be eligible for a reduced fine (leniency program). Regulations on parallel imports remain unchanged. Those covered by copyright and trademark protection are subject to international exhaustion treatment. The parallel import of patented products such as pharmaceuticals will remain restricted, although permitted to ensure against excessive price fixing.

Discussions over the extension of international exhaustion to patented products have encountered a lukewarm response from conservative political parties. The Swiss Competition Commission also argued that because patented products are still protected under U.S. and EU law, Switzerland should not be placed at a disadvantage vis-à-vis its main trading partners. The Swiss definition of a cartel will remain unchanged, and Switzerland will adhere to the EU definition of market power. In general, the Competition Commission considers vertical agreements with less than 20 percent of market share as insignificant, whereas others potentially face a fine. Cartels with more than 50 percent of market share will be fined. Restrictions on the sale of components or spare parts are also considered anti-competitive and generally are already unlawful. The impact of the revised competition law on overall price-levels is nevertheless expected to be limited. A typical household's basket of consumer goods consists of more than 70 percent of items that are neither subject to government regulation nor traded internationally, and thus will not be affected by the revised law. Most of the top 100 U.S. export goods to Switzerland during 2002 are designed for industrial, rather than consumer, use.

In the automobile sector, the Competition Commission implemented new rules during 2002 that greatly weakened special antitrust exemptions in the automobile industry. The new regulations forbid manufacturers to implement a higher Swiss Price outside Switzerland, a practice that prevented Swiss car buyers from shopping in neighboring countries for better deals.

ELECTRONIC COMMERCE

The proportion of Swiss citizens using computers and the Internet is high (63 percent), and the government generally supports the development of electronic commerce with a minimum of regulatory interference. Switzerland is following the lead of the EU with respect to Internet privacy issues. Swiss law stipulates that personal data may not pass to a foreign country if that country does not offer an adequate level of data protection.

In January 2001, Parliament began work on legislation that would recognize the validity of electronic signatures. The lower house of Parliament adopted the new legislation in July 2003, which should be approved by the upper house during 2004. Swiss authorities are promoting electronic government services with a goal of providing services more efficiently and making Switzerland more competitive as a business location.