SWITZERLAND

TRADE SUMMARY

The U.S. goods trade deficit with Switzerland was $2.2 billion in 2005, a decrease of $99 million from $2.3 billion in 2004. U.S. goods exports in 2005 were $10.7 billion, up 15.7 percent from the previous year. Corresponding U.S. imports from Switzerland were $13.0 billion, up 11.7 percent. Switzerland is currently the 17th largest export market for U.S. goods.

U.S. exports of private commercial services (i.e., excluding military and government) to Switzerland were $8.7 billion in 2004 (latest data available), and U.S. imports were $8.8 billion. Sales of services in Switzerland by majority U.S.-owned affiliates were $19.8 billion in 2003 (latest data available), while sales of services in the United States by majority Switzerland-owned firms were $34.6 billion.

The stock of U.S. foreign direct investment (FDI) in Switzerland in 2004 was $100.7 billion, up from $88.9 billion in 2003. U.S. FDI in Switzerland is concentrated largely in the manufacturing, wholesale, and banking sectors.

IMPORT POLICIES

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. While the average for manufactured products is 2.3 percent, the simple average tariff in Switzerland on imports of agricultural products ranges from 28.6 percent to 36.2 percent. Due to high tariffs on certain agricultural products, preferential tariff rates for other countries, and negative public perception of agricultural products derived from biotechnology, Switzerland is a relatively difficult market in which few U.S. agricultural products successfully compete. High tariffs and quotas are a direct cause of the modest levels of U.S. wheat, corn, and soybean exports. The U.S. share of the Swiss agricultural import market in 2004 was 3 percent. Imports of nearly all agriculture products, no matter the country of origin, are subject to import duties and variable import quotas.

Agricultural tariff-rate quotas present problems for U.S. exporters, as 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. exports. Public resistance to agricultural products derived from biotechnology or the use of growth hormones remains strong, and, partially as a result, U.S. agricultural exports to Switzerland during 2004 dropped by 29 percent by volume and by 5.9 percent by value.

STANDARDS, TESTING, LABELING AND CERTIFICATION

Switzerland has taken a case-by-case approach to agricultural products derived from biotechnology since voters rejected a moratorium on biotechnology research and products in 1998. Agricultural biotechnology products need approval for consumer marketing through certification by the Federal Office of Public Health, and the manufacturer of such products must submit detailed information concerning the product development process. The Swiss authorities must review the product for toxicity, resistance to antibiotics, and allergenic characteristics. Agricultural biotechnology products that are substantially equivalent to conventional foods may have an easier path to approval. Swiss certificates for approval of agricultural biotechnology products are valid for five years.

Switzerland has required labeling for foods containing products derived from biotechnology since 1996. In January 2005, the federal government lowered the labeling threshold for agricultural products derived from biotechnology from 1.0 percent to 0.9 percent in order to harmonize its regulations with those of the EU. A notable exception to the labeling requirement is the use of substances such as soy oil in the production process. According to Swiss officials, these ingredients do not require a label because testing cannot show they are derived from bio-engineered commodities.

The animal feed industry has succeeded in establishing a small market for products derived from biotechnology. However, the planting of seed crops derived from biotechnology faces difficult environmental approval hurdles. Despite opposition by the Swiss government, voters adopted a popular initiative “Food from GMO-free Agriculture” on November 27, 2005 that introduces a five year moratorium on commercial planting of crops derived from biotechnology. Swiss authorities have noted that requests for the commercial planting of crops derived from biotechnology can be submitted and would be processed during the moratorium period – there were no such requests pending at the time of the national ballot vote. The initiative should have no impact on trade in agricultural products derived from biotechnology because the existing legislation permits their importation. The government has stated that the five-year moratorium did not require implementing legislation and took effect immediately, ending on November 27, 2010. The moratorium does not restrict scientific research in this area – the government also pledged SFr12 million ($9.1 million) for a national research program to study the uses and possible risks of agricultural products derived from biotechnology.

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

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 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 this position. 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 related to its dissatisfaction with current U.S. regulations that block certain Swiss processed beef exports to the United States due to concerns over mad cow disease and foot-and-mouth disease.

GOVERNMENT PROCUREMENT

Switzerland is a signatory of the WTO Government Procurement Agreement (GPA). On the cantonal and local levels, a law passed by Parliament in 1995 provides for non-discriminatory access to public procurement. According to a July 2002 revised ordinance on public procurement, all private or state-owned companies such as utilities, and transportation, communications, defense, and construction companies that submit tenders for government procurement must make their bids public if the value of the procurement is more than SFr250,000 ($193,573).

In September 2004, the Swiss government initiated a series of informal consultations to amend the Swiss Federal Law on Public Procurement. Ultimately, this process should simplify the public tender procedure and harmonize the many different cantonal tender procedures. Under the GPA, Swiss cantons are allowed to implement the Agreement independently from the federal government, which sometimes leads to differences among cantons.

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*) and on the on-line Swiss government procurement website (*www.simap.ch* – French, German and Italian versions only). There is no requirement to have a local agent to bid.

SERVICES BARRIERS

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 company also owns third generation mobile telephony licenses (UMTS). Until 2005, SBC Communications' 9.5 percent stake in Sunrise's parent company represented the only significant U.S. presence in the Swiss telecommunications market.

In September 2005, U.S. Liberty Global purchased 100 percent of the shares of Cablecom, the largest cable (phone and internet) operator in Switzerland, and second largest internet service provider behind Swisscom – the incumbent state monopoly. Stiff competition between the two operators has already led to a sharp drop in fixed line rates.

Swisscom continues to use litigation to block the Swiss government's efforts to open the market to competition. For example, Swisscom has successfully fought efforts by the Competition Commission and the Federal Communications Commission (ComCom) to unbundle the local loop and provide leased lines at cost-oriented prices. In response, the government is in the process of creating additional legal authority for the regulator to implement these initiatives.

In October 2004, the lower house of Parliament began work on amending the Telecom Act with language that will give the regulator explicit authority to force Swisscom to unbundle its local loop, effectively fixing the "flaw" cited by the federal court. The reform will cover only fixed line services and will not extend to other technologies, such as mobile and WiFi. The bill also requires that broadband access be offered to Swisscom competitors at cost-oriented prices over a period of six years, after which all operators are expected to afford the broadband investment themselves. In 2005, Swisscom lowered its interconnection prices by 7 percent and announced a further 5 percent drop for 2006.

In October 2004, ComCom opened an investigation of Swisscom's broadband access pricing on the ground it might give preferential rates to its internet subsidiary "Bluewin" in comparison with its competitors. This is not the first time the competition watchdog has investigated Swisscom's broadband practices. In 2003, it ordered Switzerland's biggest telecommunications company to stop giving preferential discounts to Bluewin. Because of Swisscom's monopoly on the last mile, competitors have no choice but to deal with Swisscom if they desire to enter the Swiss market.

Further complaints have been raised that Switzerland has some of the highest fixed-to-mobile termination rates among developed countries, despite its WTO obligations to ensure that such interconnection rates with a major supplier are cost-oriented. The Competition Commission criticized termination rates, which prompted Swisscom Mobile to lower its rates.

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 currently defined – in the products offered within a region. The government may levy a nominal development tax on movie theater tickets if the Swiss government determines the appropriate diversity is not being met. The development tax receipts will be used to finance new theaters that could offer greater diversity in the films being shown within a region. Switzerland is a signatory of the October 2005 UNESCO Convention on Cultural Diversity.

Postal Services

The Postal Act divides the Swiss postal market into two segments – universal services and competitive services. Competitive services, which include express delivery, are unrestricted. Universal services are subsequently divided into reserved and non-reserved services. Only Swiss Post is required to provide universal service. Swiss Post is the exclusive provider of reserved services (monopoly), while it competes with private postal operators for the provision of non-reserved services. Private postal operators are allowed to provide specific non-reserved services (shipment and handling of out-bound international mail, and of addressed packages of up to 20 kg) subject to a license, provided they can ensure regular and professional shipment of mail and parcels and reach a turnover, subject to value-added tax, of at least SFr100,000. PostReg, the regulatory authority, exercises market supervision, ensures the functioning and fair competition in the postal market, and enables the proper implementation of applicable regulations. Postal restrictions on parcel deliveries were lifted in 2004, and letters sent abroad or for which the delivery costs were more than SFr5 ($4) could also be sent by other companies.

In September 2004, the Swiss government decided to reduce Swiss Post's monopoly from the current 350-gram threshold to 100 grams by April 2006. The government's decision to liberalize the market further was based on an independent study which confirmed that a further liberalization of letter delivery services would not disrupt the country's mail distribution, a key issue for voters. Efforts by the Swiss business community to lower Swiss Post's monopoly to 50 grams or grant unlimited access to competitors failed to reach a consensus in the Swiss parliament. The government is expected to publish a report by early 2006 on ways to liberalize further the letter delivery service. Swiss trade unions have warned that any further opening of the market should not go beyond what was approved by parliament three years ago.

In July 2004, PostReg criticized Swiss Post for failing to comply with legal book-keeping requirements and accused the company of largely understating its annual profit. Swiss Post had published a 2004 profit for its universal service of SFr522 million ($408 million), but PostReg said the figure should have been at least SFr776 million ($607 million). Swiss Post so far rejected the criticisms of improper bookkeeping and demanded an independent inquiry. Concerns exist that the company might have understated its profit in order to prevent a further liberalization of the postal market.

Insurance

With the highest per capita insurance expenditure in the world, Switzerland's insurance market is extremely appealing to foreign competitors. Out of 198 insurance companies currently operating in the Swiss market, at least 40 are foreign subsidiaries. Of the 198 companies, 26 offer life insurance, 117 offer non-life insurance, and approximately 55 offer reinsurance. Foreign companies offering only reinsurance are not subject to oversight by the supervisory body, the Federal Office of Private Insurance (FOPI).

However, barriers to foreign insurance entry still persist. Foreign insurers attempting to do business in Switzerland are required to establish a subsidiary or a branch and cannot sell their entire product line cross-border or through a representative office. Foreign insurers operating in

Switzerland are limited to those types of insurance for which they are licensed in their home countries. The manager of the foreign-owned branch must be resident in Switzerland and the majority of the board of directors of the Swiss subsidiary must have citizenship in the European Free Trade Association (Switzerland, Norway, Iceland and Liechtenstein). Public monopolies exist for fire and natural damage insurance in 19 cantons, and for the insurance of workplace accidents in certain industries. Private insurance firms must establish a fund – amounting to between 20 percent and 50 percent of their minimum capital requirement – available at short notice to cover potential losses. A new insurance law took effect on January 1, 2006, that increases the solvency requirements of all insurance companies operating in Switzerland. As part of a bilateral agreement with the European Union, EU non-life insurers are not required to deposit a certain percentage of their assets with the Swiss National Bank (SNB), but non-EU life-insurers are required to do so.

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. Cantons have been granted extensive decision making powers when allowing foreigners to buy land. Investment areas in which restrictions related to national security apply include hydroelectric and nuclear power, operation of oil pipelines, transportation of explosive materials, operation of airlines, and marine navigation.

ANTICOMPETITIVE PRACTICES

The Swiss economy has long been characterized by a high degree of cartelization, primarily among domestically-oriented firms and industries. In June 2003, the Swiss parliament adopted a revised competition bill, which took effect on April 1, 2004. The most significant improvement is authority 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. Companies that cooperate with regulators are eligible for a reduced fine.

Electricity

Electricity production is competitive, but local public monopolies dominate electricity transmission and distribution within Switzerland. Several cantons have attempted to prevent other providers from serving their areas, but those efforts were ruled illegal under the Cartel Law. Local communities as a result have tried to bypass the federal court ruling by cementing their dominant position through cantonal legislative changes or "gentlemen's agreements" with large customers.

During a referendum initiated by Swiss labor unions in 2002, the population rejected a bill aimed at permitting third party access throughout the grid. But experts argue that lower energy power prices in neighboring countries will at some point force Switzerland to adapt. The Swiss government has recently proposed another electricity bill to liberalize the market. The first phase – scheduled to start in 2007 – will allow commercial users to choose their electricity supplier. The bill provides for the unbundling of transmission from commercial activities, the merger of transmission operators into a single system knows as "Swissgrid," and establishes an independent regulatory agency for the electricity sector. A second phase will provide for full market liberalization in 2012.