

# SWITZERLAND

## TRADE SUMMARY

The U.S. trade deficit with Switzerland was \$2.4 billion in 2004, an increase of \$345 million from \$2.0 billion in 2003. U.S. goods exports in 2004 were \$9.3 billion, up 7.1 percent from the previous year. Corresponding U.S. imports from Switzerland were \$11.6 billion, up 9.0 percent. Switzerland is currently the 18<sup>th</sup> largest export market for U.S. goods. U.S. exports of private commercial services (i.e., excluding military and government) to Switzerland were \$8.0 billion in 2003 (latest data available), and U.S. imports were \$8.3 billion. Sales of services in Switzerland by majority U.S.-owned affiliates were \$6.8 billion in 2002 (latest data available), while sales of services in the United States by majority Switzerland-owned firms were \$33.1 billion. The stock of U.S. foreign direct investment (FDI) in Switzerland in 2003 was \$86.4 billion, up from \$71.5 billion in 2002. U.S. FDI in Switzerland is concentrated largely in the wholesale, manufacturing, 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. Switzerland is leading the so-called “Group of Ten” net food importers, which lobbied hard in the WTO against moves to tighten limits on import duties for so-called sensitive products.

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, preferential tariff rates for other countries, and negative public perception of agricultural products derived from biotechnology, 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 3.16 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. Although Swiss statistics show that 1,500 farms are forced out of business each year, the number of organic farms grew by 3.3 percent between 2003 and 2004, and organic sales increased by 7 percent to \$979 million. Many consumers choose organic products – sold under the Swiss label “ioSuisse” – when they buy dairy, meat, bread, eggs, vegetables, and fresh fruits.

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,

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compared with 35 percent in the European Union. According to the 2007 Agricultural Program recently adopted by the Swiss Parliament, the funds allocated to Swiss agriculture will increase by \$47 million, totaling \$10.6 billion from 2004 to 2007. However, milk quotas will be abolished starting in May 2009.

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 products derived from biotechnology or the use of growth hormones remains strong, U.S. agricultural exports to Switzerland maintained steady growth in recent years.

### **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 process for development. 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 1999, the federal government modified its regulations to require labeling only if the percentage of ingredients derived from biotechnology reaches one percent. However, this threshold will be lowered to 0.9 percent starting January 1, 2005 to be compatible with EU regulations. A notable exception to the labeling requirement is the use of substances in the production process extracted or refined from substances derived from biotechnology, such as refined soy oil. According to Swiss officials, these ingredients do not require a label because testing cannot show they are derived from bio-engineered commodities. The pharmaceutical industry has been particularly influential in deflecting harmful regulation and maintaining the legal basis for a possible future, more receptive market.

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. The government has opposed a call for a five-year moratorium on crops derived from biotechnology in Switzerland. Put forward by a coalition of environmental groups, consumers and farmers, the initiative calls for a ban on the farming of crops derived from biotechnology for use in food, and the import of seeds and fodder derived from biotechnology. However, the cabinet believes that the new Swiss law on genetics (Gen-

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Lex), which took effect in January 2004, adequately protects humans, animals, and the environment against abuses.

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 due 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 nondiscriminatory access to public procurement. The United States and Switzerland agreed in 1996 to expand the scope of public procurement access on a bilateral basis.

According to a 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 SFr 250,000 (\$219,241). Total procurement expenses – both at the federal, cantonal and community level – are valued at approximately \$26 billion. Foreign purchases totaled \$446 million.

In September 2004, the Swiss government initiated a series of informal consultations to amend the Swiss Federal Law on Public Procurement. This process should ultimately simplify the public tender procedure, and harmonize it across the cantons. Under the GPA, Swiss cantons are allowed to implement the agreement independently from federal intervention, which sometimes leads to disparities across 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

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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](http://www.shab-online.admin.ch)) and on the on-line Swiss Public procurement website [www.simap.ch](http://www.simap.ch) (French, German and Italian versions only). There is no requirement to have a local agent to bid.

## **SERVICES BARRIERS**

### **Legal Services**

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 fifty 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). Southern Bell Corporation's 9.5 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 used the courts 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 Communications Commission to unbundle the local loop and provide leased lines at cost-oriented prices. In response, the government is in the process of reforming the telecommunications law and the law implementing ordinances 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 amending the Federal Ordinance on Telecommunication Services needing only the approval of the Swiss Cabinet, while the reform of the 1997 Telecom Act will go through Parliament. The regulatory reform took effect on April 1, 2003, and gave the independent regulator the legal authority to order Swisscom to provide leased lines at cost-oriented prices. In November 2003, the regulator had unsuccessfully tried to force Swisscom to drop its interconnection prices by 25 percent to 35 percent and pay back tens of millions of francs to the competition, but a federal court overturned the decision in March 2004.

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In February 2004, the Communications Commission ruled in favor of TDC Sunrise seeking an order to force Swisscom to provide it with unbundled access to the local loop. In its decision, the regulator cited the legal provisions embodied in the April 2003 ordinance as sufficient basis to force Swisscom to unbundle its local loop for bit stream access, shared access, and full access. Swisscom immediately appealed the decision. In December 2004, a federal court rebuffed the ruling on the grounds that Swiss laws – as they stand at present – do not give the regulator authority to require Swisscom to open the local loop to competition.

In October 2004, the lower house 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 two months later by the federal court. The reform 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. The reform is now being addressed in the Lower House’s Committee on Telecommunications. According to the Parliament’s secretariat, the bill should come to the floor during the 2005 spring session. Implementation of the new law is not expected until the end of 2005 or early in 2006. In October 2004, Swisscom announced that it would lower its interconnection prices by 7 percent. Some observers have suggested that the move was aimed at reducing the Parliament’s interference in its interconnection practices.

### **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. The government may levy a nominal development tax on 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.

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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 in the revised law 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. Whistle blower companies that cooperate with regulators are eligible for a reduced fine. The transition period to adapt to the new law ends on April 1, 2005.

In the automobile sector, the Competition Commission implemented new rules in 2002 that greatly weakened special antitrust exemptions in the automobile industry. The new regulations forbid manufacturers from implementing a higher Swiss price outside Switzerland, a practice that prevented Swiss car buyers from shopping in neighboring countries for better deals. Industry experts predict cautiously that the price spread for both automobiles and parts imported from the EU will be broader, with prices likely to tumble.

### **ELECTRONIC COMMERCE**

The government generally supports the development of electronic commerce with a minimum of regulatory interference. In December 2003, Switzerland adopted legislation that will recognize the validity of electronic signatures starting January 1, 2005. Electronic signatures will then have the same legal value as handwritten ones. People can sign up electronically for health insurance and apartments. However, some official documents, for example wills or property deeds, will still have to be signed by hand. This move puts Switzerland among the first European countries to recognize e-signatures. Swiss provisions are compatible with European law and are aimed at contributing to the development of cyber administration, e-commerce, and the purchase of goods and services on the Internet. Swiss authorities are promoting electronic government services with a goal of providing services more efficiently and making Switzerland more competitive as a business location.

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