SWITZERLAND

TRADE SUMMARY

The U.S. goods trade surplus with Switzerland was $2.3 billion in 2007, an increase of $2.1 billion from 2006. U.S. goods exports in 2007 were $17.0 billion, up 18.5 percent from the previous year. U.S. imports from Switzerland were $14.8 billion, up 3.8 percent over the corresponding period. 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 $13.2 billion in 2005 (latest data available), and U.S. imports were $13.7 billion. Sales of services in Switzerland by majority U.S.-owned affiliates were $10.8 billion in 2006 (latest data available), while sales of services in the United States by majority Swiss-owned firms were $34.0 billion.

The stock of U.S. foreign direct investment (FDI) in Switzerland was $90.1 billion in 2006 (latest data available), up from $81.0 billion in 2005. U.S. FDI in Switzerland is concentrated largely in the nonbank holding companies, wholesale trade, banking, and finance sectors.

IMPORT POLICIES

Agricultural Products

Agriculture retains an important place in Swiss society (agricultural self-sufficiency is mentioned in the Swiss constitution), and agricultural interests maintain a strong lobby among politicians, one-third of whom claim to be farmers. However, the agricultural sector has been losing its relative importance in the Swiss economy for some time and now represents less than 1.5 percent of gross domestic output from fewer than 64,000 farmers. Preservation of the Swiss agricultural sector is largely due to governmental intervention and support, which the OECD estimates to be valued at 70 percent of gross farm receipts. While the average applied tariff for manufactured products was 2.1 percent in 2006, the average applied tariff in Switzerland on imports of agricultural products was 44 percent.

Switzerland is a relatively difficult market to enter and in which few U.S. agricultural products can successfully compete. This is due to high tariffs on certain agricultural products, preferential tariff rates for other countries, and government regulation and negative public perception of agricultural products derived from biotechnology. Imports of nearly all agriculture products, particularly those which compete with products produced in Switzerland are subject to import duties and quotas. Agricultural products which are not produced in Switzerland, such as tropical fruit and nuts, tend to have lower tariffs. As a result of these challenges, as well as a geographical disadvantage vis-à-vis Switzerland's EU trading partners, the U.S. share of the Swiss agricultural import market was only 2.7 percent in 2006.

Hormone-treated beef became an issue in 2006 after Switzerland notified the World Trade Organization (WTO) that Switzerland would begin requiring European Union (EU) animal health certificates for imported livestock products effective April 1, 2007. This action is tied to Switzerland's planned harmonization of animal health rules with the EU and the future end of veterinary border controls between Switzerland and the EU. However, since hormone-treated beef is not allowed in the EU, the proposed Swiss rules would have effectively ended U.S. beef exports to Switzerland, estimated to have been approximately 300 tons in 2005. Switzerland has postponed implementation of this measure for the time being. The U.S. and Swiss governments are discussing the proposed Swiss harmonization with EU animal health regulations in an effort to find a solution that will allow trade in U.S. beef to continue.

As of January 2000, imports of fresh meat and eggs produced in a manner not permitted for products produced 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.

Biotechnology

Switzerland has a burdensome and slow process for approving agricultural biotechnology products for food and feed use. In addition, starting in November 2005, a 5 year moratorium on approvals for planting of biotechnology crops or production of genetically modified animals was put into place. The moratorium was the result of a grass-roots movement put to a vote under the Swiss political system, which allows voters themselves to seek changes to the Constitution by referendum as long as at least 100,000 voters sign a petition requesting it. The Federal government opposed the amendment, stating that it was unnecessary given the stringent approval process in place. The moratorium does not affect approval of imports for food, feed, and processing use. However, the restrictive regulatory environment, combined with strong anti-biotechnology public sentiment has dampened interest in the Swiss market for biotechnology products.

Biotechnology imports into Switzerland are limited. Few products are authorized and public resistance to biotechnology has reduced demand for authorized products. Biotechnology products imported for feed use must be declared to Swiss authorities and are therefore tracked statistically. Feed products declared as biotechnology products accounted for only 0.11 percent of imports of feed in 2005, down from 1.4 percent in 2001. Spot-testing is done by the Federal authorities to check for biotechnology content and proper labeling of feed. Statistics on imports of food for human consumption derived from biotechnology are not tracked, but spot-checking of products on the market is carried out by cantonal laboratories with guidance from the Federal Office for Public Health.

In addition to imports of a few corn and soybean products approved for feed use in Switzerland, there was an exception in force through the end of 2007 that allowed the importation of the feed products (not the raw material) made from corn and soybeans that have been approved in the United States or Canada. Such products imported before December 31, 2007, may be used until December 31, 2008. After those dates, only imports of these feed products made from corn or soy events approved in the EU will be allowed. In addition to these products, trace amounts (up to 0.5 percent) of other products authorized in the EU would be allowed as "adventitious" (*i.e.*, not intentional) presence in Swiss feed. A similar threshold for products approved in the EU is under discussion for food products as well, albeit with additional conditions.

The Swiss biotechnology labeling regime is closely aligned with that of the EU. Labeling is for consumer information purposes. All food and feed products (including pet food) containing or consisting of biotechnology products and/or produced from biotechnology products, including products that no longer contain detectable traces, must be labeled. If a product contains 0.9 percent or lower biotechnology (or biotechnology derived) content and the content is "adventitious," the product does not have to be labeled as containing or being derived from biotechnology. This tolerance applies to approved biotechnology products only; there is no tolerance for unapproved varieties, although there is an exception (up to 0.5 percent adventitious presence) for feed products that are approved in the EU even if they are not approved in Switzerland. Imports of food and feed (including pet food) are spot-checked to ensure that they are properly labeled if they have biotechnology-related content.

Meat, milk, eggs, or other livestock products made from animals fed biotechnology feed need not be labeled according to Swiss law. Products produced using genetically modified microorganisms as processing aids (such as yeasts in the production of wine or beer, or enzymes in the production of cheese) need not be labeled if the biotechnology processing aid is not present in the final product.

The main retailers in Switzerland have taken a strong anti-biotechnology stance, stocking only nonbiotechnology products and requiring meat to have been produced without biotechnology feed. Coop, with 35 percent of the market, is the second-largest retailer in Switzerland and has a clear anti-biotechnology policy outlined on its website and promotional material. Migros, the largest retailer with 37 percent of the market, has a similar anti-biotechnology policy, but does not advertise it as aggressively. The retail market is highly concentrated and controlled by these two retail giants. In addition, they are large players in the importation and distribution of food in Switzerland.

In September 2007, the Federal Office of Environment approved crop trials involving genetically modified wheat for three field tests near Zurich and Lausanne. These three field tests are part of the CHF 12 million ($12 million) program and are intended to help answer questions on crossbreeding and to see if they have any unexpected impact on the environment. The wheat will not be released to the market, but is a test to determine if GMO products can be safely farmed in Switzerland.

GOVERNMENT PROCUREMENT

Switzerland is a signatory to the WTO Agreement on Government Procurement (GPA). On the cantonal and local levels, a 1995 law provides for nondiscriminatory access to government procurement.

Notices of Swiss government tenders at the federal level are published in the Swiss Official Gazette of Commerce and on the online Swiss government procurement website. There is no requirement that bids be submitted by a local agent.

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

INTELLECTUAL PROPERTY RIGHTS (IPR) PROTECTION

In general, Switzerland maintains exceptionally high standards of protection of intellectual property rights. However, some concerns have been expressed with respect to the 2007 revised copyright legislation that would, among other purposes, conclude Switzerland's accession to the World Intellectual Property Organization (WIPO) Copyright Treaty and the WIPO Performances and Phonograms Treaty. While the revised legislation now prohibits the circumvention of technological protection measures, the unauthorized downloading of multimedia content, and the provision of that content to family members or friends, for personal use is not prohibited. Public libraries and broadcast libraries are also allowed to sell the works they possess, which may contain multimedia content, to their patrons. These libraries have also been exempted from paying a copyright fee to the industry. The United States will continue to monitor the implementation of the legislation. The United States has also raised certain questions regarding potentially broad mandatory licensing provisions governing research tools, in the context of pending Swiss patent law amendments.

SERVICES BARRIERS

Telecommunications

More than 50 Swiss and foreign companies currently offer fixed line telecommunications services. Three operators, Swisscom, Sunrise (TeleDanmark), and Orange (France Telecom) provide mobile telephone services, and each company also holds third-generation mobile telephony licenses. In October 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.

Following an investigation by the Competition Commission and the Federal Communications Commission (ComCom) of Swisscom's failure to completely unbundle the local loop and provide leased lines at cost-oriented prices to competitors, the government amended the Telecommunications Act. The amendment, which entered into force on April 1, 2007, gives the regulator explicit authority to force Swisscom to unbundle its local loop, effectively fixing a "flaw" cited in earlier court proceedings. However, the reform covers only fixed-line services and does not extend to other technologies, such as mobile and WiFi. The amendment also requires that broadband access be offered to Swisscom competitors at cost-oriented prices over a period of 6 years, after which all operators are expected to be able to afford the broadband investment themselves.

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 geographical diversity is not being met. More generally, the Swiss copyright law allocates copyright receipts (from national and international productions) to five different Swiss collecting societies, under the supervision of the Federal Institute of Intellectual Property and the Copyright Commission. Parts of the funds are used to finance measures that support the Swiss culture. Over the years, copyright duties received by the Swiss collecting societies rocketed from CHF 119 million (approximately $117 million) in 1994 to CHF 209 million ($206 million), much to the dissatisfaction of private industry.

Postal Services

The Postal Act divides the Swiss postal market into two segments: universal services and competitive services. Competitive services, including express delivery, are unrestricted. Universal services are divided into reserved and nonreserved services. Swiss Post is the exclusive provider of reserved services, while it competes with private postal operators for the provision of nonreserved services. The regulatory authority exercises market supervision, ensures the functioning and fair competition in the postal market, and enables the proper implementation of applicable regulations.

The Swiss government reduced Swiss Post's monopoly from a 350-gram threshold to 100 grams in April 2006, and is planning to reduce it further to 50 grams in 2011. A bill will be presented to the Swiss Parliament in early 2008 proposing the end of the monopoly. The government generally supports the idea that a further liberalization of letter delivery services will not undermine the existing large mail distribution network. Nevertheless, an independent study highlighted that the CHF 400 million ($394 million) public costs to keep mail delivery a "public service" have largely been exaggerated by Swiss Post in an effort to restrict competition. The report highlighted the fact that Swiss Post bypasses existing business restrictions on night transport, benefits from favorable tax treatment, and keeps a large number of post offices and staff in place to distort competition.

Insurance

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 EU or 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.

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 in April 2004. The most significant improvement is authority to prosecute anticompetitive behavior without prior warning, with a maximum fine of 10 percent of a firm's total combined revenue for the past 3 years. Companies that cooperate with regulators are eligible for a reduced fine.

Electricity

Most local public monopolies that used to dominate the electricity transmission and distribution system within Switzerland have merged into a few private sector utility companies (Romande Energie, FMB, Axpo, Atel, and BKW). Several cantons have attempted to prevent other providers from serving their areas, but those efforts were ruled illegal by the Federal Court under the Cartel Law. Local communities as a result have tried to bypass the court ruling by cementing their dominant position through cantonal legislative changes or "gentlemen's agreements" with large customers. On December 15, 2006, the Swiss national grid operator "Swissgrid" started its operations as a national transmission system operator, and took full responsibility for operating the 6,700 kilometers of Swiss high-voltage grid, formerly in the hands of private operators. In addition to the shareholders – Atel, BKW, CKW, EGL, EOS, EWZ, NOK, and RE – the new company's board of directors also is comprised of two representatives of the cantons and three neutral members.

According to the new Federal Law on Energy Supply approved in 2007 by Parliament, the full opening of the electricity market will be done in two phases: one business-only market liberalization starting in 2008, followed by full consumer access to energy competitors in 2012. Under the provisions of the implementing ordinance, energy prices will be capped by the Electricity Commission (ElCom).