SWITZERLAND

TRADE SUMMARY

The U.S. goods trade surplus with Switzerland was $4.2 billion in 2008, an increase of $2.0 billion from $2.3 billion in 2007. U.S. goods exports in 2008 were $22.0 billion, up 29.3 percent from the previous year. Corresponding U.S. imports from Switzerland were $17.8 billion, up 20.5 percent. Switzerland is currently the 15th largest export market for U.S. goods.

U.S. exports of private commercial services (*i.e.,* excluding military and government) to Switzerland were $15.7 billion in 2007 (latest data available), and U.S. imports were $14.9 billion. Sales of services in Switzerland by majority U.S.-owned affiliates were $43.3 billion in 2007 (latest data available), while sales of services in the United States by majority Switzerland-owned firms were $50.1 billion.

The stock of U.S. foreign direct investment (FDI) in Switzerland was $127.7 billion in 2007 (latest data available), up from $115.2 billion in 2006. U.S. FDI in Switzerland is concentrated largely in the nonbank holding companies and wholesale trade sectors.

IMPORT POLICIES

Agricultural Products

Switzerland is a difficult market to enter, and few U.S. agricultural products are able to compete successfully. This is due to high tariffs on certain agricultural products, preferential tariff rates for other countries, government regulation, and a negative public perception of agricultural products derived from biotechnology. Agriculture retains an important place in Swiss society, and agricultural interests exert strong influence on parliamentarians, about 15 percent of whom claim to be farmers. Agricultural self-sufficiency is also mentioned in the Swiss constitution. However, Switzerland's 64,000 farmers produce less than 1.5 percent of gross domestic product (GDP) today. 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. Switzerland's tariff schedule is comprised only of specific (non-*ad valorem*) duties. While the average *ad valorem* equivalent applied tariff in Switzerland for non-agricultural products is 2.1 percent, the *ad valorem* equivalent average applied tariff on imports of agricultural products was 44 percent.

Imports of nearly all agriculture products, particularly those which compete with Swiss products, are subject to seasonal 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 trading partners in the European Union (EU), the U.S. share of the Swiss agricultural import market was only 2.6 percent in 2007. Tariff reductions are a high priority for the U.S. Government in the Doha Development Agenda agriculture negotiations.

Hormone-treated beef became an issue in 2006 after Switzerland notified the WTO that Switzerland would begin requiring 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. 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 230 tons in 2006. However, Switzerland has postponed implementation of this measure, while U.S. and Swiss experts discuss 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 Swiss products 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 battery cages of a certain size.

Biotechnology

The restrictive regulatory environment, combined with strong anti-biotechnology public sentiment, has dampened interest in the Swiss market for biotechnology products. Few biotechnology 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 thereafter tracked statistically. Feed products declared as biotechnology products accounted for only 0.01 percent of imports of feed in 2007, down from 1.4 percent in 2001. Spot-testing is done by 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 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 were allowed to 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 are allowed. In addition to these products, trace amounts (up to 0.5 percent) of other products authorized in the EU would be allowed as an "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. 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 less 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. However, 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 that had been 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 non-biotechnology products and requiring meat to have been produced without biotechnology feed.

Switzerland has a burdensome and slow process for approving agricultural biotechnology products for food and feed use. In addition, starting in November 2005, a five year moratorium on approvals for the 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 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. 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 SFr. 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 agricultural biotechnology products can be safely farmed in Switzerland.

GOVERNMENT PROCUREMENT

Switzerland is a signatory to the WTO Agreement on Government Procurement (GPA). Under the current Federal Law on public procurement public, tender procedures apply when the value of the contract exceeds SFr. 248,950 ($219,212), whereas GPA obligations apply to procurement above SFr. 383,000 ($337,249). According to a 2002 revised ordinance on public procurement, all private or state-owned companies such as utilities, transportation, communications, defense, and construction that submit tenders in government procurement must make their bids public if the contract exceeds SFr. 250,000. ($220,136) Total procurement expenses are valued at approximately SFr. 31 billion, and are split between the federal government (19 percent), the cantons (38 percent) and the local communities (43 percent); this is about 25 percent of all public expenses and 8 percent of GDP.

Cantonal and communal governments carry out many of the public projects. Their procurement is two to three times that of the federal government. On the cantonal and local levels, a 1995 law provides for nondiscriminatory access to government procurement. However, since cantons are allowed to implement the GPA independent from federal intervention, disparities in procedures may be found among the cantons. Cantons and communes usually prefer local suppliers because they can recover part of their outlays through income tax. Also, access to public tenders by foreign bidders may be hampered by a lack of transparency in the bidding requirements applied in various cantons.

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 public procurement website (www.simap.ch – French, German, and Italian versions only). In general, quality and technical criteria are as important as price in Swiss procurements. Tender documents can be obtained free from the Gazette's website. Thus, while there is no requirement to have a local agent to bid, it may be advantageous when procurement requirements for equipment include training, service or parts. Foreign firms may be required to guarantee technical support and after-sale service if they have no local office or representation.

In contrast to cantonal and communal practice, federal authorities are not required to inform unsuccessful bidders of the selected tender or reasons for the award. In September 2004, the Swiss government initiated a series of informal consultations to amend the 1994 Swiss Federal Law on public procurement. This process, which should simplify the many different cantonal tender procedures, is expected to enter into force in 2010.

INTELLECTUAL PROPERTY RIGHTS (IPR) PROTECTION

Switzerland generally maintains high standards of intellectual property rights protection. However, U.S. industry has expressed some concerns regarding revised copyright legislation that is intended to implement the World Intellectual Property Organization (WIPO) Copyright Treaty and the WIPO Performances and Phonograms Treaty, including concerns over broad exceptions for use of multimedia content. The United States will continue to monitor the development of this legislation.

SERVICES BARRIERS

Telecommunications

Following an investigation by the Competition Commission and the Federal Communications Commission 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. The amendment also requires that wholesale broadband access be offered to Swisscom competitors at cost-oriented prices for four years, to provide competitors time to invest in their own competing facilities, 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. Portions of the funds are used to finance measures that support Swiss culture. Over the years, copyright duties received by the Swiss collecting societies rocketed from SFr. 119 million ($105 million) in 1994 to a current SFr. 209 million ($184 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 non-reserved services. Swiss Post is the exclusive provider of reserved services, while it competes with private postal operators for the provision of non-reserved 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 all items weighing less than 350 grams to a threshold of 100 grams in 2006, and plans to reduce the threshold further to 50 grams in July 2009. The government will also amend the federal postal law in order to address financing of the universal postal service and transform the Swiss Post into a public limited company. The government generally supports the idea that a further liberalization of letter delivery services will not undermine the existing large mail distribution network. An independent study highlighted that the SFr. 400 million ($352 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 in particular that Swiss Post was bypassing existing business restrictions on night transport and benefiting from favorable tax treatment, and therefore could afford to keep a large number of post offices and staff across the country to maintain its edge over competitors.

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, that is available on short notice to cover potential losses.

ANTICOMPETITIVE PRACTICES

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. As a result, local communities have tried to bypass the court ruling by institutionalizing the dominant position of the recently-merged utility companies 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. The new company's five person board of directors includes two representatives of the cantons.

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 2009, followed by full consumer access to energy competitors in 2014. Under the provisions of the implementing ordinance, energy prices will be capped by the Electricity Commission. In September, the Swiss government expressed concerns that electricity prices could increase by 20 percent and warned the energy providers that further liberalization could be halted. Political parties also expressed concerns and called upon the government to freeze price hikes if necessary.