GENERAL AGREEMENT ON

TARIFFS AND TRADE

COUNCIL

TRADE POLICY REVIEW MECHANISM

SWITZERLAND

Report by the Secretariat

In pursuance of the CONTRACTING PARTIES’ Decision of 12 April 1989 concerning the Trade Policy Review Mechanism (L/6490), the Secretariat submits herewith Volume A (Text) of its report on Switzerland. Volume B (Tables and Appendices) is presented in document C/RM/S/17B.

The report is drawn up by the Secretariat on its own responsibility. It is based on the information available to the Secretariat and that provided by Switzerland. As required by the Decision, in preparing its report the Secretariat has sought clarification from Switzerland on its trade policies and practices.

Document C/RM/G/17 contains the report submitted by the Government of Switzerland.

NOTE TO DELEGATIONS

Until further notice, this document is subject to a press embargo.
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SUMMARY OBSERVATIONS

(1) Switzerland in World Trade

1. Until the mid 19th century, Switzerland's lack of natural resources and unfavourable conditions for farming limited the possibilities for economic development and growth. It was not until the emergence of international manufacturing and services activities, including trade, finance, investment and tourism, that Switzerland's economy began to expand rapidly.

2. Modern day Switzerland is among the richest OECD countries. Its per capita income, Sw F 45,400 in 1989, outstrips those of the United States and Canada by more than one quarter. Exports and imports of merchandise are each in the order of 30 per cent of GDP. Exports of services of almost Sw F 15 billion (1989) compare with imports of over Sw F 13 billion.

3. Swiss industry, while covering a wide range of manufacturing sectors, is highly specialized. Intra-industry trade thus plays an important part, for example in machine tools, where Switzerland is the world's third largest exporter and imports account for two-thirds of domestic sales. In addition, as the domestic market is small, many typical Swiss industries are highly outward-oriented; for example, the home market for watches accounts for less than one-tenth of total sales in the sector.

4. The EC is by far Switzerland's largest trade and investment partner. Preferential trade with the EC, under the free trade agreement of 1972, accounts for over 70 per cent of Switzerland's merchandise imports and nearly 60 per cent of its exports. Germany is the largest market and
supplier. Half of Switzerland's outward investments between 1986 and 1989 were destined for the Community.

5. Many economic indicators, including Switzerland's continuing low unemployment levels, give a general impression of economic strength. However, there are qualifications:

- Growth in GDP has been lower than in other European OECD countries or the OECD area as a whole: on average over the 1980s, 2 per cent as against 2.4 per cent in the European OECD countries and 3 per cent in the OECD area as a whole.

- Inflation has increased to historically high levels (over 5 per cent in 1990). Monetary expansion has, to some extent, been supported by indexation agreements, particularly in the housing sector.

- Swiss industry appears to have lost ground in advanced product areas. The trade surplus in high technology sectors has tended to shrink, at least since the early 1960s.

- Many domestically oriented branches - agriculture, construction and elements of the public sector (telecommunications, railways, electricity) - appear to be less efficient than industries producing tradables.

6. Income comparisons at current exchange rates thus tend to overrate living standards in Switzerland. In terms of GDP per head at purchasing power parities, the country ranked behind the United States and Canada in 1989.
7. The Swiss Constitution provides for a large measure of direct popular democracy, in particular through referenda. Any amendment to the Constitution is subject to an obligatory referendum, which must be accepted by the majority of voters in the country as a whole and by the majority of the cantons. In addition, referenda may be requested on any major political issues.

8. The frequency of referenda may explain the fact that voting levels are often rather low. This tends to operate in favour of powerful interest groups, for whom it may be easier to mobilize support. For example, less than one-third of eligible voters took part in a recent referendum on certain reforms of indirect taxation, including the introduction of a value added tax. The proposal was rejected, although all major political parties had recommended its adoption.

9. The Federal Supreme Court has in principle no competence in the field of laws which can be submitted to referendum. However, it is competent to determine whether specific laws are consistent with Switzerland's international obligations. All such binding obligations, including the GATT, form an integral part of Switzerland's legal system.

10. The seven-member Federal Council - Switzerland's Cabinet - is in charge of the country's external relations. It may implement or change trade policy measures, such as tariffs or quantitative restrictions, without prior parliamentary approval. However, all such measures must be reported to Parliament, which may amend or revoke them within six months.

11. The possibility of a referendum, and the costs and delays involved, operate as strong motives for consensus decision-making. Accordingly, new federal legislation normally results from intensive consultations, often informal, with the cantons and the private sector. Such consultations are also significant elements in the administration of policy. There are nearly forty committees and consultative bodies within the ambit of the
Federal Department of the Public Economy. Half of these are concerned with agricultural policy issues; consumers are not represented in all bodies. There is currently no independent policy review mechanism or agency.

12. The guiding principle of consultation and compromise has been a considerable asset to Switzerland in terms of institutional and political stability. However, it may also prove an obstacle to innovative or speedy Governmental decisions and legislation.

(3) Trade Policy Features and Trends

(i) Recent evolution

13. Switzerland is confronted with a rapidly changing European and international environment. The existence of new external challenges and the need for the Swiss economy at least to keep pace with other advanced industrial countries is widely recognized. In principle, structural adjustment appears accepted as the prerequisite for continued economic well-being.

14. However, within a consensus-based system, more fundamental reforms necessarily prove difficult. One rationale for Switzerland's participation in a European Economic Area, or in similar forms of closer international cooperation, apparently lies in their potential for overcoming long-entrenched internal rigidities. This could include streamlining legislative procedures and, perhaps more fundamentally, reconsidering traditional patterns of decision-making and of approaching economic problems.

15. Reform requirements in the context of a European Economic Area would involve issues such as standardization, public procurement, competition policy, transport (including transit) and free circulation of persons. Reforms in many of these areas may be viewed as complementary to the Swiss Government's commitment in the Uruguay Round, aimed at rejuvenating the multilateral trading system.
(ii) Type and incidence of trade-policy instruments

16. Switzerland's basic policy approaches to industry and agriculture are fundamentally different. In the sphere of industry, policy makers have traditionally refrained from sector-specific intervention. Accordingly, the trade régime for industrial products is generally open. There are few non-tariff barriers and tariffs are normally low. Free-trade area provisions and, with some exceptions, the GSP scheme cover all industrial items. Agricultural policy, in contrast, is based on a tight network of regulations. Its objectives, laid down in the Federal Constitution and the Law on Agriculture of 1951, are ensuring adequate food supplies at favourable prices, protection of rural family farms, regional and income policy goals, and preservation of the environment and the landscape.

17. A broad variety of measures - tariffs, subsidies, quantitative restrictions, variable levies, price and tariff supplements, requirements to purchase domestic production in proportion to imports - is applied on a wide range of agricultural products, from milk and wheat to sugar and eggs, from vegetables to wine and fresh flowers. The actual policy mix may differ considerably between the individual areas. However, the main thrust is on quantitative restrictions and on non-tariff charges as against tariffs. Many measures vary in restrictiveness, in some cases according to season, in order to ensure priority outlets for domestic suppliers. Reflecting the impact of agricultural policy on trade flows, alcoholic beverages and fruit and nuts are the only food products among Switzerland's leading 40 import items.

18. The average self-sufficiency ratio for major agricultural products has risen to 65 per cent, some 10 percentage points above its level in the mid 1960s. Direct production controls, for example the milk quota system since 1977, have contributed to preventing further increases.

19. Recourse to rigid administrative instruments has tended to perpetuate existing production patterns at the expense of more efficient producers. For example, as quota shares for milk production are allocated in
proportion to farm size, any expansion of production is in principle contingent on acquiring or renting additional land. This has operated against realising efficiency gains in the dairy sector and contributed to driving up land prices and thus the costs of farming.

20. Shielding the agricultural sector from competition and from incentives to rationalise has placed high burdens on Swiss consumers, who have to bear some four-fifths of total policy costs. Consumers - particularly those living near international borders - have, to a limited but increasing extent, responded by "policy evasion" through buying abroad.

21. In the sphere of industry, the Swiss authorities made relatively little recourse to trade restrictions. Switzerland is the only industrial country to apply exclusively specific duties on imports, in general by weight. Almost all tariffs are bound (except for certain processed agricultural products and the fiscal duties on fuels and motor vehicles). The vast majority of imports enter duty free under Switzerland's free trade agreements with the EC and the EFTA countries and under its GSP scheme.

22. In 1988, the simple average ad valorem tariff equivalent was less than 3 per cent. However, this average is likely to be downward biased since specific duties operate against relatively low priced and weighty items within the individual tariff categories; duty-paid import prices would thus tend to be higher on average than under ad valorem tariffs. With a standard deviation of over 7 percentage points in 1988, the spread of the ad valorem equivalents is considerable, reflecting tariff peaks on a variety of items, for example food products and textiles.

23. Most current import measures - quotas, controls and licensing requirements - are maintained for reasons of national security, health and environmental protection. For example, Switzerland has never resorted to restrictions under the Multi-Fibre Arrangement. Surveillance measures and price controls have been confined to some textiles and clothing imports from eastern and central Europe. They may, however, have influenced marketing behaviour across a wider product range. In addition, Swiss
textile exports enjoy indirect benefits under the free trade agreement with the European Communities, which ensures free access to their main export market whereas competing supplies from developing countries are subject to quotas and other measures.

24. Export restraints mainly serve to implement commitments under international agreements, for example with respect to narcotics, arms or endangered species of flora and fauna, or to ensure access to restricted technologies. In addition, Switzerland applies export restrictions and taxes on certain non-ferrous metals and on metal scrap and wastes in order to provide inexpensive supplies for domestic processors.

25. There are no trade restrictions on cultural policy grounds relating to exports of antiques and the like. This may have contributed to establishing the country's rôle as a trading place for works of art and other collector's pieces.

26. Overall, public subsidies to Swiss industry, whether by the Confederation or the cantons, are not likely to impinge substantially on trade. Federal subsidies to industry, together with complementary measures by the cantons, are less than 5 per cent of payments for agricultural support. Emphasis is placed on regional, as against sectoral support and on promoting structural change. However, several research initiatives have been launched by the Confederation in technology areas deemed to be of "strategic" importance, for example microelectronics, biotechnology and computer integrated manufacturing.

27. During the 1980s, the cantons have extended subsidization, particularly in the form of investment aids, although information on these activities is fragmentary. The legal possibilities for the cantons for granting subsidies appear wider than, for example, those of the EC member States and their regions under the Treaty of Rome.

28. Public purchasing by the Confederation is generally by selective tendering. The overall import share in public procurement at the federal
level, including military purchases, was in the order of 10 per cent in 1990. Although there are no buy-national obligations under Swiss federal law, technical innovations by Swiss firms may be encouraged. Suppliers of locomotives and telecommunications equipment appear to have benefited.

29. At the cantonal level, discriminatory procurement practices (including domicile requirements, membership of local professional associations and so forth) are reported to be widespread and frequent. The Swiss Cartel Commission has found such practices in almost half of the cantons.

30. Switzerland and Swiss industries play an active part in common European bodies for standardisation, testing and type approval. Over 80 per cent of the Swiss standards adopted between 1986 and 1990 were based on international, European, or foreign national standards.

31. Swiss legislation in general aims at ensuring very high levels of consumer protection, for example through tough veterinary and phytosanitary standards and strict policing. However, there is evidence that Switzerland has opted for less trade restrictive approaches in certain cases. For example, while the use of hormonal growth promoters in domestic meat production is banned, Switzerland allows imports from countries without similar legislation. However, all products are required to be free of residues.

32. Nevertheless, a number of Swiss national standards and regulations appear to impede market access, including direct imports by consumers. The range of affected products includes motor cars and special vehicles for agriculture, construction and the like; pesticides; fertilizers; sanitary ware; kitchen equipment; food; and electric machinery. In many of these areas, more stringent standards and approval procedures than in neighbouring countries have been defined for reasons of health and consumer protection. Industrial policy considerations may also have played a rôle. In telecommunications, for example, Switzerland ranks among the OECD countries with the highest costs of type approval for terminal equipment.
Swiss specific standards on some consumer goods, such as kitchen equipment, coincide with considerably higher prices than in neighbouring countries.

33. Relatively high barriers to entry into wholesale and retail trade - through building and planning regulations, rules on shop opening hours, "public need" requirements (restaurants) and so forth - have also contributed to shielding established traders from newcomers.

34. Such restrictions have facilitated the operation of cartels and other collusive practices across wide sectors of the economy. Cartels are deemed acceptable under Swiss law as long as their harmful effects do not prevail. The Cartel Act even provides a legal framework for setting up and operating such arrangements. The Swiss Cartel Commission has explicitly tolerated several price cartels, for example on books and pharmaceuticals, for their perceived positive impact on country wide supplies and, with respect to pharmaceuticals, public health and technical progress. The Cartel Commission apparently held the view that monopoly rents would ultimately lead to socially more desirable results than unimpeded competition.

35. In developed economies such as Switzerland, the effects of any regulated or cartelized market tend to spill into related areas. For example, the Swiss Farmers Union has indicated higher prices for farm machinery and inputs, compared to Germany, by between one third for machinery and one half for fertilizers and buildings. Tight regulations and cartel practices, for example on fertilizers and building materials (cement), may have added to the price impact of higher wages in Switzerland.

36. In addition to cartel arrangements which often tend to distort the vertical structure of production and markets, Switzerland's single-phase turnover tax operates in favour of vertically integrated conglomerates and to the detriment of independent economic units.

37. Shareholding limitations by large Swiss companies also appear to affect competition for ownership control. Many companies limit the
possibility for share transfers and restrict shareholders' voting rights, thus shielding the management from internal supervision and new challenges on capital markets. Such practices are not ruled out under Swiss law. Lack of ownership influence may have compounded the adverse impact of tight product regulations, cartels and cartel-like arrangements on economic resilience.

38. These factors, taken together, tend to act against Switzerland's basic trade policy approach of establishing transparent rules for industrial products and allowing market mechanisms generate impulses for growth and structural change.

(iii) Temporary measures

39. Recourse by Switzerland to trade remedy provisions under the GATT and/or under national law has been rare. Only four safeguard actions have been taken under Article XIX, all concerning agricultural products. No industrial products have been subject to safeguard actions or anti-dumping and countervailing measures. There is no evidence of Switzerland's having resorted to any informal substitutes such as voluntary restraints. This policy stance has been maintained despite pressure from major trading partners. However, collusive arrangements by industries and wholesalers - complemented by the protective effect of Swiss-specific standards - may have proved instrumental in defusing sudden increases in competitive pressures. The existence of cartels and cartel-like practices throughout the economy would at least suggest this possibility.

(iv) New initiatives

40. In many trade-related areas, in particular standardisation, Switzerland continues to align its domestic regulations with those of the EC. This process may contribute to exposing hitherto protected markets for tradables to more competition and, thus, to eroding the basis for certain restrictive private arrangements. New laws, currently in the legislative process, are due to replace the regulatory system on food products, dating
back to 1905, and the Act on Telegraph and Telephone Communication of 1922. Export taxes on non-ferrous metal scrap and residues are to be lifted by 1 January 1993 with respect to EC/EFTA destinations; complete abolition is under consideration.

41. At the time of writing, no final accord had been reached on a Treaty establishing a European Economic Area (EEA) with the EC and other EFTA countries. Open issues included the transit of heavy trucks through Switzerland and, in particular, the present weight limit of 28 tonnes. Any Treaty would be subject to referendum by the people and the cantons.

42. In the standards sphere, most of the "EC acquis" would become effective in the EEA area as from 1 January 1993. Exceptions include motor vehicles for which 1 January 1995 is the envisaged target date.

43. Switzerland would be required to adopt more stringent competition rules in the EEA context. As a result, certain long-entrenched cartel practices, officially tolerated under the Swiss Cartel Act, might no longer prove sustainable. Also, access to the labour market would be eased progressively.

44. Agriculture would in principle be excluded from the EEA. Rather, a so-called "evolutionary clause" aims at achieving a higher degree of liberalisation, on the basis of existing policies, in the EC/EFTA area. In addition, EFTA countries are committed to reduce their tariffs on a range of products of particular importance to the less developed regions of the EC.

45. Recent initiatives by the Federal Department of the Public Economy aim at establishing new ways and means of administering agricultural policy. Measures currently under consideration include non-production related support payments and incentives for specified environmental contributions. Decisions by the EC are expected to have a determining influence on the extent and direction of Switzerland's future agricultural reforms.
(4) Trade Policies and Foreign Trading Partners

46. Switzerland, as a relatively small trading country, has traditionally sought to maintain and expand a rule-based international trading system. It has placed emphasis on international mechanisms, as against unilateral actions, as the appropriate means of pursuing national economic objectives and settling disputes.

47. Commensurate with its long history of neutrality and independence, the country has not, with one exception (Iraq/Kuwait), participated in international trade embargoes. Also, at least in the industrial sphere, the Swiss authorities have refused to yield to external and internal policy pressures aimed at finding "pragmatic solutions" outside the GATT. Accordingly, no trade-restrictive measures have been taken to support industries suffering from an unfavourable economic environment.

48. Switzerland has contributed actively to many negotiating areas of the Uruguay Round. Its commitment to the Round mirrors the export orientation of many industries and their wish for internationally agreed remedies to problems which inhibit trade expansion. A successful conclusion of the Round is also viewed as a complement and a counterbalance to trade initiatives in Europe.

49. Nevertheless, Switzerland's international trade is highly compartmentalised. More than four-fifths of its imports originate from preferential sources, the EC/EFTA area and GSP beneficiaries. Agricultural trade has in principle been kept outside international agreements, including the possible EEA Treaty. Instead, highly complicated trade mechanisms have been created for processed agricultural products. Switzerland's restrictive agricultural policies apply to many areas of importance to developing countries and to the reforming economies of central and eastern Europe.

50. Switzerland is, however, in the process of reconsidering its traditional policy approaches. It seeks to define its future role with
relation to European integration and reforms in eastern Europe. The fundamental policy changes which could result might go hand in hand with, and assist, Switzerland's commitment to multilateral trade liberalization.

51. In order to bear fruit, any reforms would need to expose hitherto regulated and cartelized markets to more competition. This would mean expanding the basic principles of Switzerland's trade policy in the industrial sector to other segments of the economy and to other domains of policy-making. Ensuring transparency and open markets across the board, within a clearly defined legal framework, may prove the acid test for any meaningful reform package geared at maintaining Switzerland's competitive edge in a changing European and international environment.
I. THE ECONOMIC ENVIRONMENT

(1) Major Features of the Swiss Economy

1. The Swiss Confederation was founded in 1291. Originally a defence league of three "cantons" (Schwyz, Uri and Unterwalden), it was joined later by various cities and rural districts in the European Alpine range. The institutional fabric of modern day Switzerland evolved in the course of the 19th century. Landmarks of modern Swiss history were the recognition of neutrality by the Congress of Vienna in 1815 and, after a civil war, the setting up of a new Federal Constitution in 1848. In the 1870s the Confederation was the only republic in Europe, except for San Marino and the Hanseatic towns.

2. Today, Switzerland comprises 20 cantons and six half-cantons, and covers a total area of 41,300 km\(^2\). Large parts of the country are mountainous land. The 6.7 million Swiss residents live in four linguistic zones (German, French, Italian and Romanche). Five cities of more than 100,000 inhabitants account for some 15 per cent of Switzerland's total population.

3. Due to the scarcity of natural resources and the largely unfavourable topography for farming, Switzerland rapidly developed manufacturing and services activities, such as mechanical engineering and tourism. Setting up and expanding such activities has been facilitated by geographical proximity to major industrial centres and markets in western Europe and, more fundamentally, by favourable internal conditions for growth and investment, including a stable legal system and a well-trained workforce. Working relations are characterized by cooperation rather than confrontation, there are virtually no strikes.

4. In terms of per capita income, Switzerland is among the richest countries in the world. In 1989, GDP per head amounted to US$26,350 which

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1 About three quarters of Swiss nationals are German speaking, some 20 per cent speak French. German, French and Italian are official languages.

2 During the period 1970 to 1988, the Swiss economy lost 1.4 working days per 1,000 employees due to strikes and related actions. At the same time, 6 days were lost in Austria, 43 in Germany, 147 in France and over 450 in the United Kingdom, Spain and Italy. (Estimates by Institut der deutschen Wirtschaft, cited in S. Borner et al. (1990), Schweiz AG - Vom Sonderfall zum Sanierungsfall?, Zürich).

The current legal framework governing labour relations is based on a collective arrangement ("Friedensabkommen") aimed at avoiding strikes as a means of settling wage conflicts. The arrangement, first concluded between the association of mechanical and metal industries and four unions on 19 July 1937, has since been prolonged ten times.
is more than one quarter above Canada and the United States (at current prices and exchange rates; Table I.1).  

5. Reflecting its high level of income and small size, Switzerland is heavily engaged in international trade in merchandise and services. Its merchandise trade to GDP ratio is in the order of 30 per cent for each exports and imports. Exports of commercial services (credits) were close to US$15 billion in 1989, as compared with imports of more than US$13 billion.

6. The international dimension of the Swiss economy is underscored by the high share of foreign nationals in the workforce, representing more than 25 per cent (950,000 persons in August 1990) of the total. Of this, two-thirds are residents on an annual or permanent basis; commuters (20 per cent) and seasonal workers account for the rest. Migration policies are currently under review with the aim of easing or abolishing certain restraints on the issuance of residence permits. One reason for such reforms is an apparent shortage of highly qualified personnel which may have constrained the expansion of technology-intensive sectors and activities (Annex I.1).

(2) Recent Economic Performance

7. The Swiss economy has followed an expansion path over the past seven years. GDP growth was between 2 per cent (1984) and 3 1/2 per cent (1989); unemployment has more than halved since 1984 with the unemployment rate dropping to 0.5 per cent in 1990. High investment, particularly in machinery and equipment, was a hallmark of this process. Between 1985 and 1990, gross fixed capital formation grew at annual rates of more than 5 per cent, with a peak of 8 per cent (15 per cent in machinery and equipment) in 1986. The current account and, for most of the period, Government finances remained in surplus. However, inflation - historically very low - was rekindled towards the end of the 1980s. In 1990, the

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3 However, valued at current prices and purchasing power parities, Swiss GDP per capita (US$ 17,700 in 1989) was considerably below the U.S. level (US$ 20,630). For a possible explanation see Section III:1.

4 While many foreigners occupy low-paid jobs such as handymen and cleaners, a considerable number is also engaged in human capital-intensive activities, including management. For example, foreign nationals account for more than one-third of the academic staff at Ciba-Geigy, Switzerland's largest producer of chemicals.

5 According to Message concernant l'encouragement de la recherche scientifique durant la période 1992 à 1995 et un programme d'actions concerté en microélectronique. See also Annex I.1 to this Chapter.
inflation rate exceeded 5 per cent (Tables I.2 to I.4). Recently, economic expansion appears to have lost pace.

8. Growth continued to be coupled with a continued shift of resources towards the services sectors. While total employment grew by 7 per cent overall, between 1985 and 1990, road transport and communication recorded more than 12 per cent, and banks and insurances reached 18 per cent. Among the large industrial branches, employment in the chemicals and the metals industries expanded by 10 and 7½ per cent respectively (Table I.5).

9. Research and development activities play an important rôle in Swiss industries. Chemicals has been the most research-intensive sector, accounting for 45 per cent of total private business expenditure on R&D (1986). Other strongholds of Swiss industry, for example mechanical and electrical/electronic engineering and electrics, also undertook considerable research efforts and thus contributed to the above-average performance of Switzerland among the OECD countries in terms of research inputs and results.

10. Switzerland is by far the worldwide leader in national patent applications per head of population. However, there is some evidence that a considerable portion of the patent activities has been concentrated on traditional, less dynamic segments of the economy. Also, the research projects underlying the patents and any subsequent industrial applications may not necessarily have been carried out in Switzerland. During the period 1983 to 1986, Swiss companies expanded their research expenditure abroad at an annual rate of 7 per cent (in real terms) which is twice the growth of their domestic research budgets.

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6 Overall, in 1989, some 6 per cent of the workforce was employed in agriculture, 35 per cent in industry and 58 per cent in services (Table I.1).

7 Both sectors accounted for one quarter, each, of private expenditure on R&D in 1986.

8 In 1988, Switzerland registered 55 applications per 10,000 people, thus outperforming Japan, Germany and the United States by factors of 2, 4½ and 9, respectively. (According to OECD (1990), Main Science and Technology Indicators, Paris).


10 According to Message concernant l'encouragement de la recherche scientifique ...
11. High research intensities may have been a factor behind Switzerland's favourable trading position in high- and medium-technology products over the past decades (Chart I.1). Trade performance in these product areas contrasts conspicuously with continuous deficits in total merchandise trade. In 1990, the overall trade deficit stood at Sw F 8.4 billion (customs basis).

12. Chart I.1 also suggests that Swiss exports in high technology categories have lost momentum over time, while self-sufficiency in basic products, mainly food, has increased.

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11 The product groups underlying Chart I.1 are defined as follows: (i) High-technology products include aerospace, office machines, electronics and components, drugs instruments and electrical machinery; (ii) Medium-technology trade comprises automobiles, chemicals, other manufactures, non-electrical machinery, rubber, plastics and non-ferrous metals; (iii) Low-technology categories consist essentially of all remaining manufactures; (iv) Food and raw materials include all food products, live animals, crude materials, animal and vegetable oils, fats and waxes (except fuels).

Of course, this grouping is subject to certain degree of arbitrariness. For example, the technology content of the selected product categories might not be stable over time and, within individual groups, it might considerably differ between imports and exports. The Chart thus needs to be interpreted with care.
Chart I.1
Switzerland's trade balances by commodity group, 1962-87
Per cent of GDP

- High technology goods
- Medium technology goods
- Low technology goods
- Food and raw materials

(i) Commodity pattern of trade

13. Switzerland's comparative advantage apparently lies in producing and trading highly developed products, including prestigious consumer goods at the upper end of the market. Clocks and watches - for long the products associated with Switzerland in world trade - were the leading export category in 1989, representing over 7 per cent of total merchandise exports (three-digit SITC items). The combined share of clocks and watches, of pearls, semi-precious stones and of jewellery accounted for almost 15 per cent of Switzerland's exports. Pharmaceuticals ranked second among the individual export items, with a share of 6½ per cent (Table 1.6).

14. In total, the top five categories represented 26½ per cent of Switzerland's merchandise exports. Switzerland's export basket is thus slightly less concentrated than, for example, that of Sweden where the leading five products accounted for more than 28 per cent. Moreover, the Swiss figures are upward-biased due to multiple counting of pearls and precious stones. Reflecting the activities of large diamond traders, the same pearls and stones may be exported for display and re-imported several times a year.

15. Due to the absence of mass production of motor vehicles in Switzerland, passenger cars are the top ranking merchandise import with a share of 6.5 per cent in 1989. They are followed by pearls and semi-precious stones, data processing machines, refined petroleum, and furniture. The two most important food imports, alcoholic beverages and fruit and nuts, only ranked 29th and 34th. The absence of major temperate-zone products among the 40 leading import items is indicative of the restrictive impact of Switzerland's agricultural policy on trade flows.

(ii) Regional pattern of trade

16. Switzerland maintains close trade links with the EC and with EFTA countries. Its four neighbours, Germany, France and Italy (EC members) and Austria (EFTA), alone accounted for 59 per cent of Switzerland's imports and for 43 per cent of its exports in 1989 (Table 1.7). This is about 3 percentage points above the levels a decade earlier. While Germany's...
share in imports increased strongly, contrasting in particular with France, its rôle as an export market remained virtually unchanged. In 1989, Switzerland's bilateral trade deficit with Germany reached Sw F 18 billion. This compared, for example, with total imports from developing countries of the order of Sw F 7 billion.\textsuperscript{14} There is evidence, however, that in certain product categories, such as clothing and flowers, considerable deliveries from developing countries enter the Swiss market via the EC.

17. Trade with developing countries as a group expanded less rapidly than total trade between 1979 and 1989. Switzerland's trade surplus with this group rose from Sw F 4.9 billion to Sw F 6.3 billion. While Asian and Latin American countries expanded their shares among imports, the Middle Eastern and African suppliers experienced a considerable setback. Price developments on the world oil markets and on other markets for raw materials played a strong rôle in this context.

18. Recent economic developments in eastern Europe also had a serious impact on the market position of these countries in Switzerland. In 1989, the Eastern Trading Area (including China) represented not more than 2 per cent of total imports, less than half its share a decade earlier.

19. Outside Europe, the United States is Switzerland's single most important trading partner, followed by Japan. Hong Kong, the second most important destination for Swiss watches, ranks third on the export side, South Africa ranks third among imports from non-European countries (1989).

(4) Outlook

20. Current expectations are for reduced economic expansion and lower inflation; forecasts for GDP growth are in the order of 1 to 1.5 per cent in 1991 and over 2 per cent in 1992.\textsuperscript{15} Factors governing these forecasts include slackening growth abroad - with the possible exception of West Germany - in the wake of the Gulf crisis and the effects of restrictive domestic monetary policy since 1988/89. Residential construction in particular appears to have suffered from the resulting

\textsuperscript{14}Excluding trade in pearls, precious stones, antiques and works of art, Swiss exports to Germany reached Sw F 16.7 billion in 1989 (21.8 per cent of total exports) as compared with imports of Sw F 31.6 billion (35.8 per cent); Swiss exports to developing countries were Sw F 12.2 billion (9.4 per cent) while these countries exported merchandise worth Sw F 5 billion to Switzerland (4.0 per cent of Swiss imports). Hong Kong alone provided an outlet for Swiss deliveries of Sw F 1.9 billion in 1989, its exports to Switzerland amounted to Sw F 0.8 billion. (Figures supplied by the Government of Switzerland).

surge in real interest rates. For this sector, no immediate recovery is in sight as the interest level is expected to remain high for some time. Exports have lost momentum since mid 1990, partly reflecting the impact of an appreciating Swiss franc (6 per cent, in real terms, in 1990). However, recent business indicators for industry point to some revival of orders.
Annex I.1
Migration Policy

1. Every year, the Federal Council establishes quotas for foreign workers who are allowed to enter for the first time. In principle, there are three categories: annual workers with or without possibility of prolongation, and seasonal workers. Quota shares are allocated to the cantons with a view to favouring regions and sectors suffering from internal emigration. As a rule, immigrants are not entitled to change jobs or place of residence for one year; and seasonal workers may not be accompanied by their families. There are certain exceptions, providing for considerably longer stays in specified jobs and professions such as agriculture and the health service.

2. This approach has apparently contributed to cushioning low-wage activities and declining sectors from adjustment pressures. By the same token, it has had a selective impact, in terms of education and professional skills, on large portions of the foreign workforce residing in Switzerland. As the immigrants are free to move after some time, any such effects were liable to spread throughout the economy. More than two thirds of the current foreign workforce is entitled to move without restraints.

3. The number of border commuters (frontier workers) is not limited by the Confederation. The issuance of permits is within the competence of the border cantons, subject to certain constraints under federal law. Industries in regions such as Basel (for example chemicals) and St. Gallen (for example metals) thus benefit from a wider labour market as compared to industries in non-border areas. Reportedly, some cantons such as Basel-Stadt issue, as a rule, permits only for qualified personnel.

4. In the negotiations on a European Economic Area (Section II:5(ii)c), Switzerland and Liechtenstein have recently declared their readiness to accord free access to EC workers after transitional periods to be negotiated. Current restrictions would be eased progressively. For example, as from 1997 all EC nationals - and not only those living close to

16 See also R. Senti, J. Baltensperger (1991), Binnenmarkt Schweiz - Wettbewerbsverzerrende Bestimmungen im öffentlichrechtlichen Bereich, Zürich.

17 In 1990, among the 950,000 foreign nationals working in Switzerland were 120,000 seasonal workers, 180,000 border commuters and some 20,000 new entrants, subject to the restrictions mentioned above. All others were in principle free to change their occupation and place of residence.

18 R. Senti, J. Baltensperger, op. cit.
the Swiss border - would be allowed to work in Switzerland as commuters. Also, from that date, seasonal workers may bring their families with them.
II. TRADE POLICY REGIME: FRAMEWORK AND OBJECTIVES

21. Switzerland has traditionally proved an attractive place for investment, trade and finance. Its competitive strength seems to be based on factors such as a firmly established legal system, low political risk, social freedom, rich endowments of human and physical capital, a reliable infrastructure, efficient capital markets, and a stable economic policy. However, there are also areas where Switzerland appears less well placed among the leading industrial economies. This applies, as acknowledged by the Federal Council, to a lack of personnel in high technology sectors, a tendency towards cartelization and restrictions on market entry in several areas, and a somewhat cumbersome legislative process.

(1) Institutional Framework

22. The Swiss Confederation has a bicameral legislature. The Federal Assembly is composed of the National Council (le Conseil National) and the Council of States (le Conseil des Etats). All federal laws and decrees (federal legislation) are dealt with and decided upon separately by both chambers. Seats in the National Council, 200 in total, are allocated among the 20 cantons and six half-cantons in proportion to population size. The Councillors are elected every four years by popular vote. In the Council of States, every canton has two representatives, every half-canton one representative. They are independent of instructions.

23. The Federal Council (le Conseil fédéral) is designated by the Swiss Constitution as the superior governing and executive body (Article 95). It also performs legislative functions and passes a large number of regulations within the competence conferred on it by federal law. The seven members the Federal Council are elected by the Federal Assembly. It is customary that the large political parties are represented in Government according to their relative strength. A coalition of the same parties has been in office for more than three decades.

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2 The half-cantons are independent of each other.

3 The State Councillors are elected directly by the electorate of the canton, according to cantonal law.

4 The Federal Councillors have equal rights. Each heads one of the seven Federal Departments. The functions of President of the Confederation (federal President) are assumed by each of the Federal Councillors for a one-year term.
24. A salient feature of the political system is the strong element of direct democracy through popular referendum. Over the last 140 years, more than 360 referenda have been held. The entry into force of any amendments to the constitution is subject to a compulsory referendum; the proposal in question must obtain the majority of votes of the electors and the majority of the cantons.\(^5\) Public initiatives aiming at amending the constitution, in part or as a whole, must be proposed by at least 100,000 voters. All federal laws and general decrees must be submitted to the people if so demanded by 50,000 citizens or eight cantons.\(^6\) This right of referendum is also applicable to certain international treaties.\(^7\) In order for a subject to be accepted through a referendum, it needs the assent of a majority of the electors.

25. According to the strong rôle conferred on the people in the Swiss legal system, the jurisdiction of the Federal Supreme Court does not, in principle, extend to federal laws and decrees that have been or could have been made subject to referendum. However, even in these cases, the Supreme Court is competent to decide on whether or not federal law complies with international legal obligations. Furthermore, with few exceptions, any regulation by the Government can be appealed to the Supreme Court in order to obtain a ruling on its conformity with higher ranking laws or with certain formal requirements (for example, as regards publication).

26. The communes and cantons have considerable political and economic autonomy. Their share in total public expenditure, as an example, is in the order of 60 to 65 per cent. According to Article 3 of the Federal Constitution, the cantons are sovereign in all areas and in the exercise of all rights to which no constitutional limits apply and which are not, by the Constitution, explicitly delegated to the Confederation.

27. As regards Switzerland's accession to international treaties, it is generally held - and usually practised by the federal authorities - that the Confederation is entitled to enter into commitments on all possible

\(^5\)The majority of the electors in an individual canton is counted as the vote of that canton.

\(^6\)All legislation establishing rules of law - for example, impinging on the rights of citizens or the competences of legal bodies - must be enacted by way of federal law (acts of unlimited duration) or general regulations.

\(^7\)As stipulated by Article 89 of the Constitution, this pertains to treaties of an indefinite duration which cannot be revoked, to treaties of accession to international organisations, and to treaties which lead to a multilateral unification of law. According to the Federal Council, a treaty on a European Economic Area (EEA) would be made subject to referendum by the people and the cantons (see below).
issues, including those within the sovereignty of the cantons. However, according to the Swiss authorities, there are always intensive consultations with the cantons prior to concluding treaties which touch upon their competence.

28. The Federal Constitution is not only confined to establishing basic parameters of the legal, political and economic system. Reflecting the direct influence of the population through referendum and in order to allow for a continued broad participation of the people in the political process, it contains rather detailed provisions in individual areas. (See, for example, Article 23bis on wheat; Section V:2(ii).) This also reflects the fact that, while there is no possibility of public initiatives to introduce federal law, such initiatives can be used directly to introduce or change constitutional provisions.

(2) Structure of Trade Policy Formulation

(i) Legislative and executive branches of Government

29. Under Article 108 of the Constitution, the Federal Council is in charge of Switzerland's external relations. It is free to enact trade measures, such as reducing tariffs or implementing trade restrictions, without immediate parliamentary approval. Rather, the Council is required to forward a report to the Federal Assembly every six months for approval. This gives the Assembly the opportunity to revoke, extend or modify the measures taken. The Federal Council is also required to inform the Assembly at least once a year on all external economic activities, in a Report on External Economic Policy (Rapport sur la politique économique extérieure). Within Government, competence for external economic relations is conferred on the Federal Office for External Economic Affairs (Office fédéral des affaires économiques extérieures), a section of the Federal Department of the Public Economy (Département fédéral de l'économie publique).

30. The Federal Constitution, Article 85, assigns the Federal Assembly a say in the more fundamental policy issues and objectives, including the

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Article 8 of the Swiss Constitution stipulates that only the Confederation may conclude customs treaties and commercial treaties with third countries.

9 The current legal basis is either the Federal Law on External Economic Measures of 25 July 1982 (Loi fédérale sur les mesures économiques extérieures) or the Customs Tariff Law of 9 October 1986 (Loi sur le tarif des douanes); see below.
conclusion of international treaties. Through its budgetary competence, the Swiss Parliament can also influence the financial basis and thus the course of current policies. However, its influence on individual trade policy decisions appears limited.

31. The strong institutional position of the Federal Council as against Parliament is highlighted by the fact that it cannot be compelled to resign during its terms of office. The possibilities of parliamentarians to monitor current policies are also limited by time and resource constraints, due to the voluntary character of their political engagement. There are few professional politicians in Switzerland.¹⁰

32. The political system is marked by a considerable degree of cooperation across party lines and a strong inclination to compromise. First, all major political parties are represented in the Government, thus ensuring that proposals or acts by the Federal Council take account of a spectrum of opinions. Second, the possibility of a referendum serves as an incentive to consult not only with the cantons but with affected interest groups, for example associations of producers and traders, already at an early stage of the legislative process. Accommodating their views might prove instrumental in avoiding the frictions and delays of a referendum.

33. According to the Swiss Government, the will to consensus which is characteristic of Switzerland has been translated, in the field of external economic policies, into a consultation process which permeates the entire decision-making process. As stated by the Swiss authorities, influence is exerted in both ways; the business community is also sensitive to opinions expressed by the Government representatives.

34. Observers argue that current procedures tend to over-emphasize the influence of large, well organised interest groups which might find it easier to mobilise public support.¹¹ It is noted that the political impact of such groups in Switzerland is unique at least in Europe.¹² The variety

¹⁰An ongoing policy debate focuses on how the political decision-making process could be streamlined. Issues at stake include an intensification of parliamentary work (more sessions, improved policy assistance, setting up of standing committees on major issues, the rationalization of routine procedures) and new forms of cooperation between Government and Parliament, as well as within Government.

¹¹Normally, relatively few voters go to the polls. For example, less than one-third participated in a recent referendum on fiscal reforms, including the introduction of a value added tax (Section IV:4(vii)).

of consultation requirements adds to the complexity and the duration of the legislative process.

(ii) Advisory bodies

35. According to the Swiss authorities, most consultations with the private sector are in writing. Prime addressees are the Swiss Chamber of Commerce and Industry ("Vorort"), operating as the parent organisation of private business, or specialised associations and unions. Such consultations in writing - they are mostly of an informal nature, without an established legal basis - are regarded by the Swiss Government as a natural corollary of the traditional search for consensus.

36. It is customary that "Vorort" representatives take part, as advisers to the Swiss delegation, in international negotiations of economic importance.\(^\text{13}\)

37. As stated by the Swiss authorities, the pivotal body for consultations with private business is the Permanent Economic Delegation (Délégation économique permanente). While the Delegation as such is recognised by the Federal Council, its composition and mandate are left to the discretion of the Director of the Federal Office for External Economic Affairs. He usually convenes some ten representatives of the main business and professional associations (including agriculture, industry, small- and medium-sized enterprises, banks, unions) and the federal administration. The Delegation normally establishes sub-groups, consisting of the deputies of the regular members, in order to focus exclusively on longer-term negotiations, for example in the context of the GATT or a European Economic Area.

38. Moreover, some formalised consultation procedures are established by federal law. On commercial policy issues, the Federal Council may seek the advice of two committees, the Consultative Commission for External Economic Policy (Commission consultative pour la politique économique extérieure) and the Commission of Customs Experts (Commission d'experts douaniers). Both commissions are chaired, \textit{ex officio}, by the Director of the Federal Office for External Economic Affairs. Members are appointed for a four-year term.

\(^\text{13}\) A case in point was the negotiation on an agreement with the EC on facilitating border controls and formalities, signed on 20 December 1989. (Union suisse du commerce et du l'industrie, \textit{Rapport annuel du Vorort 1989/90}, p. 57).
39. The Consultative Commission for External Economic Policy comprises some 30 members, notably representatives of business associations and large companies, consumer associations, associations for development aid, and high officials of the civil service. The Commission meets two or three times per year. Results of its deliberations are conveyed to the Federal Council (for the Commission of Customs Experts see Section IV:2(i)(a)).

40. Under the Federal Law on Agriculture of 1951 (Loi fédérale sur l’amélioration de l’agriculture et le maintien de la population paysanne), a permanent Consultative Commission is established. The Commission has 15 members among whom the "main groups of the Swiss economy and the consumers shall be accorded adequate representation" (Article 3:2). It is mandated to provide advice on agricultural issues in an overall economic context. The Commission meets two or three times a year in confidential sessions.

41. In addition, a range of consultative groups of producers and traders exists to advise the administration on specific policies (Chapter V). In total there are 34 consultative bodies within the province of the Federal Department of the Public Economy, of which more than 20 are concerned with agricultural policy issues. Consumers are not represented in all bodies.

42. In recent years, such consultation procedures with interest groups have become increasingly subject to controversy and public debate. Issues at stake include the questions of transparency and of the effective influence, formal or informal, of the more powerful groups on the political process.\textsuperscript{14}

(iii) Review bodies

43. The Confederation does not maintain statutory review bodies, such as councils of economic advisers, to assess policy developments and measures. Nor is there any other independent institution to report regularly on important economic issues and to provide analysis and advice for policy-makers, business and the public.

\textsuperscript{14}According to the Director of the Federal Office for External Economic Affairs, it would be desirable to have a general design, as clear as possible, for the framing of relations between the spheres of politics and business. Concise criteria and generally accepted model cases should render superfluous repeated controversies on the participation of interested circles ("milieux intéressés") in political decision-making. See F. A. Blankart (1990), "La politique et l’économie extérieure - Quelques réflexions au début des années ’90", \textit{La vie économique}, No. 2, pp. 10-13.
44. The federal administration is currently preparing the establishment of a reporting system, with the participation of independent researchers, on structural change in the Swiss economy. First initiatives in this context concern the impact of the EC Internal Market programme on Switzerland, including policy challenges and adjustment requirements on factor and product markets.\footnote{As noted by the Swiss authorities, any such research initiatives are hindered by a lack of comprehensive statistical information. For example, there are at present no up-to-date data on value added at the sectoral level.}

(3) Trade Policy Objectives

(i) General trade policy objectives

45. In a statement by the Swiss Government, provided in preparation for this report, the overall objectives of Switzerland's trade policy were placed in the context of Article 2 of the Federal Constitution. The Article stipulates, \textit{inter alia}, that the Confederation shall ensure Switzerland's independence from third countries and promote the prosperity of the people. This entails, in the view of the Swiss authorities, the following trade policy objectives: (i) to secure supplies of energy, food, raw materials, semi-manufactures, investment and consumer goods, services and capital; (ii) to remove obstacles to activities of Swiss enterprises on foreign markets; and (iii) to create and maintain favourable international rules of the game.

46. Reflecting the intense integration of Switzerland into the world economy, trade policy is considered by the authorities to be of outstanding importance in the economic policy domain. Its basic principles - liberalisation and market orientation - are viewed as an immediate corollary of the general postulate of freedom of trade and economic activity, promulgated by Article 31 of the Constitution. Consequently, trade measures, like other State interventions, should focus on providing flanking support. They are only considered justified by the Swiss Government when private activities are hindered by policy interference abroad to such an extent that enterprises can no longer compete on their own.

47. The Swiss authorities emphasize that, in the long run, the pursuit by Switzerland of a liberal and market-oriented trade policy depends on an international trading environment adhering to the same principles. Hence, Switzerland aims in international fora at fostering an open, rule-based multilateral system. The Federal Council has also expressed a strong
preference for international harmonisation of technical rules and regulations; national rules should be created only in the absence of international agreements.

48. International policy cooperation should in principle be confined to establishing common rules for the conduct of national policies and for the use of available instruments, such as tariffs, or administrative procedures. Cooperation must not aim at harmonizing individual objectives and imposing common political ends on sovereign countries. Also, it should be ensured that economic instruments are not abused as tools of political coercion, for example in the form of trade embargoes.

49. The existence of clear rules and transparency - of objectives, costs, and constraints - are viewed as pivotal elements for rational policy-making in whichever areas. For example, while deeming it impossible to apply pure economic criteria to agriculture, it is argued that any specific objectives are to be clearly stated and defined. Otherwise the ensuing costs would sooner or later appear unjustified.

50. The Federal Council considers Switzerland's increased commitment at the multilateral level as a counterweight to its involvement in the process of European integration. Regional and international integration are viewed as complementary processes, in accordance with and in response to general tendencies towards (i) economic liberalization and deregulation, (ii) increased interdependence of national economies, and (iii) growing importance of advanced technologies and economic strength as political instruments.

(ii) Sectoral trade policy objectives

51. Except in agriculture, sector-specific policy objectives appear to play no important rôle in Switzerland. Broader objectives prevail, for example related to research and development, regional adjustment or vocational improvement.

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16 A possible exception are the rare cases, where all countries are facing the same problems in the same way and with the same consequences, such as certain environmental problems. F. A. Blankart, op. cit.

17 F. A. Blankart, op. cit.

18 See Rapport d'information du Conseil fédéral sur la position de la Suisse dans le processus de l'intégration européenne du 26 novembre 1990. Switzerland's position in the context of the European Economic Area is dealt with below in more detail.
52. Many policy schemes are likely to have an uneven impact on individual sectors, due to differences in skill intensities, infrastructure requirements, export orientation and the like (Chapter V). Moreover, more recent efforts in the area of R&D policies are specifically geared to certain techniques and their industrial application (opto-electronics, biotechnology, new materials) and, thus, have an implicit sectoral bias. Also, there are tendencies in public procurement by the Confederation to foster innovative activities. However, the GATT Secretariat is not aware of major support programmes by the Confederation, for example in the regional policy context or in public procurement, that overtly establish preferences among industries.

53. The concept of food security has been a major factor behind the design of Swiss agricultural policies. Environmental, societal and income policy considerations add to the importance which is attached to this sector (Section V:2(ii)). In the view of the Swiss authorities, for non-economic reasons agriculture has special inherent features.

(iii) Objectives in the Uruguay Round

54. Switzerland considers the Uruguay Round as imperative for strengthening, rejuvenating and extending the multilateral trading system. Trade liberalisation is seen as instrumental in exposing the national economy to increased competition and, hence, stimulating the adjustment capacities of all enterprises, whether operating on domestic or international markets.

55. Swiss delegates have stressed that the Round has to ensure the openness of the emerging regional economic systems, in Europe and elsewhere. The negotiations are viewed as an historic opportunity to integrate the developing world and the eastern European countries into the multilateral trading system. By establishing a framework for the evolution of the European Communities, the Round can also help safeguard the continued international dimension of Switzerland's economy when it further develops its links to the EC. The negotiations are viewed as an unprecedented opportunity "to close off the roads to unilateralism and sectoralism ... once and for all".

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19 Unless otherwise indicated, the following presentation is based on information provided by Switzerland in preparation for this report.

20 Statement delivered by the Swiss Ambassador to the 45th session of the CONTRACTING PARTIES (SR.45/ST/3 of 18 December 1989).

21 Statement by the Swiss Ambassador, op. cit.
56. Particular importance is attached to the extension of multilateral disciplines to new areas - protection of intellectual property, investment, services - and to the improvement of rules in traditional domains (agriculture). It is emphasized that, per capita, Switzerland accounts for the largest number of new patents worldwide and is thus eminently interested in agreed remedies against piracy and counterfeit. Similar arguments are being advanced for investments and services, given the country's status as one of the leading foreign investors in many countries and the growing role of services both in its domestic economy and foreign trade.

57. Switzerland stresses that, as a densely populated country in the centre of Europe, it has for a long time been aware of the interplay of the objectives, requirements and concerns related to trade policy and the environment. Future efforts in the GATT context will have to ensure that competition remains undistorted.

(4) Trade Laws and Regulations

58. Switzerland's Constitution and the subsequent trade legislation - in particular the Federal Law on External Economic Measures and the Customs Tariff Law - assigns the Federal Council considerable powers and leeway in designing and implementing trade measures. For example, if Switzerland's essential economic interests are impaired by measures of third countries or exceptional conditions abroad, the Federal Council may monitor, make subject to approval, restrict or prohibit imports, exports and the transit of goods and services (Article 1 of the Law on External Economic Measures). Similarly, it may regulate the transfer of payments. Any such provisions are to be approved subsequently by Parliament, within six months. They may remain in force as long as circumstances require. For the actual implementation of measures, for example surveillance, quantitative restrictions or export controls, the Federal Council has issued a set of ordinances.

59. The above two laws would also serve as the legal basis for any safeguard measures, anti-dumping or countervailing actions.

60. In order to ensure the marketing of domestic agricultural products at adequate prices, the Federal Council is authorized, by virtue of the Agricultural Law of 1951, to impose import restrictions, import surcharges or to require importers to buy certain quantities of similar domestic

\[22\] Similar provisions for tariff measures are established by the Customs Tariff Law (Section IV:2(1)).
products. Any such measures should be taken "in consideration of the other economic sectors". The Confederation is also empowered to foster the export of animals, livestock products, fruit and wine. Financial contributions in this context are to be primarily sourced from charges and price supplements on agricultural imports (Articles 23 and 24).

61. In the pursuit of national law, Swiss authorities are directly bound by international obligations. International law, once accepted and ratified, becomes an integral part of the national legal system (see below).

(5) **Trade Agreements and Arrangements**

(i) **Multilateral agreements**

62. Switzerland acceded provisionally to the GATT on 22 November 1958. It became a contracting party on 1 August 1966. In its Protocol of Accession, Switzerland has reserved its position as to the application of Article XI of the GATT in certain areas.

63. Like all international obligations that are binding on Switzerland, GATT provisions immediately become part of the national legal system. They do not need to be specifically transformed into national law. This also applies to obligations under the Tokyo Round Agreements. In some of these cases, however, the effective application may depend on the issuance of specific regulations.

64. Under certain conditions, international legal provisions may be invoked directly by private persons before Swiss courts. The Federal Supreme Court has specified that (i) these provisions must be sufficiently precise and clear in order to be applied to individual cases and to serve as a basis for rulings, (ii) the violation of international law must have

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23 Prior to their coming into effect, such decrees are to be submitted for examination to the Consultative Commission, under Article 3 of the Law (see above).

24 The reservation concerns the application of import restrictions pursuant to Switzerland's agricultural legislation (Federal Law of 3 October 1952), to two Federal Decrees on external economic measures (they have been formally replaced later by the Federal Law on External Economic Measures without any changes in the substance of the earlier texts) and to legislation based on Articles 32bis and 23bis of the Federal Constitution (concerning alcohol and wheat). The Protocol requires Switzerland to report annually on measures maintained under the Protocol and to undergo a thorough triennial review by the GATT Contracting Parties.

Articles III to XXIII of the GATT are to be applied by Switzerland only "to the fullest extent not inconsistent with its existing legislation on 22 November 1958", the date of its provisional accession. (This provision also includes certain obligations under Articles I and II that refer to Articles III and VI).
afected the legal position, whether rights or obligations, of the person concerned, and (iii) direct application must not contravene the spirit of the treaty in question. The Federal Court decided that Articles V:3 (concerning transit traffic) and VIII (concerning fees and formalities connected with importation and exportation) of the GATT cannot be directly invoked.

65. According to the Swiss authorities, the Federal Council and the Federal Supreme Court adhere to the principle that international law prevails over national law. However, in some rulings the Federal Court has established exceptions. Accordingly, national law is to take precedence if the legislative bodies have deliberately derogated from international law. Moreover, in two cases concerning non-trade issues (1959 and 1977), the Federal Assembly declared admissible initiatives for public referendum that, if adopted, would have resulted in legislation contrary to existing international commitments.

(ii) Regional and bilateral agreements

(a) Stockholm Convention (EFTA)

66. Switzerland is one of the founding members of the European Free-Trade Association (EFTA), established by the Stockholm Convention in 1960. The Convention aimed at promoting free trade among western European countries which, for different reasons, did not join the European Communities in 1958 (Austria, Denmark, Norway, Portugal, Switzerland and the United Kingdom). Finland signed an association agreement with EFTA in 1961, Iceland acceded in 1970. Later, Denmark and the United Kingdom (in 1973) and Portugal (in 1986) have become members of the EC.

67. The Stockholm Convention was examined by a GATT Working Party whose report was adopted by the Council in June 1960. On this basis, the CONTRACTING PARTIES felt that there remained "some legal and practical issues which would not be fruitfully discussed further at this stage". Accordingly, they did "not find it appropriate to make recommendations to the parties to the Convention pursuant to Article 7(b) of Article XXIV".

25 A case in point was the federal legislation concerning the acquisition of real estate by foreigners.

26 GATT (1961), Basic Instruments and Selected Documents, Ninth Supplement, p. 21.
68. The Convention provides for free trade in industrial products originating in the EFTA area. Member States are obliged to eliminate on trade among themselves quantitative restrictions, customs duties and charges with equivalent effect, and any protective elements contained in revenue duties and internal taxes.

69. Trade between member States shall take place "in conditions of fair competition" (Article 2(b) of the Convention). The association agreement specifically refers to Government aids, public procurement, restrictive business practices (cartels), restrictions on the establishment and operation of enterprises, and actions against dumping and subsidisation. After having undergone a consultation and complaints procedure (Article 31), an offended member State is entitled to take remedial action and to suspend obligations under the Convention to another member State. These provisions, however, are intended to be used only as a last resort.

70. The EFTA Council is the supreme decision making body under the Convention. Each member State has one vote in the Council. As a general rule, decision must be taken unanimously, that means without negative vote. Safeguard actions by member States, including measures in the event of disputes, must be authorised by majority vote. Yet in almost all cases consensus solutions are sought.

71. In 1978, a Joint EFTA-Yugoslavia Committee was set up to act as a forum for intensified cooperation. More recently, similar Joint Committees were established with the Czech and Slovak Federal Republic, Hungary and Poland. Special Working Groups are mandated to explore ways

27 Fish and marine products have been covered by the Convention since 1 July 1990, with certain transitional arrangements being applied until 31 December 1993. (See GATT (1990), Trade Policy Review - Sweden, Geneva).


29 According to EFTA Secretariat, op. cit.

30 The history of contacts dates back to the establishment of a Joint EFTA-Yugoslavia Working Group in 1967.
and means of improved technical collaboration in areas such as customs formalities, non-tariff barriers to trade, information seminars and fairs. Moreover, the possibility of a free trade zone is examined. For a transition period of ten years, tariff reductions by the (current) EFTA members are envisaged to proceed more rapidly than those by the other participants.  

(b) Free trade agreement with the European Communities

72. In 1972, Switzerland and the other EFTA members signed free trade agreements with the European Communities (EEC and ECSC). Separate agreements for all (remaining) EFTA countries proved necessary as the EFTA, unlike the EC, constitutes no international legal body on its own right. The agreement between Switzerland and the EC (EEC and ECSC) entered into force on 1 January 1973.

73. All of the free trade agreements are similar in structure and content. They only pertain to industrial products; agriculture is formally excluded. The GATT Working Parties which were established for examination reported in October 1973 that they "could not reach any unanimous conclusions as to the compatibility of the Agreement(s) with the provisions of the General Agreement".

74. Each agreement set up a timetable for the progressive abolition of import duties until July 1977. With a few exceptions, the target date for the abolition of export duties and equivalent charges was 1 January 1974. While also being committed to eliminate customs duties

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31 The EFTA countries have made the conclusion of such treaties contingent on the introduction of a genuine market economy and the creation of the requisite instruments for the implementation of a free trade zone. The political system is expected to be a pluralist democracy, ensuring the respect of civil and human rights. See (with respect to Yugoslavia) Conseil fédéral suisse (1991), Rapport sur la politique économique extérieure 90/1+2 et Message concernant un accord économique international, p. 40.

32 The signatories declared, respectively, "their readiness to foster, so far as their agricultural policies allow, the harmonious development of trade in agricultural products to which the Agreement does not apply" (Article 15).

However, Protocol No. 2 to the agreement provides for the elimination or reduction of tariffs on a prescribed range of processed agricultural products. Price compensation measures may be taken to take account of the increased costs of the agricultural inputs used for production.

33 GATT (1974), Basic Instruments and Selected Documents, Twentieth Supplement, p. 209.

34 For certain sensitive products (papers, certain metals, hardboard) the process took until 1 January 1984.

35 Exceptions were made for ash and residues and/or for waste and scrap of aluminium, lead, copper, zinc and nickel. As to these products, signatories were allowed to take the (Footnote Continued)
of a fiscal nature, signatories were allowed to raise internal taxes instead. Switzerland, however, was entitled temporarily to retain its duties on certain products, corresponding to the fiscal component in the existing rates. Quantitative import restrictions were to be abolished by 1 January 1974; no such provisions, however, were made for export restraints. Until 1 January 1993, certain transitional provisions remain in force with respect to Spain and Portugal, the most recent entrants to the EC (in 1986).

75. The agreements stipulate certain rules of conduct concerning the competitive behaviour of enterprises, the granting of State aid, and the recourse to safeguard measures and to anti-dumping actions. Also, no restrictions must be imposed on trade-related payments and on short- and medium-term credits for commercial transactions.

76. A bilateral Joint Committee is established to monitor the application of each agreement; the Committee acts by consensus. In the absence of mutual accord, for example to abolish distortive subsidisation, the importing country is entitled to enact safeguard measures, in particular by withdrawing tariff concessions.

77. In addition, Switzerland maintains a bilateral consultation mechanism with Germany. There are contacts with a view to establishing similar mechanisms with Denmark and the United Kingdom.

(c) Negotiations on a European Economic Area (EEA)

78. The Swiss authorities consider the concept of a European Economic Area to be a logical consequence of the process of EC integration. The EEA may provide for a basic policy framework in a rapidly changing European environment. By the same token, the Swiss authorities believe that ongoing changes, including the liberalisation process in central and

(Footnote Continued)

measures necessary to implement their supply policies. Switzerland continues to impose export taxes in this context (Section IV:3(i)).

36 The product range includes oils and other products from coal tar, petroleum oils and oils from bituminous minerals, petroleum gases, hydrocarbons, acyclic alcohols, cinematograph films, certain chemical products and preparations, engines for automobiles, passenger cars and buses, car chassis and car bodies. The "fiscal duties" on these products are still applicable (Section IV:2(i)(c)).

37 An additional protocol concerning export restrictions was signed in July 1989 (Section IV:3(v)).
eastern Europe, make it imperative for Switzerland to reflect permanently and in an unprejudiced fashion on its position in Europe.\(^\text{38}\)

79. In view of the changing pattern of Switzerland's relations to the EC, the Swiss Government has recognized that the scope for pragmatic bilateral solutions - for a Europe "à la carte" or "À deux vitesses" - has been drastically reduced in recent years.\(^\text{39}\) In the EEA context, Switzerland would be required to compromise on a common negotiating platform within EFTA and to accept more comprehensive results, covering a wide range of issues. The increased pace of cooperation also meant that Parliament, cantons and the associations would have to cope with unusually short deadlines in the legislative process.

80. The concept of a "Dynamic European Economic Space" was first proposed in 1984 by a joint Ministerial meeting of EC and EFTA countries. The meeting, the first ever at this level, laid down the objectives of intensified cooperation. In this context, the Luxembourg Declaration addressed the areas of standards, border formalities, rules of origin, State aid, Government procurement, and research and development. Subsequently, some 25 expert groups focused on specific issues. Several agreements have been reached to facilitate administrative procedures, for example by introducing a single administrative customs document and simplifying the rules of origin, to increase transparency in public procurement and in the standards area, and to eliminate export restrictions (Chapter IV).

81. An EC/EFTA Ministerial meeting on 19 December 1989 agreed to deepen existing relations further and "to seek jointly to define a more structured framework for cooperation between the EC and all of the EFTA countries together". This framework aims at achieving the free movement of goods, services, capital and persons on the basis of the "acquis communautaire" to be identified jointly; intensifying cooperation in the context of the Community's action in other areas such as research and development; and reducing economic and social disparities.\(^\text{40}\) Not included are the

\(^{38}\) Rapport d'information du Conseil fédéral sur la position de la Suisse ..., op.cit.

\(^{39}\) Rapport d'information ..., op. cit., p.11.

\(^{40}\) The EC was anxious to ensure respect for the following three principles: (i) priority to the Community's own internal integration; (ii) preservation of the Community's decision-making autonomy; (iii) satisfactory balance of advantages and obligations in each case.

development of common policies in the economic or monetary sphere, or in agriculture.

82. The negotiations on the European Economic Area began formally on 20 June 1990. They take place within a High Level Negotiating Group which is assisted by five working groups. The EEA Treaty should enter into force on 1 January 1993, parallel to the completion of the European Communities' Internal Market programme.

83. According to a report by the Federal Council in late 1990, the Treaty should ensure a high level of integration into the Internal Market; the right to participate in the decision making processes within a future EEA, commensurate with the material content of the Treaty; and the preservation of essential national specificities. If the results do not live up to expectations, the option of acceding to the EC might gain in importance or cooperation on a case-by-case basis might continue. The latter alternative, however, might prove less productive than hitherto as Switzerland could not participate fully in the efficiency gains to be derived from mutual market opening in an EEA. Sectors currently protected by trade and cartel barriers could continue to evade competition, at the expense of consumers, taxpayers and industry.\(^{41}\)

84. Observers point to differences in negotiating interests and political sensitivities among the EFTA countries. While Austria and Sweden have applied for EC membership, Switzerland - while anxious not to become a "satellite" - appears to have been most reluctant to cede elements of sovereignty in an EEA context.\(^{42}\) In fact, seemingly one of the most intricate problems on the negotiating agenda was delimiting the extent to which EFTA countries, individually or as a group, were bound by EC regulations, for example on standards and public procurement. This proved all the more important, from the EFTA perspective, since the EC was not prepared to accord its EEA partners a formal say, comparable to the influence of member States, in preparing such rules or treaties.

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\(^{41}\) *Rapport d'information .... op. cit.*, pp. 16, 66, 69 and 70.

As stated in this report, accession to the EC, while differing from the EEA project in several respects, would form part of a similar European conception. However, an accession would render it more difficult or even impossible for Switzerland to maintain autonomous policies in areas such as agriculture, indirect taxation, migration and acquisition of real estate by foreigners. In the event of an Economic and Monetary Union, further policy competences would have to be conferred on EC institutions.

85. The possibility of "opting out" from adopting new areas of EEA legislation or from further developing the "acquis communautaire" moved to the forefront. Until recently, Switzerland insisted on provisions allowing for individual opting out, as against a collective EFTA procedure, to be included in any EEA Treaty. Related institutional problems concerned the establishment of a surveillance mechanism to ensure the uniform application of EEA rules and of a common judiciary body to decide in the event of discord.

86. A Ministerial meeting of EC and EFTA countries on 13 May 1991 emphasized that agreement had been reached on several important elements of the EEA and that solutions could possibly be found for the remaining open issues. Ministers decided in principle to create an independent court for EEA issues, comprising five judges from the European Court of Justice and three judges to be nominated by the EFTA countries. The EFTA members declared their readiness to introduce into their national legislation provisions securing that, in the event of disputes, EEA rules prevail over national law. An envisaged general safeguard provisions should provide relief in cases of serious economic, societal and/or ecological difficulties in sectors or regions. The EC conceded the participation of EFTA experts, as widely as possible, in the preparatory process for EC legislation. In drawing up proposals, the EC Commission would refer to EFTA experts on the same basis as to those from member States.

87. According to the Joint Declaration of 13 May, common ground was also established or expanded in areas such as competition policy (including State aid), standards, free movement of capital and services, and transport. As for agriculture, participants agreed in principle to provide for an "evolutionary clause" in the EEA Treaty with a view to achieving a higher degree of liberalisation, in the framework of the respective agricultural policies (Section V:2(viii)). The range of outstanding issues included fisheries, free movement of persons and the modalities of a regional and/or social development fund.

88. The Declaration also maintained that final accord was contingent on an acceptable outcome, for both parties, capturing all substantive and

\[43\] However, it was stressed that EEA decisions are to be taken by consensus between the EC and the EFTA countries, speaking with one voice. Any difficulties should first be examined by the EC/EFTA Joint Committee with a view to arriving at mutually acceptable solutions without the parties resorting to safeguard measures.
institutional issues under negotiation. At the time of writing, the negotiation was in its final phase.

89. Possible effects of an EEA on individual trade-related policies are dealt with in Chapter IV.

(d) Customs treaty with Liechtenstein

90. In 1923, the Principality of Liechtenstein acceded to the Swiss customs territory. Accordingly, the Swiss Customs Tariff Law and the Federal Decree on the Turnover Tax are also applicable in Liechtenstein. The same applies to all commercial treaties and trade agreements concluded by Switzerland. (Under the customs treaty of 1923, Liechtenstein is not allowed to enter into such agreements.) Further Swiss legislation is binding on Liechtenstein to the extent necessary for the proper functioning of the customs territory.

91. Since 1924, the Swiss franc has also served as the official currency in Liechtenstein.

92. In 1960, the EFTA founders and Liechtenstein signed an additional Protocol to the Stockholm Convention ensuring its application to the territory of the Principality. Similar arrangements were made in the context of the free trade agreements between Switzerland and the EEC and the ECSC. In November 1990, the customs treaty of 1923 was modified in view of the possible establishment of a European Economic Area. Liechtenstein may now accede directly, in common with Switzerland, to customs unions or free trade areas.

(iii) The Generalized System of Preferences (GSP)

93. Under its GSP scheme, Switzerland accords tariff preferences autonomously to developing countries. The present system is based on a

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44 According to reports, this provision was not least intended to take account of a variety of reservations on the part of Switzerland, for example concerns about the absence of any reference to individual "opting out" in the Declaration. In view of such problems, observers characterised the Declaration as a "political breakthrough without Switzerland" (Neue Zürcher Zeitung, 15 May 1991).

45 Liechtenstein joined EFTA as a full member in 1991.

46 The amendment to the Customs Treaty was approved by the Parliament of Liechtenstein and by the Swiss Parliament in early 1991.
Federal Decree of 9 October 1981. It authorizes the Federal Council to grant preferences on the rates as established by the Swiss Customs Tariff. The ensuing Ordinance of 26 May 1982 has been applied with relatively few alterations in its product coverage and in the preferential margins. The Ordinance covers some 100 out of a total of 1,070 agricultural tariff items and almost all industrial items.

94. In most cases, preferences for industrial products are offered in the form of tariff exemptions. For certain categories - textiles and clothing, footwear, umbrellas, raw aluminium and electric batteries - these are only available to the 41 least-developed countries; imports from most other GSP beneficiaries can enter under reduced tariffs, amounting to 50 per cent of the normal rates.

95. GSP treatment is granted without quantitative ceilings. However, a general safeguard provision may be applied if preferential imports affect or threaten to affect essential economic interests or if there are serious disturbances in trade flows. The Federal Council may then suspend or

47Arrêté fédéral concernant l'octroi de préférences tarifaires en faveur des pays en développement.
The Decree, which is due to expire on 29 February 1992, is proposed to be prolonged for an additional five years.

48Since July 1982, the scheme provides special preferences for the least-developed countries (see following paragraph). In the years from 1983 to 1987, pro rata reductions were made in order to maintain the preferential margins subsequent to the Tokyo Round m.f.n. tariff reductions. Tariff preferences for specified products have been improved as from 1 July 1982 and, based on the mid-term results of the Uruguay Round, as from 1 July 1989. In addition, tariff exemptions were extended to crude and crystallized sugar in 1989.

Rules of origin for imports under GSP are laid down separately (Ordonnance relative aux règles d'origine régissant l'octroi de préférences tarifaires aux pays en développement du 7 décembre 1987).

49Preferences for agricultural imports - either in the form of tariff exemptions or reductions - are mainly confined to certain live animals; several categories of fish (e.g. salmon), crustaceans and molluscs, and their preparation; natural honey; hair; some vegetable bulbs and live plants; cut flowers, tomatoes, peas, artichokes and aubergines (depending on the season); sweet corn; cucumbers; a range of dried vegetables; manioc and sweet potatoes (tariff reductions or exemptions for the least-developed countries); dates and figs; lemons and some further fruit categories (mostly for the least-developed countries); rice; starches; soybeans and a range of other oilseeds (mostly limited to the least-developed countries); some vegetables saps; certain animal fats and oils; vegetable waxes; a range of sugar and cocoa categories; certain preparations of cereals, vegetables and fruit (including juices); unmanufactured tobaccos.

In some cases, preferences are subject to a seasonal calendar. According to a recent communication to the Federal Assembly, the Federal Council will examine, in the light of the results of the Uruguay Round, the possibility of extending preferential tariff exemptions to additional agricultural products. (Message concernant la prolongation de l'arrêté fédéral du 9 octobre 1981 sur l'octroi de préférences tarifaires en faveur des pays en développement. Berne.)

50However, the revenue duties on certain products (e.g. petroleum, cars) still apply. Casein and albumins which are considered as agricultural products are not eligible for GSP treatment.
modify tariff preferences or take any other measures deemed necessary. According to the Swiss Government, this provision has not been applied to date; neither have any consultations been held with suppliers in this context.

96. The Federal Council is required to examine periodically if, and to what extent, preferences are still justified in view of the level of development and the financial and commercial situation of the benefiting countries. This clause has played no role thus far. However, in some areas individual developing countries (Brazil, Bulgaria, China, Yugoslavia, Romania, Turkey, Hong Kong and Macao) are either fully excluded from preferences or not entitled to receiving the same margins as other beneficiaries. According to the Swiss authorities, this treatment was considered necessary either (i) for reasons of development policy; (ii) in view of the competitive position of individual sectors of the exporting country; or (iii) in response to price distortions in centrally planned economies.

97. Switzerland maintains as a general principle that only "genuine" developing countries or countries with a liberal trade régime qualify for GSP treatment; the Federal Council does not intend to include additional central and eastern European countries in the scheme. The Swiss Government is currently considering whether to remove some more advanced developing countries fully or partly from the list of beneficiaries, in accordance with these principles. As for the Republic of Korea, this is also being considered in relation to alleged market access problems, including discrimination in the sphere of intellectual property rights.

(iv) Other agreements and arrangements

98. Since the mid-1980s, Switzerland has concluded bilateral friendship, investment and trade treaties with a wide range of countries. The

51 Before taking any such measures, the Commission of Customs Experts is to be consulted.

52 Reduced preferences are granted for products such as bars, wires and plates of aluminium (originating from Yugoslavia, Romania and Turkey); mineral and chemical fertilizers, tiles, tableware and kitchenware, basic iron and steel products, electrical insulators of ceramics (Bulgaria and Romania); insulated wire and cable (Romania); footwear, copper and basic copper products (Yugoslavia); umbrellas (Macao); clocks and watches (Hong Kong).

Largely or completely excluded from preferential treatment are footwear, textiles and clothing from Bulgaria, Romania, China, Hong Kong, the Democratic People's Republic of Korea, Macao and the Republic of Korea. The same applies to certain flowers, fruit, vegetables and furniture from Bulgaria and Romania and to coffee extracts from Brazil.

53 However, Switzerland has provided special credit facilities for Poland, the Czech and Slovak Federal Republic and Hungary (Chapter IV).
treaties stipulate m.f.n. treatment with respect to tariffs and customs procedures and national treatment with respect to internal taxes and charges. In some of the more recent treaties, specific dispute settlement provisions have been established, for example through Joint Committees.

99. Switzerland has concluded some 40 bilateral agreements on the reciprocal promotion and protection of investments. It also participates in all international agreements on raw materials, except for olive oil, and the UNCTAD Common Fund for Commodities.

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54 This applies particularly to the treaties concluded after 1945. The older treaties also focus on issues such as the right of establishment and the exercise of property rights. Again, m.f.n. treatment - in exceptional cases, national treatment - is laid down as a basic principle.

55 In May 1991, a total of 46 agreements had been signed of which 41 were in force.
III. TRADE RELATED ASPECTS OF THE FOREIGN EXCHANGE REGIME

(1) Monetary Policy and Exchange Rate Régime

100. Since January 1973, the Swiss franc has been allowed to float. Its exchange rate is market-determined, and not subject to specified exchange rate targets or bands. The Swiss monetary authorities state that their general approach to monetary/exchange policies over the last decade was one of monetary targeting. Developments in interest rates and exchange rates have thus primarily been accepted as a result rather than having served as a determinant of monetary policy.

101. The Swiss National Bank has nevertheless intervened if deemed necessary; for example, in order to smooth exchange rate fluctuations considered erratic and to ensure orderly market conditions. Developments vis-à-vis the Deutsche mark and the ECU appear to have played a major rôle in this context. This may have contributed to the relatively low variability of the Swiss franc's nominal effective exchange rate against participants of the European Monetary System. Between 1984 and 1988, it was half the variability of Sterling and less than one third of the variability of the United States dollar against the then seven EMS members. Some observers hold that in responding to exchange rate developments, the Swiss National Bank has on some occasions lost control over monetary aggregates.

102. While, in the early 1980s, Switzerland experienced about the same average inflation rates as Germany - slightly below 4½ per cent per annum between 1980 and 1984 - German inflation was considerably lower in the second half of the decade than the Swiss rates (Table III.1). Expansionary monetary policy in 1987 and in the first half of 1988 triggered renewed inflation in Switzerland. The monetary surge of 1987/88 was at least partly due to technical difficulties in the conduct of monetary policy. Institutional reforms - new liquidity regulations for banks and the

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2 The targets are established for the monetary base which comprises the currency plus the banks' sight deposits with the National Bank.
3 See EC Commission (1989), The EMS: Ten Years of Progress in European Monetary Co-operation, Brussels.
introduction of an interbank clearing system - rendered traditional monetary aggregates unreliable and complicated targeting policies.  

Chart III.1
Monetary base and inflation in Switzerland, 1981-May 91


103. Resulting inflationary impulses were further fuelled by the price effects of continued strong economic growth in western Europe and of a rapid depreciation of the nominal value of the Swiss franc against other European currencies in 1989. Accordingly, at the end of that year, the National Bank "once again saw a need to tighten monetary policy in order to arrest the decline of the Swiss franc". Current expectations are for subsiding inflation, possibly resulting in an average rate of some 5 per cent for 1991.

5Under the new liquidity rules, banks were no longer required to hold a certain percentage of their assets at the end of each month. This resulted in a sudden decline in their demand for central bank credit. In addition, the computer-based interbank clearing system speeded up transfers and thus further reduced the banks' need for cash balances.

6Banque Nationale Suisse, Monnaie et Conjoncture, No. 4, 1990. The real effective exchange rate of the Swiss franc fell by more than 8 per cent in 1989 (Table AIII.1).
104. The efficiency of Swiss monetary policy in general appears to have been affected by rigidities in the non-tradables sector. There are unusually long time lags; price effects of monetary changes need up to 40 months to materialize fully. For example, due to indexation agreements in the housing sector, stricter monetary policies and rising interest rates (including mortgages) first feed into higher rent levels and, accordingly, into increases in living costs. In the short run, these effects tend to outweigh any dampening influences of monetary policies on demand and, thus, on inflation.

105. While maintaining the seasonally adjusted monetary base as its main policy indicator, the Swiss National Bank refrained from setting an annual monetary growth target for 1991. This decision reflects a certain shift of emphasis by the bank, indicating that monetary policy would be prepared to respond to swift exchange rate changes, especially against the Deutsche mark.

106. As observed by the OECD, Switzerland displays the largest divergence between exchange rates and purchasing power parities among all OECD countries (1988). While the Swiss population enjoyed the highest per capita income in the OECD area, in terms of GDP at current prices and exchange rates, it ranked third behind the United States and Canada when GDP was valued at current purchasing power parities. The OECD points to a lack of competition, particularly in the domestic economy, as one factor that might explain the comparatively low (internal) purchasing power of the franc. Estimates suggest that, in Switzerland, products with fixed or regulated prices account for some 50 per cent of final consumption as compared with 40 per cent in Germany.

(2) Exchange Rate Movements and Trade

107. Insofar as exchange rate changes impinge on relative prices in international trade, they may affect the intensity and direction of commercial flows. Their impact may be more pronounced for standardised products in a competitive environment than for regulated markets or for trade in specialities that are difficult to substitute.
108. Empirical studies on the impact of exchange rate changes on Switzerland's exports, following different approaches, do not suggest clear conclusions. One study, published by the Swiss National Bank in 1989, attempted to trace variations in real exports to variations in (i) real exchange rates of the franc, (ii) the degree of capacity utilization in Switzerland, and (iii) economic activity abroad. The results pointed to a strong influence of foreign economic expansion on Swiss exports. In contrast, exchange rate changes appear to have had a strong bearing on bilateral trade with the United States, but not on overall trade. A unit change in the bilateral exchange rate with the US dollar was found to cause a one-half unit response in export volumes after four quarters. In conclusion, the authors suggest that the exchange rate, even if it could be chosen by discretion, would prove inappropriate to control Swiss exports.

109. A second study, based on a constant market share analysis, led to somewhat different results. The study made adjustments for growth effects attributable to general growth trends in the OECD area and, specifically, to the product structure and geographical destination of Switzerland's exports. The residual factor that resulted from these adjustments — interpreted in terms of "competitiveness" — was closely related to exchange rate changes. According to regression estimates, variations in competitiveness during the period 1975 to 1987 could largely be explained, to some 70 per cent, by exchange rate changes in the current and previous year.

110. The GATT Secretariat is not aware of any studies focusing on the possible impact of exchange rate variations on import demand in Switzerland.

(3) Foreign Exchange Allocation

111. Switzerland has traditionally been an attractive market for international finance, owing mainly to "the Swiss history of neutrality and

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11 This would be supported by the high proportion of Swiss trade with the EC and the relationship mentioned above between the Swiss franc and the Deutsche mark/ECU.

12 B. Beck (1990), Die internationale Wettbewerbsfähigkeit der schweizerischen Exportindustrie, Bern.
independence, its stable political environment, its strong and stable currency and its reputation for professionalism and discretion. Financial and monetary markets are basically open, free of Government interference as regards the terms and conditions of individual contracts.

112. There are no restrictions on the purchase or sale of foreign currencies. Residents and non-residents may conclude foreign exchange contracts, whether of a commercial or financial nature, in all currencies. All forward transactions can be made at free market rates. Payments for imports from all sources may be made freely, and exporters are free to dispose of their proceeds. No legal impediments apply to payments for, or receipts from, invisibles.

113. Purchasing, holding or selling gold is unrestricted. Exports of gold are free of duties and non-tariff barriers. Gold bars and certain coins are exempt from import duties. Trade in certain products containing gold is subject to automatic licensing.

114. Some observers argue that, while there were no exchange controls, informal measures and other substitutes have operated as shields for certain segments of the Swiss capital market against developments on the Euro-markets. Accordingly, it is suggested that tacit collusion of Swiss banks and legal restrictions on investments of pension funds and other savings institutions have provided low cost financing for domestic credit.

115. Swiss interest rates over long periods in the 1980s stood below the German and the Austrian rates and did not reflect the inflation differentials between these countries (Table III.1). However, as a variety of factors are at work in this context, including more general policy expectations, any inferences need to be tentative. Moreover, towards the end of the 1980s, Swiss interest rates climbed to historically high levels, obviously reflecting increasingly tight monetary policies (Section 1:4).

116. Nevertheless, Swiss industries appear to have enjoyed traditionally more favourable domestic financing conditions than companies abroad. Over long periods, real capital yields have been very low by international standards. Such effects might have contributed to offsetting a certain

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14 H. Hauser, op.cit.
bias, in particular against capital-intensive activities, inherent in the Swiss system of turnover taxes ("taxe occulte"; Section IV:4(vii)).

(4) Investment Policies

117. According to observations by the OECD, Switzerland's policy approach towards domestic and foreign investment is generally liberal; the rôle of the Government essentially focuses on creating and maintaining favourable conditions for the interplay of market forces. 15

118. Foreign equity participation in some sectors and activities deemed sensitive is subject to restrictions. For example, only Swiss-owned companies are entitled to install and operate oil pipelines across national borders and to construct and operate nuclear energy plants. Only Swiss nationals are currently allowed to operate cinemas and, barring some exceptions, to import feature films (Section V:3(x)).

119. Acquisition of real estate by foreign resident companies and individuals is subject to approval by the canton of location. The decision is under the supervision of, and may be appealed to, the Confederation. The Federal Council considers this restriction to be the only case where Switzerland would have to insist on derogations from the principle of complete liberalisation of capital movements in a European Economic Area. Apparently, as acknowledged by the U.S. Department of Commerce, neither the restrictions on purchasing real estate nor current limits on the employment of foreign personnel has seriously affected business operations. By contrast, it is suggested that "in addition to direct investment, many Swiss firms are open to licensing and joint venture opportunities". 17

120. However, investments in individual industries may be hindered by defensive corporate strategies. For example, restrictions on share transfers and voting rights appear to be common. 18 Swiss law does not prevent companies from establishing such provisions in their charters. It is held that, in most Swiss companies, the intricate structure of ownership

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17 US Department of Commerce (1990), Foreign Economic Trends and their Implications for the United States - Switzerland, Washington D.C.

rights rules out gaining control of the company without the approval of the incumbent management.\textsuperscript{19}

121. While allowing their shares to be sold to foreigners, an increasing number of Swiss companies apparently aim at setting general limits on the participation of individual shareholders. Some observers argue that such tendencies contribute to strengthening the position of management \textit{vis-à-vis} the owners, weakening internal control mechanisms and further cushioning companies from trends on capital markets. It is contended that overall economic efficiency would suffer and growth opportunities be missed.\textsuperscript{20} This observation is not unique; as indicated in Chapter IV, it equally seems to apply to Swiss competition law and to widespread cartel practices.

(5) \textbf{Foreign Direct Investment}

122. Since 1986, the Swiss National Bank has traced the development of Swiss foreign direct investments. Accordingly, in 1989, capital participations held abroad by Swiss investors or by Swiss-based companies amounted to Sw F 81.4 billion (book value).\textsuperscript{21} Of this, three-fifths were in the industrial sector. The EC accounted for 44 per cent of the Swiss capital stock abroad; North America (27 per cent), Latin America (14 per cent), other EFTA countries (6 per cent) and Asia (5 per cent) ranked next. This means that Swiss foreign capital participations are considerably less concentrated on western Europe than actual export flows. To a certain extent, investments might have operated as substitutes for trade, particularly with respect to the dollar-zone.

123. On the whole, recent investment flows (industry and services) fit into the above picture: half of Switzerland's new foreign investments between 1986 and 1989 went into the EC, an additional quarter was destined for the United States and Canada (Table III.2). The attractiveness of the Communities' Single Market programme and/or the perceived need of being established within this area, in conjunction with exchange rate developments, may help explain a certain shift towards the EC.\textsuperscript{22}

\textsuperscript{19}E.-L. von Thadden (1990), "On the Efficiency of the Market for Corporate Control", \textit{Kyklos}, Vol. 43, No. 4, pp. 635-655.


\textsuperscript{22}However, these are possible \textit{ad hoc} interpretations. The Swiss authorities and the GATT Secretariat do not dispose of empirical studies on the actual determinants for Swiss foreign investments.
124. In the recent past, capacity constraints in the domestic economy may have played an increasing rôle. While the Swiss economy continued to operate at high levels of capacity utilization, with an employment growth of 1.1 per cent in 1989, employment in Swiss-financed enterprises abroad expanded by 5.5 per cent in 1989 to reach 940,000 at year end.

125. No information was available on foreign direct investments in Switzerland by area of origin. Over the period 1986 to 1989, investment inflows totalled Sw F 9.4 billion, as against Sw F 30 billion of Swiss direct investments abroad.
IV. TRADE POLICIES AND PRACTICES BY MEASURES

(1) Overview

126. This Chapter provides an overview of policies and practices deemed to impinge on Switzerland's foreign trade. It also discusses existing legal provisions which may be used under certain conditions, for example to counteract dumping or subsidisation, whether or not these provisions have actually been activated.

127. With one major exception (agriculture), Switzerland appears to have made only limited use of "formal" policy measures in order to direct adjustment processes and to intervene in trade. For example, the degrees of tariff protection and subsidisation to industry are fairly low by international standards. There has been no safeguard action under Article XIX of the GATT against non-food imports and no measures have been taken under Article VI against allegedly dumped or subsidised imports. Switzerland has never used restrictions under the MFA to limit its imports of textiles and clothing.

128. Hence, the following presentation of individual trade policies, such as quantitative restrictions, variable levies and other tariff supplements, licensing requirements, often focuses on agricultural trade, reflecting the specific rôle attached by Switzerland to this sector.

129. However, this is not to say that trade in industrial products is completely unimpeded and undistorted. Informal arrangements by producers and traders at the national level play a rôle across a considerable range of sectors. They are deemed acceptable under Swiss cartel law as long as harmful effects do not prevail. Hence, cartels have expressly been tolerated for perceived reasons of health and of consumer protection, for cultural policy considerations and the like.

130. Furthermore, restrictive practices exist in public procurement, not least by the cantons and municipalities. At the regional level, no common rules or enforcement mechanisms apply to procurement activities or subsidies.

131. Technical regulations may also operate as trade barriers. In some important areas of standardisation, current Swiss requirements deviate from those imposed by large trading partners such as the EC. However, efforts are being made to align technical regulations in the EC/EFTA area.

132. As in other TPRM reports, the presentation distinguishes between policies on the import side, on the export side and those which affect production and trade. This does not mean that all these measures have been deliberately designed to operate on trade. Nor will their ultimate effects
be confined to clearly delimited segments of the economy. Measures primarily affecting imports, exports or production may be expected to have their effects throughout the economy.

(2) Measures Directly Affecting Imports

(i) Tariffs

(a) General principles

133. Article 29 of the Federal Constitution of 1874 stipulates general principles for the imposition of tariffs. Duties on inputs for industry and agriculture and on the necessities of life shall be as low as possible, the highest duties shall apply to luxuries. These provisions are modified, however, by later amendments to the Constitution. Article 31bis, added in 1947, confers on the Confederation the right, "if justified by general interest", to enact dispositions "to safeguard important economic sectors or professions whose existence is threatened", or "to preserve a strong rural population, to ensure the productivity of agriculture and to strengthen rural property" or "to protect regions whose economies are threatened".

134. As a general rule, tariff measures are decided upon and implemented, on a provisional basis, by the Federal Council. For example, under Article 3 of the Swiss Customs Tariff Law, the Federal Council is empowered to increase the statutory tariff rates and, implicitly, the applied rates "if indispensable for attaining the intended objectives". Simultaneously, action must be taken to amend the Tariff Law.

135. Tariff reductions resulting from international tariff agreements may be enacted by the Federal Council under Article 4 of the Law. Independently from such agreements, the Federal Council may decide on appropriate reductions if so required by the interest of the Swiss economy (Article 4(3)). In this case, a specific body, the Commission of Customs Experts (Commission d'experts douaniers) is consulted in advance. The Federal Assembly is to be informed of these changes (which relate only to

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1The amendment is subject to Parliamentary approval and, possibly, to referendum (Article 8).

2The Commission is chaired by the Director of the Federal Office for External Economic Affairs. It comprises some 20 customs experts who are appointed for a four-year term. The Commission is also to be heard on several other tariff issues, for example the granting of GSP preferences.
applied rates) in the context of a bi-annual report by the Federal Council. It then has the opportunity to approve, extend or modify the measures.

136. The above procedure was used, for example, for tariff adjustments in implementing the Harmonized System and the mid-term results of the Uruguay Round concerning tropical products.

(b) Application of tariffs

137. The Swiss customs tariff comprises 6,863 tariff lines (1990). The applied tariff rates are specified in four columns, covering imports from (i) m.f.n. sources, (ii) EC and EFTA countries, (iii) developing countries, and (iv) the least-developed countries. All non-contracting parties to the GATT are accorded m.f.n. treatment.

138. Switzerland is the only industrial country to apply exclusively specific duties. The Federal Council gave its view, in 1988, that there were ample reasons not to change this system. The Swiss authorities argued that the advantages, for example efficiency gains in assessing duties and carrying out customs procedures, clearly outweighed any drawbacks such as unwarranted variations in tariff incidences as a result of price and exchange rate developments. The administrative costs of changing the system, including possible renegotiations of GATT concessions, were also considered high.

139. In general, imported goods are dutiable by their gross weight. In a few cases (12 tariff items), tariffs are levied by number of pieces or by length (cinematographic films). Where necessary, the customs tariff

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3 The Swiss Parliament has adopted the GATT Code on Customs Valuation in 1979. The Code has legal force in Switzerland even though its rules on the determination of customs values are not applicable under the existing tariff régime. In 1981, Switzerland informed the Committee on Customs Valuation, that it would apply the Code in the event that it adopted - even partially - ad valorem duties.

4 The gross weight comprises the effective weight of the merchandise in question, its packing and filling materials and supporting materials such as pallets. If goods are imported without packing or with insufficient packing their net weight is subject to an additional charge (tare additionnel) with a rate of 10 per cent unless otherwise specified. Goods usually transported without packing are exempt from the charge. The judgement whether or not a product is sufficiently protected is to be based on the packing which would be required for transportation in homogeneous loadings (complete wagons) in international rail traffic. On request, customs clearance of any merchandise may be effected on the basis of its net weight.

5 Certain film imports enter duty free. Per unit duties apply to live animals, bracelets for watches, watch movements and most watch categories.
indicates the weight charge to be added to the net weight of imports (tare additionnelle), the application of or exoneration from turnover tax (impôt sur le chiffre d'affaire, ICHA), and the existence of import or export controls and restrictions.

140. Ad valorem tariff equivalents for the various tariff items are regularly published, calculated on the basis of tariff revenues and import values in m.f.n. trade. In 1990, tariff receipts totalled Sw Fr 2.5 billion, which is some 8 per cent of Federal Government revenue (regular import tariffs, excluding variable levies, import surcharges and price supplements). Import tariffs on fuels contributed slightly more than 50 per cent of this total (Table IV.1).

(c) Tariff levels and bindings

141. On the whole, the incidence of Swiss tariffs appears low. In 1988, ad valorem equivalents for industrial items, including petroleum, amounted to 2.8 per cent (simple average) or 2.9 per cent (weighted average on m.f.n. basis), respectively. More than two-thirds of Switzerland's industrial imports from m.f.n. sources were subject to tariff equivalents of 2 per cent or less, and less than one-tenth to equivalents of more than 6 per cent.

142. Tariff equivalents for agricultural items amounted to 12.7 per cent (simple average) or 7.7 per cent (weighted average) in 1988. However, across a wide range of products, tariffs are supplemented by variable levies, surcharges or price supplements and by a variety of non-tariff related measures, such as import quotas and the operation of trading monopolies. The tariff averages are thus not representative of the level of protection accorded to large segments of domestic agriculture.

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6 For items subject to trade restrictions, the agency responsible for the issuance of import or export permits is indicated.

7 For a considerable proportion of tariff lines (almost 8 per cent), no ad valorem equivalents could be made available. According to the Swiss authorities, very low trade volumes would have led to misleading results.
Chart IV.1
Distribution of m.f.n imports of industrial products into Switzerland by tariff incidence (ad valorem equivalents) 1988

<table>
<thead>
<tr>
<th>Per cent</th>
<th>Imports</th>
</tr>
</thead>
<tbody>
<tr>
<td>60</td>
<td>50.3%</td>
</tr>
<tr>
<td>50</td>
<td>18.7%</td>
</tr>
<tr>
<td>40</td>
<td>9.7%</td>
</tr>
<tr>
<td>30</td>
<td>6.0%</td>
</tr>
<tr>
<td>20</td>
<td>4.1%</td>
</tr>
<tr>
<td>10</td>
<td>3.8%</td>
</tr>
<tr>
<td>10</td>
<td>12.1%</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Tariff lines</th>
</tr>
</thead>
<tbody>
<tr>
<td>60</td>
</tr>
<tr>
<td>50</td>
</tr>
<tr>
<td>48.6%</td>
</tr>
<tr>
<td>30</td>
</tr>
<tr>
<td>13.6%</td>
</tr>
<tr>
<td>20</td>
</tr>
<tr>
<td>11.1%</td>
</tr>
<tr>
<td>10</td>
</tr>
<tr>
<td>6.9%</td>
</tr>
<tr>
<td>10</td>
</tr>
<tr>
<td>9.6%</td>
</tr>
</tbody>
</table>

Range of duties:
- Free
- 0.1 - 2.0
- 2.1 - 4.0
- 4.1 - 6.0
- More than 6 and unspecified

Source: GATT Secretariat.
143. The above tariff information may also reflect the selective impact of the existing tariff system on trade flows. As the tariff incidence of specific duties is negatively related to import prices, the system would tend to deter lower-priced imports within individual product categories. Average import prices are likely to be higher - and, accordingly, ad valorem tariff equivalents lower - than under ad valorem tariffs. On the other hand, the incidence of overall tariff protection has tended to decline over time as a result of inflationary price increases. Technical change may have produced similar effects whenever value-added intensive products have replaced material-intensive imports within the same categories.

144. The Swiss authorities noted that, from a fiscal point of view, even tariffs with a low ad valorem incidence play a considerable rôle. For example, the abolition of tariffs with an incidence of less than 2 per cent would have led to revenue losses of some Sw F 100 million in 1988, without corresponding savings on the part of the customs services. These imports would still have been subject to customs procedures for statistical and other administrative reasons.

145. Tariff rates for certain items, such as petroleum, cars and parts thereof, and feature films include so-called fiscal duties. These fiscal duties are considered as substitutes for internal taxes on such goods, which are generally not produced in Switzerland, and also apply to imports from other EFTA countries and the EC.

146. Several agricultural products - cut flowers, peperoni and table grapes - are subject to seasonal tariffs. The highest regular rates are placed on tulips with Sw F 127.50 per 100 kilogramme between 26 October and 30 April.

147. While still at low levels, tariff protection accorded to Swiss producers of semi-finished and finished manufactures in general exceeds the tariff incidence on raw materials. For manufactures (excluding petroleum), ad valorem tariff equivalents were close to 3 per cent in 1988, which is about twice the level for the inputs. Tariff escalation is most pronounced in the textiles area, with ad valorem equivalents (simple averages) ranging

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8 For example, passenger cars with engines of less than 3000 cc are either dutiable at Sw F 65 (m.f.n. sources) or Sw F 53 per 100 kg (EC and EFTA origin). Feature films of 35 mm and more, with the exception of cultural and educational films, are subject to taxes of Sw F 0.12 per metre. The latter are intended to be abolished as from 1 January 1994.

9 The ad valorem equivalent was 12.2 per cent in 1989. In addition, fresh flowers are subject to seasonal quotas.
from 1.6 per cent on fibres up to 8.8 per cent on made-up articles and clothing.

148. Available evidence suggests that the spread of tariffs is rather uneven across the product range. For industrial products (including petroleum), the standard deviation of the ad valorem tariff equivalents is 7.1 percentage points (1988). This compares, for example, with a standard deviation of 4 percentage points for the EC tariffs on industrial items. The dispersion of tariffs on agricultural items is even larger, with the standard deviation exceeding 27 percentage points in 1988. The Swiss authorities view the relatively high tariff dispersion mainly as a corollary of the system of specific tariffs rather than as a result of deliberate trade policy decisions.

149. Several tariff peaks of more than 100 per cent (ad valorem tariff equivalents in 1989) exist for agricultural and food products, mainly for certain food preparations. These tariffs apparently serve to complement the restrictions imposed on agricultural inputs. (Protection for the inputs is mainly based on non-tariff measures such as quantitative restrictions and price supplements.) Tariff peaks of 50 per cent and more also exist for petroleum. Tariff protection on manufactures appears to peak in the textiles area with ad valorem equivalents of more than 20 per cent on a variety of items. Tables AV.1 to AV.19 show the tariff averages (1988) and tariff ranges (1989) for individual product categories, based on information at 8-digit HS level. However, it should be noted that, at this level of disaggregation, ad valorem tariff equivalents may fluctuate greatly from year to year, in particular where imports of individual items are small.

150. Almost all tariffs on industrial products are bound (98 per cent both in terms of tariff lines and m.f.n. import values). In contrast, more than half of the tariff lines in agriculture, representing one-third of total agricultural imports, are unbound or only partially bound (Chart IV.2).

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10 The standard deviation reflects the actual spread of the ad valorem tariff equivalents around the simple average of 2.8 per cent.

11 However, Switzerland's average tariffs on industrial products are less than half of those of the EC.

12 For example, as indicated in Table AV.14, tariff equivalents in the area of textiles and clothing ranged up to 57.6 per cent on certain fabrics in 1989. In 1990, the peak rate even exceeded 240 per cent (HS No. 5515.2230). This peak was established, however, on the basis of negligible imports, worth less than Sw F 20.

Also, while tariff equivalents for certain boring machines (HS No. 8459.4020) were in the vicinity of 25 per cent in 1989, they were less than 2 per cent in 1990. Again, trade values were extremely low in both years.
Applied tariffs for 134 agricultural items and for 64 industrial items are below the GATT bound ceilings.

Chart IV.2
Proportion of bound tariffs in Switzerland, 1988

Percentage

<table>
<thead>
<tr>
<th></th>
<th>Bound tariffs</th>
<th>Partially bound/unbound tariffs</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agriculture</td>
<td>48.6%</td>
<td>51.4%</td>
</tr>
<tr>
<td>Industry</td>
<td>1.6%</td>
<td>98.5%</td>
</tr>
<tr>
<td>Total</td>
<td>91.1%</td>
<td>8.9%</td>
</tr>
</tbody>
</table>

Source: GATT Secretariat.

151. There are at present no temporary tariff suspensions. The Swiss Customs Tariff Law only allows such suspensions in "extraordinary circumstances", especially in the event of natural catastrophes and of shortages or price increases of food and other essential products. An amendment to the Customs Tariff Law that would provide broader scope for tariff suspensions is currently underway.

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13 This provision of Article 6 of the Customs Tariff Law was resorted to once in the 1960s after a bad harvest of apples.
152. There are several ways for importers to challenge customs decisions. In 1990, more than 4,300 complaints, including appeals, were referred to the regional customs authorities (Directions d'arrondissements) or to the General Customs Administration (Direction générale des douanes). In addition, 51 appeals were submitted either to a special Federal Commission (Commission fédérale de recours en matière de douane), to the Federal Department of Finance or to the Federal Court.

(d) Preferential imports

153. Deliveries originating within the free trade zone with the EC account for the lion's share of Switzerland's imports; in 1989 they contributed over 70 per cent. Germany alone represents one-third of total imports. EFTA countries and GSP beneficiaries as groups both reached some 7 per cent. The share of the latter group as a whole fell by 1 percentage point during the 1980s, reflecting the declining import values of raw materials such as oil and petroleum, coffee, cocoa and cotton (Table 1.9).

154. By and large, preferences are confined to industrial products. While virtually all industrial imports under the Stockholm Convention and the free trade agreement with the EC enter duty free, preferential treatment under GSP is somewhat less comprehensive.

155. GSP preferences are mostly granted in the form of tariff exemptions, without quantitative ceilings on individual products or countries. However, as already noted, there are certain product- and country-specific exceptions. For example, preferences on textiles and clothing are mainly limited to tariff reductions of 50 per cent, except for the least-developed countries whose exports enter duty free. Some more competitive suppliers of textiles and footwear are completely excluded from preferences in this area (Chapter II). Rules of origin may also have restrictive effects.

156. The Swiss authorities consider Switzerland's GSP scheme among the most liberal ones, covering 70 per cent of developing countries' exports to Switzerland in 1989 (25 per cent of agricultural exports and 80 per cent of industrial exports). However, less than two-fifths of eligible imports actually enter under preferential tariffs. According to the Swiss Government, this is mainly attributable to the small preferential margins for items for which m.f.n. tariffs are already low and, thus, reflects a

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14 In 45 per cent of all cases, the complaints were accepted.

15 Exceptions include certain fruit categories which are eligible for tariff exemptions or reductions under GSP (Chapter II).
lack of incentive to apply for GSP treatment.  Also, it is stated that information problems, particularly with respect to the origin requirements, have played a rôle. Excluding precious stones and metals where the tariff incidence is almost insignificant (less than 0.5 per cent), the utilization ratio reaches the vicinity of 65 per cent.

157. Main beneficiaries of the Swiss GSP scheme, in terms of their actual preferential imports into Switzerland, are the Republic of Korea, India, Thailand, China and Turkey (Table IV.2). These countries combined represented half of all preferential imports in 1989. The country pattern also reflects the limited coverage in Switzerland’s GSP scheme of agricultural imports and, thus, its lack of interest for important suppliers of temperate-zone agricultural and food products.

(c) Processing traffic

158. The Swiss Customs Law establishes the possibility of preferential treatment for processing traffic (Article 17). Products temporarily exported or imported for processing may qualify for tariff reductions or exemptions "if so required by particular economic interests and if there are no predominant interests to the contrary". According to the Swiss authorities, such conflicts of interests, for example between domestic user industries and potentially affected Swiss suppliers, are reconciled in consultations by the parties concerned and the federal administration. In difficult cases, the General Customs Administration uses economic studies as supporting information. In 1989, products worth more than Sw F 570 million were imported under these provisions.

16 This factor might have been of particular importance in the cases of Hong Kong, Singapore and Israel, with utilization ratios of 14 per cent, 31 per cent and 23 per cent, respectively, in 1989 (Table IV.2).

17 The average preferential margin was estimated at 2 per cent (ad valorem) in 1984. (Conseil fédéral (1991), Message concernant la prolongation de l’arrêté fédéral du 9 octobre 1981 sur l’octroi de préférences tarifaires en faveur des pays en développement, Berne).

18 For customs purposes, processing is generally defined as improving a product, in terms of design or quality, without changing its form.
159. Only persons or companies residing in Switzerland can be authorized to import for processing; the authorizations are confined to a specified product category and processing stage. For certain products, specific guarantees are required with respect to the final use of the individual consignment. Like the regular rates, processing tariffs may differ by source (e.g. m.f.n. origin, EFTA or EC countries, LDCs or LLDCs). On most tariff items, an additional fee, based on gross weight, is raised to cover administrative costs (taxe de contrôle).

(ii) Tariff quotas

160. Switzerland does not generally maintain tariff quotas. However, a number of agricultural products are subject to tariff supplements when specified import quantities are exceeded (Section IV:2(iv)).

(iii) Variable import levies

161. Variable tariff elements, additional to the regular rates, are levied on many processed agricultural products. The variable element is designed to offset the price disadvantage against imports of domestic production, resulting from price support for agricultural inputs. Unlike basic tariffs, the variable levies also apply to imports from the EC/EFTA area. Their actual amount is adjusted every three months to coincide with current price developments. Standard listings of ingredients of the individual products are used as a basis for calculation. The system of import levies is complemented by a similar system of export subsidies.

(iv) Other levies and charges

162. Article 36ter of the Federal Constitution stipulates that an import surcharge and half of the revenues from the basic import tariff on fuels be used for maintaining, improving and extending the road network. The surcharge is to finance expenses that are not covered by the tariff element. At present, the basic tariff is set at Sw F 18.669 and the surcharge at Sw F 30.00 per 100 litres of unleaded petrol. An additional levy (taxe Carbura) of Sw F 2.29 per 100 litre serves to cover the costs of

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19 In general, there are no constraints on quantities, time periods or sources of supply.

20 The product range includes yoghurt; chewing gum; other sugar confectionerlies; certain food preparations of flour, starch and malt; pasta; pastry; peanut butter; and some further food preparations, for example on the basis of potatoes, sweet corn, maize, coffee, or tea.
obligatory petrol reserves. In 1990, proceeds from the surcharge totalled
Sw F 1,745 million (Table IV.1).

163. Supplementary duties (droits d'entrée supplémentaires) or price
supplements (suppléments de prix) are raised on a wide variety of food
products. Under the Swiss Law on Agriculture (Article 23:1(b)), the
Federal Council is authorized to impose supplementary duties on imports,
exceeding specified quantitative thresholds, if these are liable to
jeopardize the sale of domestic products at cost prices. Such duties have
been imposed on red wine in bottles and on various cheese since 1976, as
well as on all major frozen vegetables since 1984. Price supplements are
raised on a wide variety of fodder products (some 100 tariff items if
imports are used for feeding), oilseeds, edible oils and fats, and several
dairy products. The supplements on fodder products are adjusted
periodically in order to bridge the gap between the internal threshold
price and the import price, including duties. Similar import charges are
raised on butter, sugar, eggs and egg products, animals for slaughter, and
vinicultural products. Moreover, in order to finance the national reserves
of bread grain and feed grain, an additional levy is imposed on imports of
these products (Section V:2(iv)(a)).

164. Veterinary taxes (taxes vétérinaires) are levied as fees for
veterinary services for customs purposes. For example, a tax of Sw F 13
per 100 kg (gross), or at least Sw F 10 per consignment, is charged for
border controls required under the Convention on International Trade in
Endangered Species (CITES; see Section (vii) below). Revenues from
veterinary taxes totalled Sw F 7 million in 1990 (Table IV.1). "Other
revenues" such as customs fees, fines and interests on arrears contributed
Sw F 115 million to the receipts of the Federal Customs Administration.
Statistical fees accounted for an additional Sw F 55 million.

165. Consumption taxes on tobacco and on beer are also due on importation.
Total revenues from these taxes amounted to Sw F 988 million and
Sw F 66 million, respectively, in 1990.

21 Dairy products subject to price supplements include the major cheese categories,
preserved milk, cream and milk powder.

22 M.F.N. imports of beer in glass bottles of less than 2 litres, for example, are
subject to an import tariff of Sw F 16 (per 100 kg), a tariff supplement of Sw F 3.30, a
turnover tax of Sw F 15 and a beer tax of Sw F 14.40 (per hectolitre). For more details see
Section V:2(v)c.
(v) Minimum import prices

166. According to the Swiss authorities, minimum import prices have been established for certain cheese imports from Austria, the EC and Finland. The reference price currently amounts to Sw F 4.80 per kilogramme. Supplementary duties apply to imports from all other sources and to those deliveries from the above sources that do not comply with specified requirements, for example the presentation of an export certificate.

167. The Swiss Government states that it does not intend to introduce similar requirements for any other imports, whether of agricultural or industrial origin.

(vi) Import controls and prohibitions

168. Switzerland maintains a range of import restrictions for reasons of national security, public health, environmental protection and the like. The relevant GATT provisions in this area, Article XX and XXI, are mirrored by exception clauses in the free trade agreement with the EC and the Stockholm Convention.

169. A series of federal laws and decrees establish rules for the treatment of poisons, including their production, processing, importation, labelling, sale, and discharge. In order to be eligible for marketing, any poisonous substance and product must be listed in a poisons register. At present, the register contains some 10,000 substances and 100,000 products. They are classified, according to their risk, into five groups. The handling and use of the more dangerous substances is subject to specific permissions. In general, only poisons already registered in Switzerland may be imported.

170. Further import prohibitions relate to military materials if trade runs counter to national interest and, in certain cases, to radioactive materials.

171. A variety of import controls or prohibitions has been enacted on the basis of the Environment Protection Law (Loi fédérale sur la protection de l'environnement) and a subsequent Ordinance (Ordonnance sur les substances dangereuses pour l'environnement). According to the Swiss Government, most

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23 Non-registered poisonous products may be imported subject to specific permission; these are only granted to persons having the requisite expert knowledge. The Federal Office for Public Health is the competent body for approving and listing poisonous substances.
environment-related prohibitions currently passing the legislative process are based on international agreements, such as the Montreal Protocol on substances that deplete the ozone layer. Along with a prohibition of domestic production, Switzerland has banned imports of PVC bottles and packaging as of 1 November 1990.

172. As a signatory to the Convention on International Trade in Endangered Species of Wild Flora and Fauna (CITES), Switzerland maintains import controls on a range of animals and plants, including their parts and derivatives. In addition, it has introduced, on an autonomous basis, certain more stringent requirements.

173. Switzerland currently maintains no restrictions on imports or the domestic use of tropical wood. The Swiss authorities would consider accession to an international convention with the aim of preserving endangered species, on condition that main suppliers and users also participate.

174. As a general rule, all imported live animals are subject to quarantine restrictions. Exempt are imports for slaughter and certain deliveries, for example of crustacea, for consumption. The Federal Veterinary Office (Office vétérinaire fédéral) may establish further exemptions, depending on the situation in the area of origin. The importer is free to suggest the place of quarantine, which must be approved by the competent cantonal bodies. The examinations required are stipulated in the import permit. If animals fail the checks, further action, for example re-export or slaughter, is decided upon by the Federal Veterinary Office.

175. Since 1990, Switzerland has prohibited imports of live cattle and in-bone beef from the United Kingdom in order to avoid the spread of "mad cow disease" (BSE). More recently, it has imposed an import ban on pork meat originating from several EC member States because of a "mystery pig disease" (MRS).

176. A specific decree deals with the registration, production and importation of immuno-biological products. Importation of every individual

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24 The implementation of CITES in Switzerland with respect to individual product categories is not identical with the implementation by the EC. The relevant provisions would not form part of an EEA accord.

25 However, there are restrictions on the use of specified wood categories with public buildings by the Confederation.

26 Cats and dogs are exempted in general. Also, horses from a wide range of countries can at present be imported without quarantine.
consignment is subject to approval by the Federal Office for Public Health (Office fédéral de la santé publique).

177. There are at present no import controls on pharmaceuticals. However, admittance for sale is subject to approval by the Intercantonal Office for the Control of Pharmaceuticals (Office intercantonal de contrôle des médicaments, OICM (Section IV:4(ii)). A law on trade controls in this area, covering imports and exports, is currently under preparation.

178. Under Swiss legislation, legal action against counterfeit or product piracy may be taken at all stages from importation or domestic production to the marketing by retailers. However, the Swiss customs services must in general not intervene ex officio against counterfeit imports; they are not even allowed, under secrecy of functions, to inform third parties of imports that obviously fall under this category. Action at the borders, for example confiscation, may only be taken upon a ruling by the competent district court, to be requested by the right-holder or any other injured person. According to information provided by the Swiss authorities, current case law on counterfeit exports is not unequivocal. However, it appears that measures may be taken at the border, particularly when well-known trademarks are involved. As stated by the Swiss administration, foreign nationals have in principle equal rights to initiate infringement procedures, whether against counterfeit imports or domestic products. Any special requirements are said to comply with international agreements such as the Paris Convention.

179. Trade with Iraq and Kuwait was embargoed on 7 August 1990. The embargo on Kuwait has been lifted since. There are no further trade sanctions in force; nor has Switzerland ever participated in other embargoes. However, the Swiss authorities state that they aim to ensure that sanctions by third countries are not undermined by indirect deliveries via Switzerland.

180. Certain prohibitions or restrictions in Switzerland's domestic legislation are not equally applied to imports, thus preventing or limiting their impact on international trade. For example, while the use of leghold traps is prohibited in Switzerland, there are no import restrictions on furs from countries with differing legislation. Also, meat deliveries are accepted from producers that, unlike Switzerland, have not imposed a

\[27\] Nevertheless, under current law the customs authorities are entitled to retain counterfeit watches bearing the indication "Swiss made". The competent producer or business association is then to decide whether or not to initiate legal action. However, the relevant federal decree will expire at the end of 1991. New draft laws on trademarks and on copyright are currently before the Swiss Parliament.
general ban on hormones for growth promoting. However, the products must be free of residues.

(vii) Import licensing

181. Most imports into Switzerland of temperate-zone food products and agricultural raw materials are subject to import licensing. The systems differ among product categories. Licences are granted either (i) automatically, (ii) within the limits of quotas, (iii) in proportion to an importer's purchase of similar domestic products, or (iv) subject to varying requirements within a so-called three-phase system (automatic licensing/quotas/prohibitions).

182. Licences are granted multilaterally, except for wine in casks and certain specialities of meat where bilateral contractual obligations play a rôle. Moreover, for certain products, quality criteria and phytosanitary provisions vary by country of origin.

183. Automatic licensing is used for a variety of reasons, such as

- to ensure the collection of import fees and other charges on imports;
- to control the composition of stocks to be kept as strategic economic reserves (sugar, rice, edible oils and fats, coffee, tea, bread grain, fodder crops, cocoa beans and fats);
- to enable the application of sanitary and phytosanitary regulations;

28 The various schemes apply to the following products:
(i) Automatic licensing: preserved milk (except milk powder); cheese; egg without shells; honey; coffee; tea; bread grains; certain milling products; various feedingstuffs and straw; oilseeds and oilfruits; tallow, aminal oils and fats; sugar; cocoa and cocoa preparations; frozen vegetables; vegetable oils and fats, margarines.
(ii) Non-automatic licensing (import quotas): cattle, pigs and horses for slaughter and meat thereof; meat preparations and preserved meat; cutflowers (from 1 May to 25 October, otherwise free of licence); feed grains and certain other feedingstuffs; wine in casks and white wine in bottles; grape juice.
(iii) Imports in proportion to the purchase of domestic products ("prise-en-charge" system): sheep and goats for slaughter and meat thereof; poultry meat; milk powder and casein; eggs in shell; small onions for planting. With a view to ensuring the importer's compliance with established requirements, the issuance of licences for sheep and goats is conditional on the lodging of a deposit. There are no such provisions with respect to other products.
(iv) Three-phase system: Most fresh fruit and vegetables which are also produced in Switzerland (except for table grapes and peaches which may enter free of licence).

29 The relevant products are potato seedlings, vine plants, and certain host plants.
- to carry out quality controls (e.g. on certain plants); and
- to ensure compliance with reference prices.

Non-automatic licensing is used for implementing quantitative restrictions either in the form of quotas or through substitutes such as obligatory purchases of competing domestic products ("prise-en-charge" system).

184. Licences are not transferable between importers. Their issuance is usually subject to a fee which, according to the Swiss authorities, is modest and corresponds to the costs of providing the administrative services. As a general rule, the formalities for application are published; importers are informed by letter of the quota amounts and their allocation.

185. In most cases, licences are valid for periods between two weeks and six months. In general, any Swiss resident may apply for a licence; however, certain licences are exclusively granted to professional traders of the products in question.

186. Import licensing is also applied to certain imports of industrial products, generally by way of the procedures outlined above. The rationale for such licensing includes:

- national security: nuclear fuels and radioactive residues, arms and war materials, explosives;
- maintenance of mandatory stocks of essential products: fertilizers, antibiotics, petroleum and other fuels, mineral oils, soaps and detergents;
- health policy: certain radioactive substances, narcotics;

30 The following presentation is based on information supplied by Switzerland in the context of the GATT Code on Import Licensing. According to the Swiss authorities, basic elements of the various régimes in the agricultural sector, including criteria for the allocation of licences, are scattered throughout a total of 42 federal laws, ordinances and decrees. Hence, it proved impossible for this TPRM report to provide more details.

31 Quotas are normally allocated on the basis of past import performance. In some cases, reserves are kept for possible newcomers. Requests for licences are processed within one to three days, depending on the product. If rejected, the applicant is informed of the reasons. The decision can be appealed in an administrative appeals procedure and, thereafter, to the Federal Supreme Court.

32 Trade controls on narcotics are required, for example, under the International Convention against Illicit Traffic in Narcotic Drugs.
surveillance: textiles and clothing (see below);
- ensuring compliance with international obligations (e.g. CITES);
- supporting agricultural sector policies: certain fats and casein;
- cultural reasons: feature films; \(^{33}\)
- cantonal trading monopolies (e.g. salt).

187. According to the Swiss Government, all licensing schemes are operated on a non-discriminatory basis with the exception of a price certification scheme for certain textile imports from eastern European countries (Section IV:2(ix)).

(viii) **Import quotas**

188. Switzerland imposes quantitative restrictions on a wide range of agricultural imports, such as fresh milk, feed grains, rear potatoes, slaughter cattle, beef, white wine in bottles, wine in casks, and fresh flowers. \(^{35}\) For several other products, the authorization to import is linked to the purchase by the importer of similar domestic products. In economic terms, this provision ("prise-en-charge" system) operates as a substitute for quotas.

189. In most cases, the restrictiveness of the import régimes is decided in consultations with domestic interest groups, mainly representing producers and traders. Special Committees are established to this effect.

\(^{33}\) The Swiss authorities note that the system (non-automatic licensing) is designed to prevent monopoly situations among film distributors in Switzerland. These are only entitled to import films within company-specific quotas. While the number of distributors is not limited as such, barriers to entry appear high (see Section V:3(x)). The system is due to be abolished as from 1 January 1993 in the context of a revised Film Act.

\(^{34}\) The scheme serves to ensure compliance with minimum import prices; its country coverage was considerably reduced over the last years.

\(^{35}\) Fresh flowers are subject to seasonal quotas (Section V:2(iv)(d)).
190. Certain textiles and clothing articles are subject to price surveillance. The surveillance system is based on an Ordinance by the Federal Council (Ordonnance sur les importations de textiles), establishing a general framework, and an Ordinance by the Federal Department of the Public Economy of 1987. The latter Ordinance enumerates the items concerned; they have not been changed since.

191. In principle, textile imports may be subjected to (i) price observation for control purposes, (ii) price surveillance, or (iii) price certification.

192. While there are no observation measures in force, 39 tariff items are currently under price surveillance. The textiles and clothing products concerned may only be imported under an import authorization by the Division for Imports and Exports (DIE) of the Federal Office for External Economic Affairs. The authorization is issued upon presentation, by the importer, of the invoice and the certificate of origin. There are no further legal requirements or restraints. Imports originating in the EC/EFTA area are exempt from these provisions.

193. Imports of the above 39 items from certain eastern European countries are subject to price certification. The price differential between import price and the current "normal price" of domestic production must not exceed prescribed margins. These are set at 10, 12, and 15 per cent, depending on the product. In making the price comparisons, DIE may consult with "organisations or institutions of the Confederation or the economy" (Article 4:3 of the Ordinance by the Federal Department of the Public Economy). The Swiss authorities are currently considering completely abolishing the system or even the entire surveillance mechanism.

194. As stated by the Swiss Government, no similar systems exist for other industrial or agricultural imports.

36 In contrast, textiles subject to price observation could be imported without authorization. However, the importer would be required to submit additional information, as specified in the relevant ordinance.

37 The range of countries originally included Bulgaria, the Czech and Slovak Federal Republic, the German Democratic Republic, Hungary, Poland, Romania, and the Soviet Union. Subsequent to German unification and in response to the economic transition processes in other countries, the certification system was reduced to deliveries from Bulgaria, Romania and the Soviet Union (situation in spring 1991).
(x) **State trading**

195. Switzerland maintains several State-trading enterprises, including semi-official agencies, in the services area (railways, postal services and telecommunications) and in some merchandise sectors, mostly concerning foodstuff and fodder. Products subject to State trading at the federal level include bread grain and feed grains, butter and other dairy products, slaughter cattle and meat, alcohols, and explosives. The cantons jointly administer a monopoly for salt. Most gas imports are through one company (Swissgas) which is controlled by publicly owned regional gas suppliers.

196. The Federal Law on Bread Grain (Loi fédérale sur l'approvisionnement du pays en blé) of 20 March 1959 provides that the Confederation purchases domestic grain directly from the producers. Swiss millers are required, in turn, to use these supplies in proportion to their total production of flour. Any direct trade between producers and millers is ruled out by the law. Buying-in and sales prices are annually fixed by the Federal Council, after consultations with the parties concerned.

197. The Swiss Feed Grain and Fodder Cooperative (Société coopérative suisse des céréales et matières fourragères; CCF) is exclusively authorized to import feedingstuff, straw and related products. No other operators are admitted. The CCF-members may also be ordered by the Federal Office for External Economic Affairs, to take over certain quantities of these products. Since 1985, no such order has been issued.

198. The Butter Supply Board (Central suisse de ravitaillement en beurre; BUTYRA) has a monopoly on imports of butter. The Board levies a charge designed to bridge the differential between import prices (including duties) and the wholesale price which is fixed by the Federal Council. The proceeds, in conjunction with subsidies from the Confederation, are used to finance losses incurred by the disposing of domestic butter. Moreover, BUTYRA is commissioned to buy in, at the base price for milk, and store domestic butter that is in oversupply.

199. Wholesale trade in principal cheese varieties (Emmentaler, Gruyère, Sbrinz) is in the hands of the Swiss Cheese Union (Union suisse de commerce de fromages; USF), a semi-governmental body which serves as a parent

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38 The Director of the Federal Office for Energy is a member of the administrative board of Swissgas.

39 The legal basis is the Federal Decree on the Swiss Cooperative for Feed Grain and Fodder (Arrêté fédéral concernant la Société coopérative Suisse des céréales et matières fourragères) of 5 October 1984.
organization to associations of milk and cheese producers, and traders. 40
The entire domestic production of the above cheeses, with the exception of local sales, is to be sold to the Union at prices set by the Federal Council. Also, domestic sales prices and export prices are centrally fixed. Losses incurred by the Union are financed by federal subsidies and proceeds from import charges on dairy products.

200. The Swiss Cooperative for Slaughter Cattle and Meat (Coopérative suisse pour l'approvisionnement en bétail de boucherie et en viande; GSF) performs a variety of tasks conferred on it by federal ordinances and by orders of the Federal Department of the Public Economy (organization of the domestic markets for slaughter cattle, fixing of buying-in prices, disposal of surpluses). Furthermore, the Cooperative is consulted on the guide prices for meat, and makes proposals on import quantities. Membership is confined to associations of producers, agents, consumers, importers and processors of slaughter cattle and meat.

201. The Confederation has the exclusive right to import spirits. The right can be (and normally is) conferred on the private sector under certain conditions. Thus, potable spirits may be imported without quantitative limits, subject to the payment of monopoly duties. These duties also apply to domestic production. Pure alcohol may in principle be imported only by the Swiss Alcohol Board (Régie fédérale des alcools).

202. Within Switzerland, only the Government is entitled to produce spirits. However, the Swiss Alcohol Board grants concessions to third parties. Except for fruit brandy specialities (e.g. cherries, plums), their entire production is to be delivered to the Board. Delivery and sales prices are fixed by the Federal Council. Sales prices vary according to the intended use of the product.

203. Under the Federal Law on Explosives (Loi fédérale sur les substances explosives) of 25 March 1977, only the Confederation is authorized to

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40 The above three cheeses represent more than three-fifths of total Swiss production.

41 The monopoly tax on certain whiskies, brandies, cognacs and armagnacs ranges up to Sw F 5,500 per 100 litres of pure alcohol. For the importation of beverages with an alcohol content of more than 75 per cent (but less than 80 per cent), an import permit is required. Its issuance is free of limitations.

42 Trade in brandy is subject to authorization. The producers are allowed, after having paid the statutory taxes, to market directly.
produce, import and sell explosives. This right can also be delegated to other parties, subject to a monopoly charge.

204. Producing and marketing salt is within the competence of the cantons. A common company, under private law, is established to operate on their behalf.

205. According to the Swiss Government, no exclusive rights exist for trade in industrial products in Switzerland. However, monopolistic practices in the private sphere, for example import cartels or exclusive supply contracts, are as such not ruled out by national law.

(xi) **Import cartels**

206. Aspects of competition law, with particular respect to cartels, are dealt with in Section IV:4(i) below.

(xii) **Countertrade**

207. Switzerland is bound by certain international obligations concerning countertrade, notably the GATT Code on Government Procurement and the Stockholm Convention. The Federal Council has defined its general policy stance in responding to a Parliamentary request in January 1986. The response emphasizes the Government's fundamental opposition to countertrade deals, which are regarded as contravening basic principles of an open multilateral trading system. Particular reference is made to the distortive effects on international trade, the inefficiencies involved, and the inherent bias of such practices in favour of large enterprises in large countries. However, the Federal Council acknowledged that enterprises may be forced, in certain circumstances, to conclude countertrade contracts.

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43 For gunpowder, the charge is set by the Law on Explosives at 10 per cent of the invoice price. For semi-manufactures and manufactures containing gunpowder, it is 7 per cent.

44 The cantons are shareholders of the Vereinigte Schweizerische Rheinsalinen AG. The company provides for a uniform price level throughout the country.

45 The GATT Code requires purchasing entities in general not to award supply contracts contingent on the provision of offsetting procurement opportunities and the like. The Stockholm Convention stipulates the principle of non-discrimination for public enterprises.

46 Réponse du Conseil fédéral du 15 janvier 1986 au postulat Jaggi du 20 juin 1985 "commerce de compensation". The Swiss Government has informed the GATT Secretariat that the above judgement continues to apply.
208. According to the Federal Council, countertrade operations have become the rule for important military purchases (procurement of arms and war materials is subject to specific exceptions under the GATT Code on Government Procurement and the Stockholm Convention). In the context of arms purchases abroad by Switzerland, the authorities generally seek to find ways for the participation of Swiss firms. It is held that no stringent rules should be applied in this context; the principle of economic efficiency shall be ensured; additional costs compared with competing bids are to be justified by specific advantages.

209. Foreign suppliers of arms are free to choose their offset partner in Switzerland. Yet, certain sectors, in particular services, are generally excluded. The aim is to provide offset opportunities to those industries which are potentially affected by the purchase abroad and, thus, to utilize and maintain production capacities in Switzerland. As a rule, the full contract value is to be covered by offset obligations. Non-compliance is subject to penalties but no penalties have been levied to date.

210. Between 1981 and 1990, military offset deals of over Sw F 1.4 billion were carried out. Of this, some 60 per cent was related to the purchase of tanks in Germany. Deliveries of some additional Sw F 1.5 billion, also contracted over the last decade, have not yet been fully completed. A recent offset deal concerns the procurement of 15 military helicopters for the Swiss army. The French supplier Aérospatiale is reported to have agreed to arrange offsets of Sw F 315 million for the Swiss industry.

(xiii) Standards and other technical requirements

211. Standardization in Switzerland is exclusively in the hands of private bodies, organized along industry lines. The Swiss Association for Standardization (Association Suisse de Normalisation) is established as a parent organisation in which the Confederation and the cantons also participate. The vast majority of the standards adopted by member sections during the last decade corresponded to international standards (Table IV.3). The Association is also entrusted to participate in the process of European harmonization and to operate an information centre which responds to all requests concerning Switzerland's international obligations.

47 According to a report by the Federal Council in March 1983 (Rapport du Conseil fédéral concernant la situation de l'acquisition d'armement, le rôle et le statut des entreprises d'armement, ainsi que la politique d'armement).

212. Powers for establishing technical regulations in principle lie with the Swiss Parliament. To a great extent, it has conferred these powers on the Federal Council and on individual Departments which may issue implementing ordinances. No quantitative information was available on activities in this area.

213. In certain sectors - pharmaceuticals, medical devices and construction materials - the cantons are competent for technical regulations and type approval. For example, the Intercantonal Office for the Control of Pharmaceuticals (OICM) is commissioned, based on an Intercantonal Convention of 1971, to appraise and approve pharmaceuticals and medical devices (Section IV:4(ii)). Pharmaceuticals are only admitted for sale by the cantons if approved and listed by OICM. According to the Swiss authorities, the relevant criteria are identical for imports and domestic products. Inspection reports by other signatories to the Pharmaceutical Inspection Convention are being accepted (see below).

214. At present, there is no requirement to test chemicals in accordance with the OECD Recommendation on Good Laboratory Practices (GLP). However, with a view to aligning national provisions with international practices and EC legislation, Switzerland intends to make compliance with GLP mandatory.

215. Switzerland is involved in various European information and cooperation projects in the fields of standardization, testing and certification. In EFTA, it has participated since 1964 in an optional information procedure on new draft technical regulations. Recently, the provisions were reinforced in order to bring them in line with established EC requirements (mandatory notification).

216. Switzerland is signatory to the Tampere Convention (June 1988), establishing a common framework among EFTA members for the reciprocal recognition, under prescribed conditions, of test results and proofs of conformity. Under the Convention, specific agreements have been prepared for individual sectors. They were intended to serve as a basis for further agreements at the EC/EFTA level in areas to which the EC applies its "new approach" of laying down essential safety requirements in Council Directives (the Directives are supplemented by technical specifications to

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49 The office is financed by the cantons and, to two-thirds, out of own revenues. According to representatives of the office, the registration costs in Switzerland are very low by international standards.
be developed by standardization bodies). However, within a European Economic Area it would no longer be necessary to conclude such recognition agreements.

217. Switzerland also takes part in the Pharmaceutical Inspection Convention and further voluntary arrangements on the mutual acceptance of tests and inspections (relating to pressure vessels, gas appliances, agricultural machinery, certain heating equipment, lifting appliances).

218. An EC/EFTA agreement on the exchange of information of all draft technical regulations entered into force in November 1990. All such drafts by the Confederation, the cantons and the Principality of Liechtenstein are to be notified. The agreement provides for a standstill period of 90 days prior to the adoption of draft technical regulations during which comments can be made. Notifications are processed by the Federal Office for External Economic Affairs and, as appropriate, transmitted to the GATT Secretariat and the EFTA Secretariat.

219. Along with standardisation bodies of the other EFTA countries, of the EC and its member States, Swiss bodies participate in established European standardization committees (CEN, CENELEC, ETSI) and in the European Organization for Testing and Certification (EOTC).

220. As a general rule, the Swiss authorities emphasize that their policy approach towards technical regulations, testing and type approval is outward-oriented, pragmatic and liberal. For example, the Ordinance on Low Voltage Appliances of June 1987 (Ordonnance sur les matériels électriques à

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51 The Pharmaceutical Inspection Convention relates to all products for human consumption that are subject to controls under health legislation. It should enable national health authorities to ascertain, on the basis of inspection reports by the authorities of other participating countries, that imported pharmaceutical products have been manufactured in accordance with relevant standards. Signatories to the Convention are all EFTA members, five EC countries (Denmark, Germany, Ireland, Portugal, the United Kingdom), Hungary and Romania.

52 The standstill period does not apply to cases where urgent action is required for reasons of health and safety.

53 The relevant procedures and, in this context, the competences of the Swiss Association for Standardization and the Federal Office are laid down in an Ordinance of 3 December 1990 (Ordonnance concernant le centre de renseignements sur les prescriptions techniques et la procédure de notifications de ces prescriptions).

54 CEN is the European Committee for Standardization, CENELEC is the European Committee for Electro-technical Standardization, ETSI is the European Telecommunications Standardization Institute. For more details see GATT (1991), *Trade Policy Review - European Communities*, Geneva.
basse tension) is said to be exclusively based on standards established by CEN and CENELEC. However, the Swiss Cartel Commission pointed to traditional Swiss requirements that considerably deviate from European norms or widespread norms in neighbouring countries, for example concerning sanitary fittings and kitchen equipment (Sections V:3(ii) and V:3(vii)). Different requirements with effects on import costs also appear to exist in fields such as motor vehicles (cars and special vehicles for agriculture, construction and the like) where current Swiss noise or exhaust emission standards are tighter than existing international or EC regulations. The same seems to apply to environment-related norms for pesticides and fertilizers.

221. In certain areas of type approval, there is also evidence of comparatively high costs and low acceptance rates in Switzerland. A recent OECD survey suggests that, for approving telecommunication terminal equipment, Switzerland is the third most expensive OECD country. Approval costs exceed US$7,500 per application which is about 2½ times the costs in Japan or in Germany (average 1983-88; Section V:3(vii)).

222. The Federal Council foresees that, in the context of a European Economic Area, Switzerland will have to adopt some 300 technical directives of the EC. In general, the Swiss Government expects that they can be implemented without major alterations of Swiss law. However, considerable difficulties could arise in areas such as food (see below), motor vehicles, chemicals, pesticides and fertilizers where harmonization could lead to less stringent levels of health, consumer and environmental protection in Switzerland. The Federal Council holds the view that most concerns can be accommodated during sufficiently long transition periods which would allow the EC to continue its process of tightening regulations.

223. In May 1991, EC and EFTA Ministers agreed that most of the "acquis communautaire" in product related areas could become effective in the EFTA

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55 OECD (1990), Communications Outlook, Paris. The Swiss authorities argue that these cost differences also reflect differences in technical conditions, telecommunication networks and, in particular, in laboratory equipment. It is held that Swiss laboratories usually render a wide variety of cost-intensive engineering services. However, the regulatory framework would change with the entry into force of a new Telecommunication Law, possibly in early 1992. It involved the liberalization of laboratory services which, in turn, is expected to help abate homologation costs.

56 In contrast, the existing maximum weight limit of 28 tonnes for commercial vehicles in Switzerland is expected to cause major problems. See Rapport d'information du Conseil fédéral sur la position de la Suisse ..., op.cit., p. 24.
countries as from 1 January 1993. Two years later, free circulation of motor vehicles should be guaranteed on the basis of the "acquis". However, pending the introduction of new EC rules, to be dealt with according to EEA provisions (Section II:5(ii)(c)), EFTA members could maintain their domestic legislation. For other products such as fertilizers containing cadmium, CFCs and halons, an open-ended transition period was agreed upon, subject to review in 1995. Solutions were still to be found for dangerous substances and preparations, and pesticides.

224. Regulatory aspects of food products and certain consumer goods are covered by a Federal law (Loi fédéral sur le commerce des denrées alimentaires et de divers objets usuels), dating back to 1905. Substantive rules in this area are left to legislation by the Federal Council. At the end of 1987, more than 20 Federal Decrees were in force, constituting the basis for a total of 26 Ordinances by the Federal Department of the Interior, the Federal Office for Public Health and the Federal Veterinary Office.

225. Current legislation on the admittance for sale of food products rests on the principle of positive listing. Only articles which are explicitly defined in ordinances may be brought into circulation. Otherwise, marketing is made subject to individual authorization by the Federal Office for Public Health. The Office issues some 600 to 800 authorizations per year.

226. As a rule, food products are to be marked in wholesale and retail trade in a way to avoid any deception about their nature and geographical origin. A series of highly detailed regulations serve this purpose. While, according to the Swiss authorities, marking, labelling and packaging requirements in Switzerland do not in general differentiate between imports and domestic products, there are major exceptions in the food sector. Many imports are required to signal their foreign origin, either in general terms or by indication of the country of production. Tobacco packings

57 In some other areas, free circulation was envisaged on the basis of the "EC acquis", with the EFTA countries being allowed to maintain their national legislation for a transitional period.


59 For example, for milk, yoghurt, butter, bread and chocolate, compliance with prescribed weight categories is mandatory. Eggs must be grouped in three quality classes according to their weight. Containers of artificial honey must bear an indication of their content in letters of 1 cm (containers of less than 2 kg) or 2 cm (2 kg and above).

60 This applies to eggs and egg containers, fruit, vegetables, potatoes, mushrooms, (Footnote Continued)
must warn of possible health risks in two official languages; cigarette packings must also indicate the content of nicotine and tar.

227. A new law on food products, involving a complete overhaul of current requirements, is on its way through the legislative system. According to the Swiss Government, the new law will confine the regulatory sphere to areas of predominant public interests; the prime objective is to ensure the supply of food products without defects and health risks; and international standards, for example the FAO/WHO Codex Alimentarius, will be taken into account. All production stages, from planting or fattening to marketing, will be covered, in principle, and all food products should be subject to the same criteria and control requirements. The cantons will be entrusted, as under present legislation, with the implementation of internal controls. They are to decide on the intensity and the prime areas of such controls, subject to co-ordination by the federal authorities.

228. According to the Swiss authorities, one "purity law" exists in Switzerland's food legislation, relating to sausage. Adding vegetable proteins is prohibited.

(xiv) Government procurement

229. Public purchases and work contracts in Switzerland, by the Confederation, the cantons and the communes, totalled some Sw F 26 billion in 1988. This is about 10 per cent of GDP or one third of total public expenditure. Federal entities purchased goods and services of Sw F 7.3 billion. The Federal Administration accounted for the lion's share (47 per cent), followed by the Postal and Telecommunication Administration (PTT, 38 per cent) and the Federal Railways (SBB).

(Footnote Continued)

honey, juices of fruit and vegetables, wine, fruit wines, spirits and brandies. As stated by the Swiss authorities, these requirements mainly serve to afford customers the opportunity of deliberately opting for higher priced domestic production and to prevent fraud.

Furthermore, advertisement for certain food products with alleged health risks is subject to restrictions. For example, it is prohibited to emit radio or TV spots promoting tobacco products or alcoholic beverages.

A first internal draft by the administration was completed in 1975.

For the EC, the share of public purchasing in GDP is estimated in the order of 16 per cent. See GATT (1991), Trade Policy Review - European Communities, Geneva.

Construction services at the federal level amounted to an additional Sw F 2.3 billion.
230. The Tokyo Round Code on Government Procurement has been incorporated into the Swiss legal system. Its applicability is confined to various federal entities. In 1988, purchases under the Code were in the order of Sw F 1 billion. Of this, one-third was above the Code's threshold value of Sw F 263,000 (SDR 130,000); single tendering under Article V:15 of the Code amounted to Sw F 280 million.

231. In 1990, total procurement by the Confederation reached Sw F 9.1 billion; some 10 per cent was imported (including military purchases). The division among major product groups was as shown in Chart IV.3.

**Chart IV.3**

Public purchases at the federal level by product group, 1990

Source: La vie Économique, No. 6, 1991.
232. The various federal entities have their own independent purchasing offices. However, similar goods are as a rule procured by one single office. Under the Federal Ordinance on Purchases of 8 December 1975 (Ordonnance sur les achats de la Confédération), the offices are required to perform their duties "rigorously, rationally and economically". Free competition is to be the rule (Article 4). Main criteria for the evaluation of bids, established by the Ordinance (Article 9), are quality, price, delivery dates, and the qualification of the supplier. The relation between price and performance shall be the determining factor. The Ordinance does not stipulate buy-national practices.

233. Procurement policies may be used to promote technical innovation. According to a recommendation by the Federal Department of Finance in concurrence with the Federal Department of the Public Economy (May 1986), aspects of innovation should be taken into account, for example in defining the products to be purchased, in inviting enterprises to tender, and in evaluating the bids. Offers from efficient domestic companies are to be preferred to imports if prices are competitive. According to Swiss officials, such buy-national considerations have played a rôle only in very few cases (locomotives for the Federal Railways and telecommunications equipment).

234. As stated by the Swiss authorities, procurement procedures by the Confederation are in principle not applied as instruments of regional and sectoral policies. At the federal level, as distinct from the cantons, such considerations may be only of secondary and tertiary importance in deciding among equivalent offers. The only formal derogation relates to transport costs. They are not taken into account in the case of equivalent bids by Swiss companies in order to match the locational disadvantage of peripheral regions. Also, considerations of supply security with respect

65 In total, there are 20 central purchasing offices.

66 However, derogations are possible. For example, the Federal Council, upon request by the interested Department and after having heard the Cartel Commission, may issue general instructions to this effect. Thus far, this possibility has been used to encourage supplies from peripheral regions (exclusion of transport costs; see below) and purchases from home-workers and handicapped persons, particularly when living in economically vulnerable areas.

67 However, for a range of products deemed representative, a recent study points to considerable excess costs in public procurement relative to the most cost-efficient EC member State. (The study included Belgium, Germany, France, Italy and the United Kingdom). It was estimated that, on average, procurement costs for goods and services in Switzerland could be lowered by more than 40 per cent if cost considerations played a prevailing rôle.


68 According to Peter Probst, op.cit.
The author is the Chairman of the Federal Purchasing Commission (see below).
to certain industrial sectors may have influenced procurement decisions in borderline cases.

235. If the GATT Code on Government Procurement applies, invitations to tender are published in the Swiss Official Commercial Gazette and, following an agreement with the EC in 1989, in the Official Journal and the Tender Electronic Daily (TED) of the European Communities. In substance, there are at present no mutual concessions in the procurement area between Switzerland or other EFTA countries and the EC.

236. As long as GATT Code provisions do not apply, bids are invited by the purchasing office. Hence, it is imperative for any interested company to make its goods or services known. They may then be included in lists of potential suppliers. These lists assist the procurement officials as an informal source of information; foreign companies may be included the same way as Swiss firms. According to the Swiss authorities, the number of bids invited depends on the economic importance of the individual case. If no competitive tendering is possible, for example due to the lack of more than one bidder, the purchasing contract must ensure the possibility for the Confederation to examine the price calculation.

237. The Federal Purchasing Commission acts within the province of the Federal Department of Finance. The Commission, comprising representatives of the Federal Administration, the PTT and the SBB, is mandated to establish general policy guidelines and to provide information and counselling services for the individual purchasing offices as well as for trade associations, and regional, cantonal and international institutions. The Commission is the competent Swiss body to make purchases under the GATT Code and the EFTA agreement.

238. Article 14 of the Stockholm Convention requires EFTA members to ensure that their public enterprises, including the procurement entities, accord national treatment. The Article primarily refers to central Government entities. Regional bodies are subject to a best efforts clause.

69 However, it may prove more difficult for them to establish the necessary contacts.

70 No quantitative information was available on the share of single tendering in total procurement activities by the Confederation. According to estimates by the Swiss administration, the majority of purchases are subject to competitive procedures (selective tendering).

239. According to the Swiss Government, no major legislative changes would be required at the federal level in order to implement the "acquis communautaire" (existing EC Directives on public procurement) in a European Economic Area. However, for water, energy, transport and telecommunications, new federal legislation would have to replace the procurement rules of the companies, for example SBB and PTT. Since the EEA rules would also cover entities under private law, the Federal Council expects in the above four sectors a considerable increase in transparency and more competition.

240. Current Swiss legislation does not provide potential suppliers with a general right to judicial review. However, this issue is also under consideration in the EEA context.

241. At the cantonal and municipal level, the EEA would necessitate major changes, both in institutional terms and with respect to current procurement practices. The Swiss Government foresees that certain protected sectors, particularly in border regions, would have to undergo considerable adjustments. Observers expect that the opening-up of procurement markets - at the federal and regional levels - would intensify competition drastically in areas such as construction, telecommunications, vehicle manufactures and equipment for the power supply industry.

242. Cantons and communes account for more than half of public purchasing in Switzerland. Their laws and regulations are independent of federal legislation. Protectionist practices are said to be widespread. For example, purchasing entities of the cantons and the communes may be required, in the case of equivalent tenders, to prefer local or regional suppliers. Some cantons apply domicile requirements, refrain from price negotiations or grant price preferences of up to 10 per cent. In certain cantons only those bidders are accepted which have been settled there for a number of years. The Federal Cartel Commission found that 12 cantons, in

72 As indicated by the Swiss authorities, Switzerland could not concur in a restrictive interpretation and, if need be, application of Article 29 of the EC Council Directive No. 90/531 on procurement in the so-called excluded sectors (water, energy, transport and telecommunications). The Directive is due to enter into force on 1 January 1993 in most EC member States. Article 29 stipulates principles of reciprocal market access in the sectors concerned; it may be reviewed in the light of the outcome of the Uruguay Round.

73 Union Bank of Switzerland (1989), The EC Internal Market - The Challenges and Opportunities for Switzerland, Zürich.

74 According to Peter Probst, op.cit.

75 The relevant requirements widely differ. The City of Geneva, for example expects bidders to have been established in the city for at least one year; the relevant period in (Footnote Continued)
particular Fribourg, Geneva, Jura, Vaud and Valais, and two of the cities under review (Geneva and Lausanne), have regulated access to tendering in a way that restricts competition. It is reported that the Zürich procurement market is virtually closed for non-residents, as the award of contracts has been made contingent on criteria such as the distance between the firm’s location and the place of performance, and advantages for the Canton in terms of tax revenues.

243. In Switzerland, most electricity plants are in public ownership, either by cantons or municipalities. Suppliers are normally selected for bidding on large scale projects. According to a recent report by the United States Trade Representative, nine out of ten turbine generator projects have been awarded to one Swiss firm, the tenth to a joint venture in which this firm participated. However, the report notes that the cantonal and municipal authorities do not as a rule interfere in the bidding process or in tendering decisions by the holding companies.

(xv) Local content requirements

244. According to the Swiss Government, there are no trade-related local content requirements in the context of public support programmes or any policy schemes at the federal level. Nor is the Swiss Government aware of such any requirements by the cantons.

245. A bias towards national production appears to play a rôle in public procurement, under the guise of product definitions that implicitly operate in favour of Swiss materials. According to the Swiss Cartel Commission, domestic wood production particularly benefits from such practices.

(Footnote Continued)

the Canton of Geneva, barring exceptions, is five years; in the City of Lausanne it is two years for Swiss nationals and ten years for foreigners.

Further, bidders may be required to respect local working rules or to being enrolled in the relevant business or professional registers.


76 According to R. Senti, J. Baltensperger (1991), Binnenmarkt Schweiz-Wettbewerbsverzerrende Bestimmungen im öffentlichrechtlichen Bereich, Zürich.

77 USTR (1990), Foreign Trade Barriers, Washington D.C.

78 See Veröffentlichungen der Schweizerischen Kartellkommission und des Preisüberwachers, op.cit.
246. Switzerland maintains two different sets of rules of origin, non-preferential (autonomous) rules and preferential rules. The latter are applicable in the context of the General System of Preferences (autonomous application) and the free trade agreements (contractual). The preferential rules as laid down in Annex B to the EFTA Convention and in the bilateral free trade agreements of the EFTA members with the EC form a uniform system.

247. In non-preferential trade, a product is to be considered to be of Swiss origin if it has been wholly obtained or sufficiently transformed in Switzerland. The definition of "sufficient transformation" is laid down in an Ordinance of July 1984 (Ordonnance d'origine). Accordingly, the value of foreign components must not exceed 50 per cent of the export value or the four-digit tariff heading of the final product must differ from that of the foreign inputs. The tariff-heading criteria is subject to a range of exceptions.

248. In the case of processing traffic, a product can qualify for Swiss origin status if the value added abroad is less than 50 per cent of the export price of the manufacture and if - according to a standard formula - duty reduction or exemption is required by specific interests of the economy and if there are no prevailing interests to the contrary (see above).

249. Origin rules for preferential trade, whether in the context of the Swiss GSP scheme or of the free trade agreements (EC and EFTA), are also based on the criteria of "sufficient" working and processing. In this case, the rules focus exclusively on an eventual change of tariff-heading as described above. Again, a range of exception applies because, according to the Swiss Government, the criteria would otherwise prove too rigid. Additional value added or transformation requirements apply.

250. Switzerland's origin criteria for GSP imports of industrial products are largely identical with those of the EC. In addition, since January 1988, Switzerland has provided for the possibility of suspending temporarily least-developed countries from certain provisions in order to facilitate, in specified areas, the growth of emerging industries. The Federal Council would have to decide on such suspensions, also in view of possible repercussions on the Swiss industry. There have not yet been any applications.

251. As a rule, regional cumulation of processing stages for origin purposes is possible among members of regional groupings. In this context, the ASEAN members are treated as if they were one country. There are,
however, some product specific exemptions (certain fabrics and shoes). Similar cumulation rules are applicable to the EC/EFTA area, with the EC as a whole being considered as one country. However, EC/EFTA origin status is not conferred on products that have undergone additional working or processing stages in third countries, whether or not these have been effected in free zones or customs areas.

252. The Stockholm Convention and the free trade agreements with the EC contain detailed provisions with a view to establishing close cooperation between the customs administrations and ensuring, for example, effective controls of certificates of origin.

(xvii) Anti-dumping and countervailing duty actions

253. The GATT Anti-dumping Code was adopted by the Swiss Parliament in December 1979. The Code has legal force in Switzerland; it was published in the Federal Gazette. The responsibility for its application is conferred on the Federal Office for External Economic Affairs. The Office has not yet opened any investigations concerning dumped or subsidized imports. One formal request, relating to cement imports, was not deemed sufficiently substantiated to justify an initiation. According to the Swiss Government, complaints about dumping or subsidization are as a rule discussed in a bilateral context with the aim of finding ad hoc solutions with the country concerned.

254. Switzerland has not yet raised any such complaints in the context of the free trade agreement with the EC or the EFTA Convention. In contrast, Swiss companies have been involved in two anti-dumping actions by the EC, concerning hardboard exports (price undertaking in 1986, abolition in May 1990) and exports of aspartame from Japan and the United States through a related Swiss company (preliminary duties in late 1990).

255. Any anti-dumping and countervailing duties by Switzerland would have to be raised on basis of Article 7 of the Swiss Customs Tariff Law (see below).

(xviii) Safeguard actions

256. Switzerland has thus far taken four safeguard actions under Article XIX of the GATT. They all related to food products. In 1974, restrictions were imposed to prevent further import increases of white wine in bottles. These restraints have been continued since. Further safeguard actions, on a temporary basis, concerned tariff increases on table grapes and peaches (1979). The measures were intended by the Swiss authorities to prevent further disruption of the domestic market, then characterized by large domestic supplies of all important fruit categories and strong import
pressure (table grapes and peaches are almost the only fruit products not subject to the three-phase system but to GATT bound tariffs). The tariff increases were equivalent to the EC export restitutions for these products. For similar reasons, Switzerland raised duties on table grapes in 1982. The measures expired, as announced, after six weeks.

257. The domestic legal basis for the latter action was the Swiss Customs Tariff Law (Loi sur le tarif des douanes). Article 7 authorises the Federal Council, provided that major national economic interests are at stake, to introduce or to raise tariffs or to take any other appropriate measure as long as circumstances require. Non-tariff measures in safeguard cases could be taken on the basis of the Federal Law on External Economic Measures (Loi fédérale sur les mesures économiques extérieures). The Federal Council would have to submit a bi-annual report on any such actions to the Federal Assembly. It may then approve, prolong or modify the measures.

258. The Stockholm Convention as well as the free trade agreement with the EC contain specific provisions in the event of "difficulties in particular sectors". The relevant actions under the Convention (Article 20) are subject to prior approval by the EFTA Council. They are due to expire after a period of no longer than 18 months, unless the Council agrees on an extension. Under the free trade agreement with the EC (Article 26), the Joint Committee is to be informed in advance, except for exceptional circumstances, of any planned measures with a view to finding mutually acceptable solution. If difficulties persist, the importing party is entitled to levy a compensatory charge on the imports in question (Article 27(3)b of the agreement). Any such measures are subject to periodical consultations in the Joint Committee with a view to their abolition as soon as circumstances permit.

259. These provisions have not yet been invoked by Switzerland.

260. It is difficult to assess whether and to what extent cartel practices by industries and wholesalers have served to contain import pressures in individual product areas. The wide range of cartel practices in Switzerland (see Section IV:4(i)) may offer opportunities to discourage

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79 The safeguard provision of the agreement relates to an increase in imports which is or which is likely to be seriously detrimental to any production activity in the territory of one of the contracting parties. According to Article 24, the import increase must be due to (i) tariff reductions in pursuance of the agreement and to (ii) the fact that the duties by the exporting member country on imported inputs, used for the product in question, are significantly lower than the corresponding duties of the other member country. There are no comparable requirements to (i) and (ii) in the Stockholm Convention.
imports in a discreet manner, without taking recourse to Article XIX or related provisions in the free trade agreements.

(xix) **Measures implemented in exporting countries**

261. An additional protocol to the free trade agreement between Switzerland and the EC, signed in July 1989, provides for the abolition of export restrictions on products covered by the agreement (Section IV:3(v)). As a result, two EC member States are obliged to abolish national export restrictions on certain hides and skins (Italy) and certain wood products (Ireland). The target dates are 1 January 1992 and 1 January 1993, respectively.

262. As regards the possible use of "voluntary export restraints", the Swiss Government emphasizes that such arrangements are alien to its general trade policy approach. Accordingly, it is not aware of any such measures, except for an arrangement with Austria, the EC and Finland concerning minimum prices for certain cheese (Sections IV:2(v) and IV:3(ii)).

(3) **Measures Directly Affecting Exports**

(i) **Export taxes, charges, levies**

263. Switzerland applies export taxes to 15 tariff items, mostly metal scrap and metal-containing residues and ashes. Taxes on these items range from Sw F 8 to Sw F 35 per kilogramme (gross). In 1990, export taxes accounted for tariff revenues of Sw F 1.4 million, with copper scrap alone contributing some Sw F 500,000 (pure copper and compounds). Exports free of taxes are admitted for certain qualities which are not required in Switzerland. These qualities are to be specified by a commission in which foundries, collecting agencies and traders are represented.

264. At present, the taxes are equally applicable to exports to other EFTA countries and to the EC. With respect to these destinations, Switzerland is committed to abolish the taxes on aluminium-containing ashes and residues, on copper scrap and on aluminium scrap by 1 January 1993.

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80 The protocol would have required the EC as a whole to eliminate its export restrictions on copper scrap by 1 January 1993. However, the EC agreed, in consultations with the United States under GATT Article XXIII:1, to lift these restrictions _erqa omnes_ as from 1 January 1990.

81 The products are electroplating mattes; tooling-waste and scrap of copper and copper alloys, aluminium, lead and zinc; ashes and residues containing metal or metallic compounds of aluminium, lead, copper or zinc. In addition, export taxes are levied on certain bones and coniferous wood.
(Section IV:3(v) below). The Swiss authorities are currently considering liberalizing exports of these items (waste and scrap of non-ferrous metals) **erga omnes**.

**Minimum export prices**

265. Certain Swiss cheese exports to the EC and to Austria are subject to minimum price provisions. Under an agreement with the EC, reached during the Kennedy Round, the EC has consolidated its import levies on Swiss deliveries at a reduced level, contingent on the compliance by Switzerland with prescribed minimum prices. They are linked to the EC internal target price for milk. Similarly, Austria has agreed, in negotiations under Article XXVIII of the GATT, to apply tariff ceilings to imports of Emmental and certain other Swiss cheeses that are in line with established minimum prices.

**Export controls and prohibitions**

266. Since 1951, Switzerland has applied a variety of export controls and prohibitions on high technology products, with varying coverage. These measures serve to ensure access to technologies whose use and dissemination is subject to constraints by the supplying countries. Current legal bases are the Federal Law on External Economic Measures (**Loi fédérale sur les mesures économiques extérieures**), certain obligations (e.g. the Non-Proliferation Treaty) and the implementing legislation. A new law, currently under preparation, is intended to expand export controls on dual use equipment for the production of missiles, and of nuclear, biological and chemical weapons. Products of Swiss origin will also be included (at present, there are no legal means of denying export licences for these products). According to estimates by the Swiss Government, 80 to 90 per cent of the hardware under the Missile Technology Control Régime is already now subject to licensing requirements.

267. The Swiss authorities refuse export permission for arms if these are destined for war zones, for regions with the risk of war or with serious tensions (**Loi fédérale sur le matériel de guerre**). Licences are also denied if the export would run counter to obligations under the

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82 The Government normally tries to discourage the enterprise concerned through informal consultations. In the absence of success, however, action may be taken directly under the Constitution.

83 **Conseil fédéral** (1990), **Rapport sur la politique économique extérieure 89/1+2**. op.cit.
Non-Proliferation Treaty (Loi fédérale sur l'utilisation pacifique de l'énergie atomique et la protection contre les radiations).

268. In the event of war or of critical shortages, the Swiss Parliament may enact export restrictions on essential goods and services on the basis of the Federal Law on the Economic Supply of the Country of 8 October 1982 (Loi fédérale sur l'approvisionnement économique du pays). These provisions have not yet been used.

269. There are no prohibitions or controls on exports of works of art or of any other goods deemed important for cultural reasons. Nor does Switzerland maintain legislation that might be used to this effect.

270. Switzerland is among the few countries that have signed the Basel Convention, stipulating rules for international transport of hazardous waste and establishing an elaborated control and information system in this area.

271. Exports to Iraq are at present limited to a range of pharmaceuticals and to food if distributed by humanitarian organizations. Switzerland had never before implemented such embargoes.

(iv) Export licensing

272. Export licensing requirements serve to ensure compliance with international obligations, for example under the Non-Proliferation Treaty, and to implement export restrictions and control requirements (see below), for example on deliveries of war materials or re-exports of sensitive high-technology products. The latter products are contained in a specific list of exports, attached to the Swiss Customs Tariff.

273. A variety of agricultural products, mainly fruit juices, is subject to export licensing. The objective is to ascertain certain quality standards and to prevent fraud.

84 Parallel provisions (exception clauses) are contained in the EFTA Convention and in the free trade agreement with the EC.

85 The pattern of subsidies in the fruit sector is geared to discourage growing qualities which might be used for distilling and, instead, to support the production of table fruit and of high-quality juices. Hence, there is scope for fraudulent declarations.
(v) **Export quotas**

274. Switzerland maintains export restrictions on certain metal residues and discharges based on the Law on External Economic Measures. Exports of ferrous scrap may only be authorized if the relevant qualities are not required in Switzerland. In addition, exports of certain used products are under quotas (rails, railway wagons, vessels for breaking up). According to the Swiss authorities, these measures have been imposed to ensure supplies for domestic processors in response to comparable restrictions by other countries.

275. In July 1989, Switzerland and the EC signed an additional protocol to the free trade agreement with a view to eliminating export restrictions. Accordingly, the introduction of new restrictions on products covered by the agreements is prohibited and all existing measures are to be gradually removed over three years, as from 1 January 1990. This phasing-out provision will not affect Switzerland as it did not maintain export restrictions on the products covered by the protocol; the above restraints on ferrous metals scrap are beyond its scope. However, as noted before, Switzerland is required to eliminate certain export taxes vis-à-vis the EC and the other EFTA countries by 1 January 1993.

276. The protocol also provides for an information procedure if one of the parties envisages modifying its export régime with respect to third countries. Safeguard measures may be taken (i) if products are re-exported to countries on which the exporting party still maintains export restraints or tariffs or (ii) in the event of critical shortages, or the threat thereof, of essential products.

277. Under an agreement reached during the Tokyo Round, Swiss deliveries of certain cheeses to the United States are limited to a total of 6,500 tonnes per year. Within Switzerland, the Swiss Cheese Union (USF) ensures the implementation of the agreement, as well as of an arrangement with Canada (see below). Since the Union enjoys an exclusive market position (Section IV:2(x)), there is no need for further administrative procedures.

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86 Similar protocols were signed between the EC and the other EFTA countries. The free trade agreements which will be amended accordingly did not yet contain any provisions to this effect.

87 The protocol solely refers to products under the EEC Treaty; it does not extend to the province of the European Coal and Steel Community (ECSC).
(vi) **Export cartels**

278. Swiss cartel law focuses on the (harmful) effects of cartels. Export cartels and other practices which impinge exclusively on third country markets are excluded from its scope and there is no prohibition of such practices. However, under Articles 42 and 43 of the Cartel Act, the Federal Department of the Public Economy may mandate the Cartel Commission to investigate cases, and to make recommendations, if certain arrangements and practices are deemed to conflict with international agreements (Section IV:4(i)(c)).

(vii) **Voluntary restraints, surveillance and similar measures**

279. At the end of 1986, the United States Government called on Switzerland to restrict its exports of certain machine tools (numerically-controlled punching and shearing machines). The United States threatened to take unilateral measures for reasons of national security, under Section 232 of the U.S. Trade Expansion Act of 1962, if Swiss imports of these products exceeded a market share of 7.3 per cent. Switzerland refused to agree to any formal or informal restraints. In a letter of 18 December 1986, the Head of the Federal Department of the Public Economy informed the United States' Government that Switzerland, in the event of unilateral actions against its exports, would take recourse to all available remedies under national and international law, in particular under the GATT. The United States has since continued to inform the Swiss authorities every year of the apparent U.S. consumption of the categories concerned. The Swiss Government has refused to take note. Actual deliveries remained considerably below the relevant levels.

280. Under an arrangement with Canada, reached in 1981, Switzerland is entitled to export cheese within the limits of a global quota. In return, Switzerland is required, like its main competitors, to respect certain disciplines in the granting of subsidies so as to avoid undercutting of Canadian ex-factory prices.

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89 According to information provided by the Government of Switzerland. Certain Swiss exports of machinery to the United States are part of offset deals in the context of arms purchases (see below).

90 The quota by Canada applies to all trading partners, except the EC.
281. In 1973, the EC restricted the import of Swiss forestry products into Germany under the free trade agreement. The Joint Committee was notified of these measures which expired the same year. There have been no further such actions, neither under the free trade agreement with the EC nor under the Stockholm Convention.

(viii) Export subsidies

282. Export subsidies are in force on various agricultural sectors: principally cheese, Switzerland's main agricultural export, and cattle and some fruit products. Support is granted in order to bridge the gap between production costs and sales prices in external markets. Support is also provided for exporters of processed food products to compensate for the additional costs of using domestic raw materials (see above). Since 1976, subsidies have been granted to processors of dairy products, preserved eggs, cereals, sugar and molasses. In 1989, total export subsidies for these categories amounted to Sw F 64 million, up from Sw F 48 million in 1987. Processed dairy products accounted for three-quarters of the funds involved.

(ix) Duty and tax concessions

283. Switzerland does not grant specific duty and tax concessions conditional on the exportation of a product.

284. In general, the fiscal treatment of Swiss exports appears to be less favourable than in most OECD countries. Under the present régime, the turnover tax on inputs cannot be refunded when the final product is being exported (Section IV:4(vii)(a)).

(x) Export finance

285. No official export credit system exists in Switzerland.

286. A mixed financing scheme has been established for priority development projects in certain developing countries. The programme is

91 However, the export risk guarantee scheme (GRE) whose annual deficits had been offset by new Government loans has operated, at least temporarily, as a substitute for official export financing (see below).

92 Eligible are developing countries in the upper range of the low-income countries category and middle-income countries with per capita incomes of up to US$2,200. Among the main beneficiaries, thus far, were Egypt, India, Pakistan, China, Indonesia, Thailand, Colombia, Honduras, Guatemala, Côte d'Ivoire, Cameroon, Kenya and Zimbabwe. The project must (Footnote Continued)
administered by the Federal Office for External Economic Affairs, in cooperation with a consortium of banks involved and the Office for Export Risk Guarantee. Approximately 1 per cent of Switzerland's exports to developing countries is covered by mixed financing (public and private funds). From 1978 to 1990, a total of Sw F 625 million of public funds was committed to this purpose, which is about 8 per cent of total official development aid by Switzerland. Complementary bank loans approximated Sw F 1 billion.

287. Under the scheme, the borrowing country is required to purchase Swiss capital goods and services. Third country supplies must not exceed, by way of subcontracting, 50 per cent of each credit. Local costs can be covered up to 15 per cent (linked to a corresponding reduction in the ceiling for third country supplies). The recipient is free to choose among Swiss companies; however, the prices must be competitive internationally.

288. In accordance with an understanding among OECD countries, Switzerland does not provide concessional financing for central and eastern European countries. However, Poland has received grants of Sw F 60 million to be used for Swiss deliveries, on a competitive basis, in the areas of health, energy, environment, communication and processing of agricultural products. In the same context, the Czech and Slovak Federal Republic and Hungary have been granted a total of Sw F 20 million for environmental projects.

(xi) Export insurance and guarantees

289. The Swiss Export Risk Guarantee Scheme (Garantie contre les risques à l'exportation (GRE)) is established under federal law with the aim of creating and safeguarding employment opportunities and promoting foreign trade. Similar instruments are used by all industrial and newly industrialized countries. The Swiss authorities hold the view that the GRE operates in favour of diversification of exports and helps to enter markets with a high growth potential.

290. Guarantees under the scheme are confined to political risks - failure of public purchasers or guarantors to pay - and transfer problems due to State measures. Not covered are risks of insolvency of a private debtor,

(Footnote Continued)

be development oriented and declared by the borrowing country as a priority investment (subject to confirmation by project evaluation). Moreover, in order for a project to qualify for mixed financing, the Swiss supplier must have offered the lowest evaluated bid on a cash basis.

93 Rolf Jeker (1990), "La garantie contre les risques à l'exportation", La vie économique, No. 2, p. 18-21.
losses due to defects of the merchandise, risks covered by private insurances, and - since 1985 - monetary risks. Some 80 per cent of all guarantees relate to transactions with developing countries, 15 per cent thereof to exports to the least-developed countries.

291. The GRE Commission, the decision-making body of the scheme, comprises three representatives, each, of the federal administration and of private business associations. The Commission decides on requests for guarantee promises and payment of claims. It proposes to grant guarantees, depending on the amounts involved, either to the Federal Office for External Economic Affairs, or to the Federal Department of the Public Economy, or to the latter Department in concurrence with the Federal Department of Finance. In large projects, the regional sharing of sub-deliveries within Switzerland may play a role for borderline decisions.

292. As a general rule, at least 50 per cent of the merchandise to be covered must be of Swiss origin. The maximum guarantee is 95 per cent of the delivery value. The actual coverage varies in accordance with the premium paid by the exporter, the situation of the country concerned, the risks of the project and the duration of the guarantee. A reform of the premium structure in 1989 was aimed at better responding to individual country risks. In principle, deliveries to countries with a poor credit rating are no longer eligible under the scheme; direct development aid may be granted instead. According to the Swiss authorities, the current conditions are roughly in line with those of comparable schemes of other industrial countries.

293. GRE activities are based on the principle of financial independence, introduced by law in 1981. Accordingly, the public funds involved are interest bearing and repayable. However, the Confederation provides a financial guarantee to the scheme as such. Since 1982, it has contributed to offsetting annual deficits which first occurred in the late 1970s. These losses resulted mainly from exchange rate guarantees which had been granted between 1973 and 1985, according to the GRE, with the prime objective of supporting economic activity in a difficult period. The contributions by the Confederation may thus be viewed as indirect subsidies for export financing.

\[94\] In the context of downpayments by the importing country, a certain percentage of the local costs incurred may also be included.

\[95\] Rapport annuel 1989 de la GRE.

\[96\] According to the Swiss Chamber of Commerce and Industry ("Vorort"), these losses had deliberately been accepted in the 1970s as the GRE was almost the only instrument available (Footnote Continued)
294. In recent years, the debt crises of many developing countries have had an increasing financial impact on the scheme. In early 1991, lendings of some Sw F 1.4 billion were still to be consolidated.

295. In 1989, the GRE's annual payment deficit reached Sw F 159 million (including interests on Government loans). Fresh funds were injected to cover the deficit raising accumulated Federal loans to a total of Sw F 1,774 million. New export guarantees by the scheme amounted to Sw F 1.7 billion; their allocation to sectors and regions is shown in Chart IV.4.

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(Footnote Continued)

to the Confederation to support companies suffering from the strong appreciation of the Swiss franc. (Union suisse du commerce et de l'industrie, Rapport annuel du Vorort 1989/90).

97 In 1990, the scheme was exonerated from interest payments on Sw F 900 million which had been lost as a result of the exchange rate guarantees. Also, the Confederation decided to reduce its debt claims in exchange for consolidated claims of the scheme against developing countries (in the context of debt cancellation agreements).
Chart IV.4
New export guarantees by region and sector, 1989

Source: Rapport annuel 1989 de la GRE.

Export promotion, marketing assistance

296. The Swiss Office for Trade Promotion (Office suisse d'expansion commerciale, OSEC) is Switzerland's principal body for trade promotion activities. The Office is an independent institution, established in 1927 in the form of a private association. It currently has 2,400 members, mainly enterprises, business associations, and public sector companies of the cantons. Almost all members of its governing bodies are private sector representatives. In 1989, OSEC's budget amounted to

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98 In total, there are some 10,000 to 12,000 exporting companies in Switzerland. The Confederation as such is not a member of the scheme.
Sw F 25 million. Charges for services contributed 63 per cent, 29 per cent was sourced from the Federal Budget, and annual fees accounted for the remaining 8 per cent. The contribution of the Confederation is destined for collective services and not for activities of individual firms.

297. The Office collaborates closely with economic and professional associations and the Federal Office for External Economic Affairs. OSEC activities are non-selective with respect to the products promoted and the ownership structure of the exporting companies.

298. The international activities of the Office include participation in fairs, the organisation of sales missions abroad and the invitation of foreign customers to Switzerland. In 1990, OSEC organised the collective representation of Swiss industries in 22 foreign trade fairs (17 in western and in eastern Europe, four in the Middle East and in Africa, and one in Asia). The Office maintains a trade information system, renders legal services, and provides specific support to small- and medium-sized companies (training, motivation, export cooperation and the like). An increasing number of seminars which are held in various parts of Switzerland focuses on the EC Internal Market programme (in this context, OSEC organised seven meetings, with 600 participants, in 1990).

299. Other organisations carrying out export promotion are the Swiss external chambers of commerce and some private non-profit organizations. For the period 1990 to 1994, they will receive a contribution of Sw F 10 million from the Federal Budget (half of this for the chambers of commerce), as compared with Sw F 50 million for OSEC.

300. Since the early 1980s, OSEC has also been commissioned to promote imports (e.g. dissemination of information abroad on the Swiss market, and on the GSP scheme, assistance to trade missions and commercial attachés, publication of foreign companies' export offers in Switzerland). The services are confined to developing countries and, since 1990, to eastern European countries. The annual budget amounts to Sw F 1.5 million.

(xiii) Export performance requirements

301. According to the Swiss Government, the Confederation does not apply export performance requirements in the context of support programmes or any other policy scheme. The Swiss Government has no evidence of such provisions by the cantons.

(xiv) Free zones

302. Switzerland maintains numerous free zones (entrepôts fédéraux and ports francs), located in various parts of the country. Within the zones,
goods may be stored, unpacked or packed, preserved, analysed, divided, sorted, labelled, and mixed without being subject to duties. Additional treatment may be authorized by the General Customs Administration; however, any transformation into semi-manufactures and manufactures is prohibited within the zones.

(xv) Other measures

(a) Price verifications

303. Under Swiss penal law, private surveillance companies are only allowed to carry out physical inspections, relating to qualities and quantities, on behalf of foreign governmental bodies. Price verifications are beyond their competence. In 1976, the Swiss Office for Trade Promotion was mandated by the federal authorities to examine and verify export prices, if so required by the countries of destination. Within OSEC, a separate department is set up for these purposes; it operates as a subcontractor for the private surveillance companies. In 1990, the Office controlled deliveries to 27 countries in Asia, Africa and South America and issued more than 6,800 price attestations.

(b) Measures by importing countries

304. In general terms, the Swiss authorities hold the view that insufficient rules for the protection of intellectual property - trademarks, copyrights and patents - have proved one of the most serious obstacles to a further expansion of Swiss exports over recent years. It is said that Swiss companies have preferred to forego lucrative opportunities on certain overseas markets rather than running the risk of counterfeiting and product piracy. Problems in international services sectors such as banking and insurance appear to have affected "traditional" exports of goods. Further issues of concern to Swiss exporters reportedly include (i) export promotion and subsidization for competing products; (ii) technical barriers such as approval and registration requirements, for example for pharmaceuticals, and diverging quality standards for food products; (iii) tariff peaks and other access barriers in areas such as textiles (United States) and watches.

(4) **Measures Affecting Production and Trade**

(i) **Competition law**

(a) **Main features of Swiss cartel legislation**

305. Swiss competition policy differs in certain respects from similar policies in many other industrial countries, including the EC. In 1957, a report by the Federal Price Commission, mandated by the Federal Department of the Public Economy, held that "a competitive unregulated price is an exception in the Swiss economy". About two-thirds of the more than one thousand associations of industry, trade and professions were considered to form cartels. More recently, observers note that the "considerable restraint exercised in competition policy over a long period and other characteristics of the Swiss economic and social system have resulted in a concentration of restrictive practices on the Swiss domestic market which is unequalled in any other country". Swiss consumer organizations have regularly pointed to the negative effects of these practices on consumers, in terms of higher prices and, in some market segments, reduced possibilities of choice.

306. Cartels as such are not prohibited under Swiss legislation. In contrast, the Federal Act on Cartels and Similar Organisations (Loi fédérale sur les cartels et organisations analogues) delimits the scope of cartels deemed acceptable and establishes rules for setting up and participating in such arrangements. The guiding principle for appraising cartels is their social and economic impact. The Act aims at

100 Cited in H. Rentsch (1989), *Cartels and Wealth: A Paradox in the Swiss Economy System?*, Paper presented at the International Conference on Markets and Politicians (Bar Ilan University, Ramat Gan (Israel)).

101 Union Bank of Switzerland (1989), *The EC Internal Market - Challenges and Opportunities for Switzerland*, Zürich.

As already noted in Chapter III, current estimates put the share of products subject to price regulations, whether officially fixed prices or cartel-like arrangements, in the order of 60 per cent of Switzerland's final consumption. Comparable figures for Germany are in the order of 40 per cent.

102 Under the Act, cartels are defined as contracts, decisions or arrangements that influence or are liable to influence individual markets through regulating production, sales, purchases, prices or other conditions. All agreements and decisions establishing cartels must be in writing, except for agreements on resale prices and on exclusive supply and distribution. Cartel members are bound only by commitments they had excepted in writing (Article 14).

If, in good faith, a participant is no longer able to comply with his commitments he may apply to the courts in order to be relieved (Article 15:1).

Withdrawing from cartels or the cessation of cartel commitments must not be made subject to redemption payments (Article 16).

Measures aimed at enforcing compliance with cartel commitments are only admissible if they do not result in disproportionate impediments to competition (Article 17:1).
preventing or defusing arrangements which, on balance, produce harmful effects. Article 29(3) stipulates that cartels shall be deemed harmful in all cases "where effective competition on a market for goods and services is obstructed, unless the investigation reveals that such obstruction is indispensable for reasons of overriding general interest".

307. The criteria for assessing cartels include effects on competition, costs, prices, quality, branch structure, regional structure, domestic and international competitiveness and the interests of workers and consumers. Following a change of legislation in 1985, more emphasis is placed, as compared with previous legislation, on the possible negative impact on competition. The new Cartel Act is said to provide a more efficient tool, contrary to its predecessor, for tackling vertical cartelization over stages of production and trade.

308. The Swiss Cartel Commission is established as an independent body under the Act, entrusted with appraising cartels and submitting recommendations to the Federal Department of the Public Economy. The members of the Commission are appointed by the Federal Council from among representatives of the business sector, academics and consumers. Recommendations are passed by simple majority vote of the members present.

309. The Commission is assisted by a Secretariat of seven professionals. The relatively small size of the Secretariat may be viewed as a constraint, given the seemingly wide range of cartels in Switzerland and the demanding task of assessing both the positive and negative effects of cartels, as compared with countries where cartels are prohibited in general. Moreover, there are no legal means of issuing search warrants in order to look into business documents of suspected companies or persons.


104 According to Article 20 of the Cartel Act, the Commission must comprise between 11 and 15 members.

105 It is argued that both the facts that the Cartel Commission as such can only issue recommendations and no binding decisions (see below) and that it has no more than seven assistants, testify to a political tendency not to confer too much power on the Commission. See Dokumentation zur Wirtschaftskunde, No. 9, 1990. (The author of these observations chairs the Secretariat of the Cartel Commission.)

The academic staff of the Federal Cartel Office in Germany comprises 115 professionals; an additional 34 are employed in the Cartel Offices of the German Länder (situation in April 1990).
310. If market restrictions are reported to the Commission, the Secretariat carries out a preliminary investigation, under the supervision of the Chairman, in order to establish the facts. On this basis, Chairman and Secretariat may attempt to reach an amicable solution between the parties involved. Matters of "general interest" shall be submitted, with a report and a proposal, to the Commission which then has to decide on whether to open an investigation.

311. Depending on the findings of such an investigation, the Cartel Commission may make recommendations, for example to abolish or amend certain provisions of a cartel. If these recommendations are not accepted by the addressees, the Federal Department of the Public Economy can issue a binding decision, on a Commission's proposal and after hearing the parties concerned. Moreover, the Department is required to pass such a decision, on the Commission's proposal, if the parties fail to implement accepted recommendations. The decision may be appealed to the Federal Supreme Court.

312. The Cartel Commission is also mandated to monitor the competitive situation in general and to provide advice, on issues of competition policy, to the Federal Council. Drafts of federal acts, decrees and ordinances that restrict, or in any way affect, competition are to be submitted to the Commission for comment.

313. Switzerland's cartel legislation is liable to be affected by the country's participation in a European Economic Area. The Director of the Secretariat of the Cartel Commission foresees the need to make certain concessions and to adopt "more stringent rules" in the EEA context.

314. The Swiss Government was not able to supply comprehensive information on existing cartels; it was noted that the Cartel Act does not provide for a cartel register. Recent investigations by the Cartel Commission

106 According to Section 29 of the Cartel Act, the Commission shall carry out investigations at the request of the Federal Department of Economic Affairs or on its own initiative. The GATT Secretariat has no evidence of any investigations that had been initiated by the Federal Department.

Alternatively, under civil law, any person who is affected or threatened by unlawful competitive practices may bring the cases to a special court which is to be designated by each canton. The court may declare the measure illegal and require the offending party to rectify the situation and to pay compensation, as the case may be. Matters of principle may be referred by the court for decision to the Cartel Commission. (However, this procedural alternative under civil law proved of relatively minor importance in practice, due to its longer duration and the costs involved.)

107 The same applies to rulings by the cantonal courts (see above).

108 Dokumentation zur Wirtschaftskunde, op.cit.
concerned the markets for petrol (preliminary investigation); cement; sand, gravel and ready-mix concrete; sanitary ware; ski articles; dietary products; the dairy régime; and sickness insurance. The most prominent cases under the new Cartel Act, thus far, appear to have been decisions on banks and property insurance.

315. The range of cartelized markets include those for pharmaceuticals and books where, in the early 1980s, the Cartel Commission tolerated price cartels for perceived cultural and health policy reasons. Cartel practices, such as exclusive supply contracts and central price fixing, are also present in markets for beer, mineral water and lemonade, and optical products. The Cartel Commission has submitted reports on these sectors in the 1960s and 1970s.

(b) Price surveillance

316. In 1982, a large majority of the Swiss population and the cantons voted for the introduction into the Constitution of provisions on price surveillance. The outcome of the referendum also appears to reflect the activities of consumer organizations and an increasing awareness among consumers of the price impact of regulated and/or cartelized markets. The new constitutional provisions are viewed as complementary to the Cartel Act, relating to cases where the creation of effective competition is not seen as possible or desirable. Accordingly, Article 31septies requires the Confederation to issue legislation against abusive pricing practices of companies and organisations in a dominant market position, notably of cartels and similar organisations under public or private law.

317. Under the Federal Law on Price Surveillance of 1985 (Loi fédérale concernant la surveillance des prix), the Federal Council is to appoint a Price Inspector. The Inspector is commissioned to observe the development of prices and to prevent or rectify abusive pricing behaviour. In doing so, he is required to work together with the "interested circles". Apparently, this provision is designed to ensure that competing interests of consumers and producers are equally taken into account.

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109 In addition, the Cartel Commission was concerned with practices on the markets for locks and metal fittings, car parts (eg. rims), and razor blades.

110 The above opinions by the Commission were based on the old Cartel Act.

111 The beer cartel was formally dissolved in June 1991 (Section V:2(v)(c)). In retail trade in optical products, independent suppliers appear to be on the advance.

112 Rudolf Lanz (1990), "La surveillance des prix au service des consommateurs", La vie économique, No. 4, pp. 25-28.
318. The Law on Price Surveillance establishes a general right to complain about abusive practices to the Price Inspector. He may then decide to launch an investigation. If initial allegations are confirmed, the Inspector is required to aim at amicable solutions, in informal contacts, with the companies or organisations involved. Otherwise, he can order a price reduction. To date, no such decision has been taken.

319. The Price Inspector is supported by nine assistants. As his activities may comprise a certain overlap with the Cartel Commission, both institutions co-ordinate informally on the areas to cover.

320. The Inspector must also be consulted by any official body at the federal, cantonal or municipal level which is requested to approve price increases by cartels (Section IV:4(iv)). If they do not comply with the Inspector's recommendations, the onus is on these bodies to justify their decision.

321. Following a recommendation by the Price Inspector, an increase in beer prices was postponed for nine months and then fixed for two years in 1987. Medical tariffs have also been held stable in several cantons after an intervention by the Inspector; petrol suppliers have agreed to increase the price differential between leaded and unleaded fuels (Section V:3(i)); and, in 1989, the Swiss Federation of Hoteliers lifted a minimum price arrangement for beer. Booksellers acceded to a settlement concerning an automatic price adjustment of imported books to exchange rate changes. The book market has been made subject to permanent surveillance (Section V:3(iii)). Current investigations by the Inspector pertain to pharmaceuticals, telecommunications tariffs and mortgage credits. In May

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113 Under the Law on Price Surveillance, prices may be regarded as abusive only if they do not result from effective competition. This means, in particular, that similar products are not available to users who are not willing to invest considerable resources. The Law stipulates the following benchmarks for judging whether individual prices are appropriate: Price developments on reference markets; the necessity to make adequate profits; cost developments; particular services by enterprises; particular market situations. Reportedly, the Price Inspector uses as a basis, whenever possible, price developments on third country markets.

114 Under the Law on Price Surveillance, the Cartel Commission may initiate investigations into cartels whose prices had already been vetted by the Price Inspector, and the Inspector is free to decide whether or not prices of cartels or similar organizations are abusive (Article 16).

115 The Inspector is also competent to make such recommendations for prices of cartels and similar organizations that are being vetted by other administrations under federal law (see Section IV:4(ii)).

116 Additional examples for actions by the Inspector are provided by Rudolf Lanz, op.cit.
1991, following an intervention by the Inspector, the cigarette industry refrained from raising prices (a price increase of Sw F 0.20 per package was originally intended to become effective as from February 1991).

(c) Provisions in the free trade agreements

322. Article 15 of the Stockholm Convention specifically refers to restrictive business practices. EFTA members recognize that certain agreements and practices between enterprises are incompatible with the Convention in so far as they frustrate the benefits arising from the liberalisation of EFTA-internal trade. Complaints may be referred to the EFTA Council, in accordance with the general complaints and consultation procedures of the Convention (Article 31). Yet the Council does not have powers and instruments to launch investigations. The Convention basically relies on the disciplinary effect of the existence of this provision.

323. Article 15(3) provides for reviews of the competition rules. Accordingly, EFTA members have agreed on certain common interpretations of the rules and their application under national law. In 1965, Ministers specified a sequence of steps to be "normally envisaged" in practice. If it appears that a company's behaviour conflicts with Article 15, bilateral discussions of an informal and confidential nature are to be held between the member States involved. Alternatively, the matter can be discussed multilaterally or referred to the EFTA Council. Up to 1987, four cases involving an infringement of Article 15 had been detected. They were solved subsequent to bilateral contacts between the competent national authorities; Switzerland was not concerned.

324. The free trade agreement with the EC, like the agreements of the other EFTA members with the Communities, also refers to restraints of competition that are considered incompatible with the proper functioning of the agreement (Article 23). Any such practice may be submitted by either contracting party to the Joint Committee under the agreement in order to

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117 The Price Inspector was quoted as saying that he did not as a result expect tobacco consumption to increase; rather, the industry would be deprived of more than Sw F 100 million which would otherwise be invested in public promotion. (Journal de Genève, 2 June 1991).

In contrast, the existence of price cartels for pharmaceuticals has expressly been tolerated by the Cartel Commission which took the view that, inter alia, higher prices might prevent consumers from abusing medicines (Section V:3(vi)).

118 If both parties agree on the existence of an infringement, the domiciling member State will either resort to administrative means to influence the company or, in the absence of success, it "will, in appropriate cases, consider using such legal powers of enforcement as are available".

find a solution. In the absence of a satisfactory solution, the offended party is entitled, under Article 27 of the agreement, to adopt any safeguard measure considered necessary. The possible withdrawal of tariff concessions is explicitly mentioned.

325. In 1990, the EC invoked Article 23 of the agreement for the first time ever with respect to an alleged cartel by Swiss industries. An EC producer of polyethylene tubes had complained about restrictive private standards for drainage for buildings. In response, the Federal Department of the Public Economy commissioned the Cartel Commission to look into this case. A report by the Commission was transmitted to the Communities; the Federal Department is currently in consultations with the companies concerned and with independent experts.

326. The actual impact of Article 23 of the free trade agreement is affected by the fact that the relevant provisions, similar to those of Article 15 of the Stockholm Convention, are not self-executing. They cannot be directly invoked by private parties.

(d) Barriers for new entrants

327. Wholesale traders appear to have played a pivotal rôle in organising and implementing many cartels, facilitated by the versatile functions which are usually performed by this sector. Wholesalers act as a distribution centre between importers, producers and consumers, carry out tests, and offer services such as market research, storage, transport and financing. Some 85 per cent of Swiss imports are through wholesalers.

328. In principle, cartels can only persist if shielded from new entrants. Three factors may prove effective in this context: (i) standards and technical regulations, (ii) exclusive supply contracts with foreign producers, and (iii) investment barriers for new domestic producers or traders. The motor vehicle market appears to be an example, both for exclusive supply networks and homologation procedures in a way which impedes direct imports by individual consumers. (Certain Swiss standards are more stringent than present EC requirements and manufacturers' declarations of conformity are usually not accepted as sufficient).

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120 According to information supplied by the Government of Switzerland.

121 See M. Baldi, op. cit.

122 According to Union Bank of Switzerland (1989), The EC Internal Market ..., op. cit.
329. Exclusive supply contracts cannot in general be challenged under Swiss law. Patent and copyright owners - or their agents and licensees - dispose of legal means of preventing parallel imports by unauthorized dealers. As regards trademarks, the situation appears less clear. A ruling by the Federal Supreme Court in 1979 seems to suggest that competing imports bearing the same trademark can be barred only if there are doubts as to the full identity of all aspects of the products concerned.

330. The intensity of competition in Switzerland's retail trade is considered to be low in general. There are numerous barriers to entry resulting, for example, from tight rules on locational planning and construction. Also, for perceived reasons of consumer protection and the like, there is a variety of restrictions affecting shop opening hours, advertisement, and instruments of price competition. For example, temporary sales actions with special offers are only allowed in the form of seasonal sales, twice a year during three weeks, or liquidation sales. While spontaneous sales are not prohibited as such, they must not be advertised. Exceptions are provided for certain expendable articles such as food, flowers and detergents. Advertisements for pharmaceuticals, tobaccos and alcohols are subject to specific regulations (Chapter V).

331. The five leading retailers in Switzerland cater for more than four-fifths of total domestic consumption. This is more than the share of the "top five" in any other western European country.

123 However, agreements with a "determining influence on the market" fall under the Cartel Act (Article 5).

124 Bundesgerichtsentscheid 105 II, pp. 49.

125 Swiss regulations in these areas are said to be more stringent than, for example, those in Germany. See R. L. Frey (1990), "Wie europafähig ist der Schweizer Detailhandel?", Der Schweizerische Detailhandel und die europäische Herausforderung, Basel (Symposium aus Anlaß des 100-jährigen Jubiläums der Coop Schweiz).

126 However, in absolute terms (turnover), the "Swiss giants" are considerably smaller than their counterparts in many other European countries. For example, the largest Swiss retailer (Migros) ranks 17 in western Europe, the second largest company (Coop) ranks 31. (According to R. L. Frey, op.cit.). It may also be noted that to some extent the "leading" retailers have acted as a moderating influence on prices. Migros, for example, was established as an enterprise with the specific aim of breaking then-existing cartels and providing foodstuffs at reasonable prices.
332. There is some evidence, however, of cases where dynamic retailers have used import competition to erode long-entrenched cartels. In the beer sector, for example, standards and other barriers such as transport costs apparently have had no decisive impact on market access, and individual brands, whether domestic or foreign, proved close substitutes. Yet, for some time, domestic producers managed to keep a firmer grip on those distribution channels - restaurants - that are bolstered by comparatively high barriers (Section V:2(v)(c)). Moreover, cartels by industries such as watchmaking that essentially operate on international markets obviously fell victim to their inherent rigidities and their inability to adjust to industrial and technological change (Section V:3(viii)).

333. In view of these developments, it is argued that while Switzerland was highly cartelized some decades ago, many arrangements have vanished or reduced their scope since. Currently, the most restrictive cartels are reputed to exist in specialised segments of the economy. "Classical
cartels", however, are said to have been replaced by tacit collusion or informal arrangements among oligopolies. 127

(ii) Pricing and marketing arrangements

334. Production and sales of many agricultural products are subject, on a case-by-case basis, to officially fixed producer prices, sale prices, exclusive distribution channels and a variety of further requirements. For example, guaranteed prices exist for milk, cereals and sugar. In many sectors, multiple import barriers are applied in the form of quotas, charges or price supplements in order to clear the domestic market and to ensure certain income levels for Swiss producers. Under the "prise-en-charge" system, importers of sheepmeat, milk powder, eggs in shell and some additional products are required to purchase a certain proportion of domestic production. Trade in products such as milk, butter, cheese and cereals is in the hands of public monopolies or semi-official agencies.

335. The Federal Price Surveillance (Surveillance des prix) is commissioned to monitor and to report regularly on price developments. In practice, controls focus on the main agricultural markets, for example for milk and milk products, eggs, meat, fodder, fruit and vegetables, and potatoes. In the event of excessive price increases, the Office is to consult with the parties concerned with a view to providing redress. Otherwise, ceilings for prices and sales margins may be ordered. Further, the Office is directly involved in fixing and administering prices for eggs and the take-over prices for domestic products in the "prise-en-charge" system.

336. The energy utilities and the supply grids for gas and water are mostly in public ownership, either by the communities or the cantons, which establish the tariffs (Section V:3(i)).

337. Pharmaceuticals are cleared for sale by the Intercantonal Office for the Control of Pharmaceuticals (OICM). Product appraisal by the Office includes the composition, the marketing concept (advertisement) and the price of the product, as envisaged by the producer or importer. According to OICM, prices are only objected to if obviously unjustified in view of the content or the therapeutical value of the product, or if they appear

excessive when compared with similar pharmaceuticals. At present, there are some 10,000 medicines approved by OICM. Of these, some 2,700 are listed by the Federal Office for Social Insurance (Office fédéral des assurances sociales; OFAS); only these medicines are refunded by the Swiss sickness funds. The efficiency of the product, in economic terms, is the most important criteria for listing. Any price increase of OFAS-listed products is to be approved. Public advertisement for these products is prohibited.

338. For products incorporating the results of research and development (original preparations), a price advantage over generics of up to 25 per cent is considered justified. This advantage, for a 30-year period, is expected to cover "appropriately" the costs of research, clinical tests and market entry. Prices of foreign products (at the date of listing) must not exceed the wholesale price in the country of origin by 25 per cent.

339. Under the Federal Law on Price Surveillance (Article 15), the Federal Office for Social Insurance, as far as its listing activities for "specialities" are concerned, is considered competent to oversee prices. The Office is required to apply the Law on Price Surveillance in accordance with its own objectives. Practices in the health sector are thus partly beyond the scope of the Price Inspector. However, in co-ordination with the Office for Social Insurance, the Inspector may examine price differentials between domestic and foreign markets for pharmaceuticals.

(iii) Adjustment assistance

340. Agriculture aside, financial support extended in the Swiss economy appears moderate by international standards. Total subsidies in Switzerland are estimated at about 1.5 per cent of gross domestic product (national accounts definition; 1989). This is slightly above the OECD average but considerably below the corresponding figures for most other European countries and any other EFTA member. Subsidies to Swiss industry are in the order of 0.1 per cent of sectoral GDP. This comparatively low level of subsidization may be attributable, at least partly, to a conservative policy towards fiscal revenues, public sector debt, and expenditure at all levels of Government. Nevertheless, there appears to

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128 The price differential is established on the basis of an average exchange rate over six months.

129 In 1988, total tax revenues, including social security contributions, amounted to 32.5 per cent of GDP in Switzerland as compared with an average of 39.9 per cent in the European OECD countries.
be considerable scope for independent initiatives by the cantons and the communes (see following Section).

341. Major support programmes by the Confederation aim at promoting adjustment on a non-sector specific basis, for example by encouraging industrial research and development, new investments in problem regions, or vocational activities at the industry level. Initiatives in the latter context, particularly the so-called impulse programmes (programmes d'impulsion), have been designed to complement training and education as provided in the school system and to foster the dissemination of technological knowledge in new areas. In 1989, some Sw F 6 million was spent on these purposes (Table IV.4).

342. According to the Swiss Government, there are no subsidy programmes in the industrial sphere with the aim of safeguarding a viable production base. Rather, with respect to industrial products, Switzerland basically relies on mandatory stock-keeping by private producers and traders to provide for any supply crises. The Confederation holds no equity shares in industrial enterprises, with the exception of military workshops and ammunition factories. The Swiss authorities have indicated, however, that considerations of supply security and the aim of maintaining independent Swiss producers may influence procurement decisions.

(iv) Production subsidies, tax concessions, investment incentives

343. Public support for industry by the Confederation is almost exclusively provided in the form of direct payments or guarantees. There are, for example, no Government loans to industry or equity participations. However, certain tax concessions are granted in the context of the programme for economically vulnerable regions. Overall, some 70 per cent of subsidies to industry is provided at the federal level; nine cantons have no support instruments for industry at all.

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130 Further "impulse activities" during the 1980s provided support for the modernization of production facilities and the promotion of Swiss products abroad. Also, in response to increased supplies of domestic wood, due to storm damages, an impulse programme was initiated to publicize and support the use of Swiss wood (Section V:2(vi)).

131 The Swiss National Bank offers certain specific credit facilities in this context.

132 Guarantees are granted to support regional development (Section IV:4(vi)) and to cover export risks (Section IV:3(xii)).

133 These tax benefits are not included in Table IV.4.

134 According to information provided by the Swiss Government in preparation for this report.
344. A survey by the OECD on investment incentives notes that, by the end of 1987, incentives at the cantonal level were slightly higher than those offered by the Confederation. The cantonal incentives were reported to be very varied, including tax advantages for new businesses (20 cantons); special tax status for investment companies (23); availability of industrial land for sale or rent (17); loans at preferential rates (6); guarantees for investment-related loans (11); subsidies to defray certain investment costs (6), to pay interest charges (11) and to finance staff training (7). The survey also notes that the federal programmes, "although traditionally restricted in time as well as in scope and extent, have progressively expanded over the years". The cantonal measures, according to the OECD, have expanded even more rapidly.

345. The cantons dispose of considerable leeway in the field of subsidization. There are no notification or consultation requirements between the cantons and the Confederation. However, informal co-ordination procedures have been set up among the cantons. For example, an intercantonal concordat establishes principles for the granting of tax benefits to industry.

346. As regards support for agriculture, Switzerland has notified subsidies of Sw F 1.87 billion (1988/89) under Article XVI:1 of the GATT. Of this, the dairy sector alone represented more than Sw F 1 billion. An OECD study puts total budgetary expenditure on Swiss agriculture at close to Sw F 2.9 billion (1988).

347. The Stockholm Convention requires EFTA members not to grant export subsidies or any other aids which might frustrate the benefits from the removal of tariffs and quantitative restrictions on EFTA internal trade (Article 13(1)). Complaints about any other form of aid may be referred to the EFTA Council which then may authorize the member State affected to suspend obligations with respect to the subsidizing country. Switzerland has not yet been involved in any such complaints. According to the Swiss authorities, these provisions have proved less operative than the EC rules on State aid and, thus, have had no real impact on subsidy decisions by the EFTA members.

348. Alongside the process of rapprochement between EC and EFTA since the mid-1980s, the EFTA Governments aimed at tightening the interpretation and

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136 OECD (1990), National policies ..., op.cit.
137 Export subsidies for agricultural products are subject to specific provisions.
application of Article 13 of the Convention. As a first step, EFTA internal notification procedures on State aid were established in 1987. Under the scheme all current programmes and all planned measures are to be reported to the EFTA Secretariat. The information is circulated to the other member States. They thus have an opportunity to comment and, as the case may be, to ask for an examination of measures which are deemed to conflict with the EFTA Convention.

349. According to an OECD survey, current Swiss support programmes do not differentiate between investments of Swiss or foreign companies.

(v) Assistance for research and development

350. Switzerland is generally considered to be a "high-technology country". Its companies file a large number of patents abroad. The research performance of the Swiss economy appears to be based on a high share of sectors traditionally considered as research intensive (pharmaceuticals, electrical and mechanical engineering), a developed research infrastructure in the form of universities and research institutes, a well-trained workforce, and a widespread political consensus about the need to devote considerable resources to R&D. However, as already noted in Chapter I, certain qualifications apply with respect to the position of Swiss industries in emerging new technologies.

351. At present, total public and private expenditure on research and development is in the order of 2.9 per cent of GDP. Switzerland thus ranks among the leading OECD countries, accompanied by the United States, Japan, Germany and Sweden. Switzerland is also in the forefront - together with Japan - as regards the contribution of private business to total financing of R&D.

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138 For several years, Switzerland has also notified (ex post) cantonal subsidies as supplied by the cantons on a voluntary basis. The Confederation has no instruments for verifying this data.

139 OECD, International Investment Incentives ..., op.cit.

140 For details see OECD (1989), OECD Science and Technology Indicators, Paris.

141 Total business expenditure on R&D was estimated at Sw F 4.9 billion in 1986. Of this, the chemical industry represented 45 per cent, followed by electrical engineering (24 per cent) and mechanical machinery (23 per cent). See USCI, La recherche et le développement dans l'économie privée en Suisse 1986, Zürich.
352. While still at relatively low levels, public support for R&D projects by Swiss industry has almost doubled since the early 1980s, reaching Sw F 20.7 million in 1989 (Table IV.4). This is over 40 per cent of all State aid (direct payments) granted to industry in the context of federal initiatives. The subsidies are subject to approval by the Commission for the Promotion of Scientific Research (Commission pour l'encouragement de la recherche scientifique; CERS).

353. According to the Swiss Government, support focuses on pre-competitive stages of research, that means on programmes without immediate commercial payoff. Eligible are projects that contribute to maintaining the competitiveness of Swiss industry; applications are as a rule submitted jointly by industry and non-profit research institutions. The latter receive the subsidies. Participating companies have to bear at least half of all costs. In the period 1986 to 1990, private contribution (industry) amounted to 58 per cent. Chart IV.5 shows the allocation of CERS-approved funds to individual industries.

142 The Commission was set up in 1942. It is affiliated with the Federal Department of the Public Economy and predominantly comprises industrial experts and scientists with an industrial background. The Commission is mandated to assess the scientific quality and, particularly, the economic/industrial importance of the requests for support. Between 1 October 1986 and 31 March 1990, the Commission granted funds of Sw F 121 million, requests of Sw F 79 million were rejected. The above figures do not comprise support provided in the context of European technology programmes.
Chart IV.6
Public support for industrial research and development (CERS) in Switzerland
1986-90
Percentage

<table>
<thead>
<tr>
<th>Industry</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Electrical Industry</td>
<td>27.7%</td>
</tr>
<tr>
<td>Machines and vehicle construction</td>
<td>31.0%</td>
</tr>
<tr>
<td>Chemical Industry</td>
<td>10.6%</td>
</tr>
<tr>
<td>Metal Industry</td>
<td>6.4%</td>
</tr>
<tr>
<td>Watchmaking</td>
<td>6.1%</td>
</tr>
<tr>
<td>Other Industries</td>
<td>9.6%</td>
</tr>
<tr>
<td>Computer technology</td>
<td>4.2%</td>
</tr>
<tr>
<td>Other services</td>
<td>4.4%</td>
</tr>
</tbody>
</table>

Source: Government of Switzerland.

354. The Federal Council notes that certain deficiencies in the sphere of research and development have come to light in recent years. Accordingly, factors such as a lack of qualified personnel in Switzerland and insufficient participation of the country in European initiatives - as compared with EC member States - have adversely affected the technological position of Swiss industries, particularly in areas deemed to be of "strategic" importance. The Swiss Government thus decided to launch new initiatives and expressed strong interest in fully participating in EC research programmes (see below).

355. Particular political emphasis has been placed on the promotion of computer integrated manufacturing (CIM). This technique is considered by

143 See Message concernant l'encouragement de la recherche scientifique ..., op.cit.
the Federal Council as an "indispensable element in striving for the international competitiveness of Swiss industry". The CIM programme, approved by Parliament in early 1990, comprises the creation of seven regional formation centres (Sw F 82 million) and a special credit (Sw F 20 million) for research and development activities to be channelled through CERS. The funds are for a five-year period.

356. New programmes by the Confederation, starting in 1992, focus on information technologies, informatics, high performance electronics, biotechnology, material technologies, opto-electronics and microelectronics. In microelectronics, a temporary action programme is envisaged for the period 1992 to 1997; it will be endowed with Sw F 150 million (1992-97). The programme is based on recommendations of a "Swiss Microelectronics" expert group (Microélectronique Suisse). It will provide support for a new CERS initiative in microelectronics, for selected areas of semiconductor production, vocational training and technology transfer.

357. Switzerland currently takes part in several European research initiatives, such as COST (European Cooperation in the field of Scientific and Technical Research) and EUREKA. In the context of bilateral framework agreements on scientific and technical cooperation with the EC, Switzerland and other EFTA countries may also cooperate in EC research programmes, sub-programmes or individual projects. Swiss participation in this context focuses on information technologies (ESPRIT), telecommunication (RACE), industrial technologies (BRITE) and research on materials. In the view of the Swiss Government, these EC programmes will have a decisive impact on competitiveness as they include developing new technical norms and standards "for an open European market". In 1989, the Confederation spent Sw F 12 million on these purposes.

144 Message concernant les mesures spéciales en faveur de la formation continue aux niveaux professionnel et universitaire ainsi que de la promotion de nouvelles techniques de fabrication intégrée par ordinateur (CIM) du 28 jun 1989.

145 An additional Sw F 357 million has been earmarked for the six other "strategic areas" mentioned above.

146 The experts - representatives of industry, universities and research institutions, and public administration - had been mandated to take stock of the current situation in Switzerland, to identify gaps and impasses, and to examine the need for State support.

147 See Message concernant l'encouragement de la recherche scientifique .... op.cit.
358. Close to 30 per cent of the Swiss workforce live in regions subject to specific support schemes at the federal level, either the mountain areas or the so-called economically vulnerable regions. These regions combined account for some 70 per cent of Switzerland’s territory.

359. The programme for economically vulnerable regions (régions dont l'économie est menacée) was set up under a Federal Decree of 6 October 1978. The Decree was primarily a response to the crisis of the Swiss watchmaking industry which is highly concentrated in the western parts of the country (arc jurassien). Federal assistance may be granted for all projects, by Swiss nationals or foreigners, aimed at (i) developing existing products or adopting new processes or distribution programmes; (ii) launching the manufacturing or marketing of new products; (iii) establishing branches that are not or only marginally represented in the area. Federal guarantees must not cover more than one-third - in exceptional cases one half - of the total costs of the project. For the Confederation to be able to grant the guarantees, the investor has to assume a "reasonable proportion" of these costs. Also, half of the eventual losses under the guarantee scheme must be borne by the domiciling canton. A bank credit at commercial terms must be provided; the bank is required to grant an interest rate reduction of at least one-quarter on the guaranteed part of the loan. Further, tax reductions and interest subsidies are available. Again, the cantons and, in the case of interest subsidies, the banks are required to share in the costs and risks.

360. In an assessment of the programme, the OECD concluded that all components in the incentive package - guarantee, interest relief and tax reduction - are discretionary. It noted that there are no provisions that automatically confer benefits subject to compliance with prescribed criteria. For example, federal interest relief may only be granted if it is expected that a project would not be implemented without support. According to the OECD, administrations facing such criteria always tend to

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148 Regional entities are specifically designed and delimited for these purposes, they thus do not necessarily coincide with traditional administrative regions. Also, some parts of the regions, for example central cities, may be excluded from the programmes.

149 Arrêté fédéral sur l'aide financière en faveur des régions dont l'économie est menacée.

The programme extends to areas that are (i) economically based on a single industrial sector and (ii) where there has been, or is expected to be, a great reduction of jobs or where severe unemployment is present or imminent.
give assistance in cases of doubt. Nevertheless, from a regional policy point of view, members of a OECD Working Party recently acknowledged that the policies by the Confederation and the cantons - including the programme for the economically vulnerable regions - "appeared to have been fairly successful".

361. Between 1979 and 1990, 442 projects were supported under the scheme for these regions. Total project costs exceeded Sw F 1.9 billion. Electrical and electronic industries and mechanical engineering accounted, each, for close to 25 per cent of the projects, followed by metal manufacturing (15 per cent), precision engineering/optics and plastics (less than 10 per cent).

362. In mountain areas, a specific support programme focuses on small- and medium-sized enterprises. The Swiss Guarantee Cooperative is commissioned to grant guarantees for investment credits; the principal loan must not exceed Sw F 500,000. The Federal Government covers 90 per cent of the losses of the Co-operative and its extraordinary expenses. In addition, since 1986, interest subsidies of up to 40 per cent have been made available. The interest subsidies are not necessarily linked to a credit guarantee. Requests for these subsidies are processed and decided upon by the Federal Department of the Public Economy.

363. Main beneficiaries from the credit guarantees in mountain areas have thus far been the metals and machinery sectors, vehicle construction, woodworking and furniture, and retail trade. As for the interest subsidies, electrical engineering, electronics, and optics are to be added to this list.

364. In 1989, total losses incurred on the guarantees under the two above schemes amounted to Sw F 7.5 million. New guarantees of Sw F 50 million were granted; interest subsidies totalled Sw F 5.9 million. An additional


\[152\] The programme was established by the "Loi fédérale encourageant l'octroi de cautionnements et de contributions au service de l'intérêt dans les régions de montagne du 25 juin 1976".

Moreover, and financially much more important, federal support for the mountain regions also comprise interest free or low interest loans for infrastructure projects. Between 1975 and 1989, the Confederation granted investment credits of Sw F 1 billion for setting up energy installations, recreation areas, public health facilities and the like.
Sw F 900,000 was spent on information and counselling activities (Table IV.4).

365. The Swiss authorities take the view that public support under these programmes is fairly low; their main objective is to give a political impetus to regions facing difficult natural conditions or industrial decline. In fact, the transfers involved are dwarfed by other region-specific support measures. For example, only in 1990, direct payments to farmers in disadvantaged areas, mainly the mountain regions, exceeded Sw F 500 million.

(vii) Other measures

(a) Turnover taxes

366. Switzerland currently applies a single-phase system of turnover tax. Under the present system, the tax on imported products is raised either at the borders or with the wholesalers. Accordingly, companies which are registered as wholesale traders are suspended from immediate payment on importation; rather, they are required to settle accounts with the fiscal services once every three months. Almost two-thirds of all imports are dealt with this way.

367. The turnover tax amounts to 9.3 or 6.2 per cent of the import value, including tariffs and import charges. This corresponds to the rates on internal wholesale deliveries and retail deliveries, respectively. A range of products is generally exempted from turnover taxes. This applies, for example, to gold, gas and coal, food products (except for alcoholic beverages), animals, cereals, feedingstuff, fertilizers, plant-protective agents, pharmaceuticals, books and newspapers. Also, services are not covered by the present system.

368. Direct exports, including exports through an agent, are exempted from turnover tax. Exonerations are also provided, subject to certain conditions, for sales to tourists worth more than Sw F 500.

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153 These payments were on top of the transfers via traditional price support policies (Section V:2(i)).

154 If relevant factors for determining the tax rates are not completely known at the date of importation, any tax credits or debits may be recuperated by the General Directorate of Customs within five years.

155 The same applies to exports via third parties if the latter directly dispatch the product without using or changing it.
369. The current Swiss tax system does not allow for refunding the taxes on investment goods and on working materials used for production (so-called "taxe occulte"). In contrast, within a multi-stage value added tax system - as applied in 19 of the 24 OECD countries - it would be possible to deduct such taxes from the final tax debit, whether the product is domestically sold or exported. Hence, Swiss exporters, particularly those trading in capital-intensive products, are put at a certain disadvantage to competitors in countries with fully developed value added taxes.

370. In a referendum on 2 June 1991, the Swiss people rejected proposed legislation to implement a value added tax system as from 1994. The draft law would have provided for a general tax rate of 6.2 per cent, reduced rates of 4 per cent for hotels and restaurants during a transitional period of four years, and of 1.9 per cent, without time limits, for food and agricultural products, pharmaceuticals, books and newspapers. The revenue duties on oil and oil products and on cars and car parts would have been replaced by internal excise taxes. The revenue duty on feature films was scheduled to be abolished without a compensatory new tax.

(b) Quality requirements

371. There are in principle no official quality controls on Swiss manufactures. The only exception reportedly relates to watches where the status of "Swiss made" ("chronomètre suisse") has been made subject to the following criteria: (i) assembly in Switzerland; (ii) setting into operation, adjustment and control by the Swiss producer; (iii) at least half of the value of the components of Swiss origin; (iv) official quality control. Unless all these conditions are met, using the term Swiss made, or even derivatives such as Swiss Quartz or Swiss Design, is prohibited. While the system of official quality controls is liable to expire by the end of 1991, new legislation in intellectual property reportedly aims at strengthening origin criteria.

156 The legal basis is provided by an Ordinance of the Federal Council of 23 December 1971 (Ordonnance réglant l'utilisation du nom "Suisse" pour les montres).

157 According to the Federation of Swiss Watchmaking Industry (Fédération de l'industrie horlogère suisse, Rapport 1990, Bienne).
V. TRADE POLICIES AND PRACTICES BY SECTOR

(1) Overview

372. Switzerland's basic policy approaches towards agriculture and industry differ widely. Swiss agriculture has been granted high levels of protection in pursuit of sector-specific objectives. Policy régimes are predominantly based on the restrictive application of non-tariff measures. As a result, the level and structure of Swiss agricultural production mainly reflect the pattern of policy interventions and far less, if at all, the influence of international market developments. Due to the frequent use of specific policy instruments, such as quotas, benefits from the current system appear to be concentrated on "insiders" - long established producers and traders - which are largely shielded from new entrants and structural change. Maintaining traditional structures has compounded the costs of agricultural policy to consumers and taxpayers, not least to the disadvantage of potentially more efficient producers, suppliers and distributors.

373. Except for a limited range of essential products (industrial raw materials, petroleum) where considerations of supply security may also play a rôle, there appear to be no comparable approaches in the industrial sphere. In this field, policies for supply security rest mainly on mandatory stock-keeping in the private sector and not on maintaining and defending production capacities.

374. The Swiss authorities have emphasized that Switzerland does not pursue specific industrial policies. State intervention, for example in the form of subsidisation, is geared primarily towards promoting basic research activities, supporting regional adjustment processes, and ensuring a qualified workforce. There is no evidence of major support programmes for narrowly defined manufacturing industries. However, as noted in Chapter IV above, certain policies and programmes by the Confederation or the cantons may have sector-specific effects. Examples are subsidies for R&D in specified technology areas (microelectronics, biotechnology and the like) and regional support measures. In industries like telecommunications equipment, railway vehicles and kitchen appliances, procurement preferences and/or national standards tend to cushion domestic producers from import competition.

375. While border protection for the manufacturing sector is low in general, there are some tariff peaks. These are most pronounced in

\[1\] In terms of ad valorem equivalents of Switzerland's specific tariffs.
C/RM/S/17A
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Textiles and clothing. Also, on Switzerland's major export markets for textiles and clothing, Swiss producers appear to benefit indirectly from non-tariff restraints against competing supplies. For example, while there is free entry for Swiss exports to the EC, deliveries from many developing countries are hindered by the Communities' restrictions under the MFA.

376. Apart from tariff protection, Switzerland maintains very few border measures on imports of manufactures. In certain areas, however, cartel arrangements by producers and traders appear to outweigh the impact of any formal policy measures. Cartels by private companies and associations have officially been tolerated by the competent authorities for perceived health, environmental or cultural policy reasons. Due to the inherent lack of transparency of such arrangements - as compared with the overt use of public funds, technical regulations or trade measures available under the GATT and Switzerland's free trade agreements - information in this area is fragmentary. It is also very difficult to trace the trade effects and the costs to the domestic economy of even the known arrangements. These would include the dynamic losses resulting from market distortions, delayed adjustment processes and, thus, foregone investment opportunities.

377. The following analysis of trade policies and practices by sector is based on the product categories established for the GATT Tariff Study. Data are not always fully comparable, due to different statistical definitions.

378. Tables AV.1 to AV.19 provide, by Tariff Study Category, information on import flows (total imports and m.f.n. imports), tariff protection, and the application of other trade measures and trade-relevant policies. Simple and weighted tariff averages were based on ad valorem tariff equivalents for 1988 supplied by Switzerland for the GATT Integrated Data Base. Tariff ranges reflect the ad valorem equivalents for 1989, according to Swiss customs statistics.

2) Agriculture, Forestry and Fishery

(i) Major features of Swiss agriculture

379. Conditions for economic farming in many parts of Switzerland are unfavourable. This mainly reflects the nature of the land and the small size of many holdings. Some 45 per cent of Switzerland's area is 1,200 metres or more above sea level; two-fifths of full time farmers live in mountain regions. The average size of full-time farms is below 20 hectares.
(as compared with 30 ha in Germany and over 40 ha in France), with wide variations among the cantons.\(^2\)

380. Considerable inefficiencies of scale thus result from sub-optimal use of farm equipment and production inputs. For example, tractors in Switzerland are used, on average, between 300 and 500 hours per year, about one third of the French or German average.\(^3\) Major inputs are conspicuously more expensive than abroad. According to estimates by the Secretariat of Swiss Farmers (Secrétariat des paysans suisses), prices for fertilizers and buildings in Switzerland exceed the German level by up to 50 per cent. The price differential for machinery is said to range between one-fifth and one-third (1986). These differences may reflect a variety of factors - wage levels (construction), cartel practices, more stringent technical regulations and the like - whose relative importance is difficult to assess (Chapter IV).

381. Migration from the land has been considerable. The number of full-time farmers fell by over 50 per cent between the mid-1950s and the mid-1980s and the total permanent workforce in agriculture dropped by 70 per cent. Even though, structural change, at least in employment terms, was apparently slower than in neighbouring countries;\(^4\) in the late 1980s, agriculture represented 5 to 6 per cent of civilian employment and less than 4 per cent of GDP in Switzerland.\(^5\)

(ii) Policy objectives and implementation

382. Food security is one of the key objectives of Swiss agricultural policies, as stipulated by the Federal Constitution (Articles 23bis and 31bis). While Article 31bis lays down general principles of national security and of safeguarding important parts of the economy, Article 23bis contains specific provisions for cereals. The Confederation is required to maintain the wheat stocks necessary to ensure supply for the country, to

\(^2\)In some parts of the country, following Roman law, farms have usually been split among the heirs.

\(^3\)According to information by the Federal Directorate of Agriculture.

\(^4\)Between 1965 and 1985, the share of agriculture in total employment declined in Switzerland from 9.4 per cent to 5.0 per cent; in Austria from 19.3 to 6.9 per cent; in France from 17.9 to 6.7 per cent; in Germany from 10.8 to 4.6 per cent; and in Italy from 24.8 to 9.3 per cent. (According to Statistical Yearbook of Switzerland 1991).

\(^5\)OECD sources (Labour Force Statistics) put the share of agriculture in total civilian employment at 5.7 per cent in 1988. Due to a statistical revision in the mid-1980s, this figure is not comparable with those given in the footnote above.
encourage the cultivation of wheat, and to favour the selection as well as the acquisition of domestic quality seed. Moreover, the Confederation is required to buy domestic quality wheat, suited to milling, "at a price which allows cultivation".  

383. Other main policy objectives, as established by the Constitution or the Federal Law on Agriculture of 1951, include the supply of the population, at favourable prices, with healthy food products of high quality; the protection and cultivation of the soil, the countryside and the ecological system; the preservation of family farms in a traditional agricultural environment; and income policy considerations.

384. The Federal Law on Agriculture lays the ground for Switzerland's current policy régimes in agriculture. The Law requires policy makers to ensure that agricultural prices, for products of good quality, cover the median production costs of efficient holdings. Other sectors and the economic situation of other segments of the population "shall be taken into account" (Article 29). Basic policy objectives are to be achieved mainly through "adequate" price differentials between individual products and sectors. To this effect, Article 31 of the Law enables the Federal Council to fix prices.

385. Agricultural interests appear to enjoy considerable backing in the Swiss political system. The agricultural lobby is considered to be the best-organised interest group in Parliament. While there are 31 farmers among the 200 National Councillors and the 46 State Councillors, a total of 110 Parliamentarians are members of the so-called agricultural club, an informal group to discuss and prepare agricultural issues. In the second chamber of parliament, the Council of States, small cantons with a strong agricultural background have a disproportionate influence on decision making - in terms of their population size - as compared with relatively large agglomerations such as the Cantons of Zürich, Geneva or the half-

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6 In addition, Article 23bis puts the Confederation in charge of ensuring the existence of national mills and, at the same time, of safeguarding the interests of the consumers of flour and bread. The tariff revenues on wheat shall be used to cover the expenditure on supplying the country with cereals.

7 See Aargauer Tagblatt, 18 April 1991.

8 According to Aargauer Tagblatt, op.cit.
Canton of Basel-Stadt. One vote in the half-Canton of Appenzell-Innerrhoden carries as much weight as 38 votes in Zürich.9

386. While policy competence in the sphere of agriculture is in principle conferred on the Confederation, neither the Constitution nor the Agricultural Law of 1951 prevent the cantons or municipalities from taking additional measures if these are consistent with federal law. In a number of cases, cantonal or local authorities act within the framework of federal policy schemes and with support from the federal budget. Measures taken in this context include land improvement, professional training, advisory services, and quality and quantity controls.10 According to the Swiss Government, annual expenditure on agriculture at the cantonal or communal level is approximately Sw F 500 million or about one-fifth of total public expenditure for this purpose.

387. Swiss law does not establish a comprehensive definition and delimitation of the agricultural sector. Rather, in defining agricultural activities and, thus, making them subject to the above objectives, the Swiss authorities have adopted a pragmatic approach. For example, definitions by the EC are usually followed. This may have contributed to including areas such as fresh flowers and wine, as distinct, for example, from forestry products.

388. Chart V.1 provides an overview of the contribution of major sectors to Swiss agricultural production.

9 The same applies to obligatory referenda, requiring a majority of the people and the cantons.

10 For example, in mountain areas, the Confederation partly reimburses subsidies granted by the cantons for slaughtering cattle of inferior quality.
Chart V.1
Agricultural production in Switzerland by main product categories, 1986-88
Percentage

Source: Secrétariat des paysans suisses (1988), Statistiques et evaluations, Brugg.

389. Swiss agriculture has been granted high levels of protection, mainly in the form of price support. As a result, domestic prices are considerably higher than import prices. For main categories such as pigmeat, beef, milk and common wheat, Swiss producer prices are 1¼ to 3 times as high as EC prices (Table V.1). Internal support policies are flanked by a variety of border measures, such as high tariffs, tariff supplements, variable levies, quantitative restrictions, requirements to take over domestic production in proportion to imports and, in some cases,
export subsidies. Supply control policies serve to contain the expansionary impact of these policies on production.

390. Estimates of Producer Subsidy Equivalents (PSE) provide an indication of the scope of policy transfers to the farming sector, whether through internal support (subsidies) or border protection. As shown in Table V.2, large livestock sectors, in particular milk and beef and veal, account for the lion's share of support, reflecting the contribution of livestock products - close to three-quarters - to total agricultural production.

391. Percentage PSEs, in terms of producer receipts, indicate the intensity of support for the sector as a whole or for individual product categories. With the sole exception of pigmeat, recent OECD estimates for Switzerland's major farm products were in the order of 80 per cent and above; assistance thus accounted for at least four-fifths of total producer income. Switzerland's current policy régime ranks among the most protective and expensive in the OECD area.

392. The costs of agricultural policy are largely borne by consumers, who are prevented from buying the relevant products at lower world market prices. For 1990, the OECD estimated these costs at some Sw F 3.5 billion, corresponding to a consumption tax of 55 per cent. This is about 1½ times the OECD average. The remaining 20 per cent of total assistance was borne directly by Swiss taxpayers. On average, annual support per full time farmer, whether by consumers or taxpayers, was in the order of Sw F 80,000.

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11 Under its Protocol of Accession to the GATT, Switzerland has reserved its position as to the application of Article XI of the General Agreement. Accordingly, Switzerland may continue to implement import restrictions on the basis of its existing national legislation. Regular reviews of the measures taken are conducted under the Protocol (Chapter II).

12 Financial transfers enter PSE estimates with the actual value of expenditure. Any countervailing effects on farm incomes resulting from higher domestic prices of non-agricultural inputs, for example due to more stringent standards or a lack of competition, are not taken into account.

The implicit transfer from border measures is estimated on basis of the price differential between domestic and world markets. It need to be noted, however, that the latter are also affected by trade measures, such as export restitutions, of larger participants in world trade and by temporary factors (climate etc.).

Also, PSE values do not reflect non-market effects associated with agricultural activities, for example their contribution to food security or any positive and negative impact on the environment (landscape, soil, water).

Therefore, inferences from the above results can only be tentative. This applies particularly to year-to-year changes in the PSEs.

13 The above qualifications regarding the interpretation of PSEs also apply to these estimates.
393. These estimates reflect the dampening price effect of imports which, owing to Switzerland's position as a net importer, allow for price averaging between external and internal supplies. Moreover, the above PSEs only capture about four-fifths of the total value of agricultural production; some other protected areas, such as fresh flowers and wine, are not included (see Sections V:2(iv)(d) and V:2(v)(b) below).

394. In recent years, direct payments to producers and direct production controls have gained in importance. They have contributed to keeping overall self-sufficiency ratios in the vicinity of 65 per cent since the mid 1980s, an increase of almost 10 percentage points compared to the 1960s. Yet there are notable differences in self-sufficiency between product areas. For example, ratios of less than 50 per cent for sugar, poultry or eggs contrast with over 140 per cent for cheese (Chart V.2).

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14 In 1990, the contribution of direct payments to total PSE was in the order of 8 per cent or Sw F 570 million. Due to conceptual differences, this figure is deviates considerably from those underlying Chart V.3 (see below).

15 Including meat production on the basis of imported fodder.
Chart V.2

Percentage

Grain                        Potatoes
Sugar                        Vegetables
Fruit                        Liquid milk
Cheese
Butter                       Beef
Veal                         Pigment
Poultry                      Eggs & egg products

Source: Secrétariat des paysans suisses (1981 and 1990), Statistiques et evaluations, Brugg.

395. Direct payments are often granted with the aim of offsetting locational disadvantages of farming in mountain areas. More than half of current payments are destined for such purposes and thus also serve, at least implicitly, as instruments of regional policy (Chart V.3).

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16 For example, acreage subsidies for producing bread grain are granted as follows: (i) extended intermediate zone: Sw F 225 per hectare; (ii) intermediate zone: Sw F 500; (iii) sub-alpine hill zone: Sw F 720; (iv) sloping land outside mountain regions: Sw F 800; (v) lower mountain regions: Sw F 950; (vi) other mountain regions: Sw F 1,150.
Support for cattle keeping in mountain areas is scaled in five groups. Annual allowances per cattle, limited to 15 head per holding, range between Sw F 180 in the sub-alpine hill zone and Sw F 1000 in the highest mountain areas. Total public expenditure on this purpose amounted to Sw F 240 million in 1990 (Chart V.3).
Certain payments displayed in Chart V.3 have not been included in the PSE estimates, for example family allowances for small farmers and farm workers and bonuses for slaughtering and for not making silage.
396. The organization and administration of agricultural markets is often assigned to semi-official bodies (Section IV:2(x)). Producer, trader and, in some cases, consumer interests are represented in the relevant decision-making committees.

397. Large portions of retail sales of food products are in the hands of a few companies. The leading company (Migros) accounts for 22 per cent of all domestic sales; Coop, ranking next, represents an additional 16 per cent.\(^{17}\) It has been argued that the intensity of competition among

\(^{17}\)Migros' share in total retail sales in Switzerland was in the order of 16 per cent in 1990. (Neue Zürcher Zeitung, 22 February 1991). The above share of Coop was estimated by the GATT Secretariat.
retailers is relatively low, for example when compared with Germany. A host of regulations is said to affect locational, building, and employment decisions and to impede market entry (Section IV:4(i)(d)).

(iii) Livestock products

(a) Dairy

398. More than half of all Swiss farms produce milk. With a share of close to one-third in total agricultural output, dairy is by far the single most important agricultural sector.

399. Overall foreign trade in dairy products is in surplus. However, there are wide differences among individual categories. For example, while there are virtually no butter exports, Switzerland's annual exports of cheese are in the order of 60,000 tonnes (out of 130,000 tonnes of domestic production). Cheese imports have remained virtually stable at some 25,000 tonnes over recent years, whereas butter imports dropped from 12,000 tonnes in 1987 to 4,000 tonnes in 1990 (Table V.3). The EC has been accorded, under certain conditions, a target share of not less than 20 per cent in total butter imports.

400. Milk and milk products are subject to a large variety of policy measures, including

- high guarantee prices for milk deliveries;
- tight import quotas on fresh milk;
- tariff protection ranging up to Sw F 140 (per 100 kg) on certain cream categories and, in some cases, additional charges (price supplements) of up to Sw F 1,300 on cream;

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18 See R. L. Frey, op.cit.

19 During the same period, domestic butter production increased by 3,000 tonnes to reach 37,000 tonnes in 1990.

20 Switzerland entered into this commitment ("to the extent that quality, price and availability of the product permit") in the context of the Kennedy Round.

21 At present, guarantee prices are set at Sw F 1.07 per kg, up from Sw F 0.97 in early 1988. According to OECD estimates, close to 90 per cent of total support for dairy production is granted in the form of price support.

22 Imports are limited to supplies from free zones next to Geneva.
minimum import prices, price supplements, variable levies and export subsidies for cheese (Chapter IV);

- a quasi-monopoly for trade in major cheese varieties and high subsidies for disposing of cheese;

- State trading for managing the butter market, including the granting of subsidies for storing and disposing of surpluses (Section IV:2(x));

- requirements to purchase domestic production in proportion to import quantities ("prise-en-charge" system) for whole milk powder; and

- a system of farm-specific production quotas, levies on milk deliveries (4 centimes per kilogramme) and a specific tax on over quota supplies (85 per cent of the basic milk price).

401. The Central Union of Swiss Milk Producers (Union des producteurs suisse de lait) operates as a parent organisation to a variety of associations of producers, processors and traders in the dairy sector. The Union has the legal status of a cooperative; its functions include managing the quota régimes for various dairy products as well as rendering counselling and public promotion services.

402. The quota system on milk deliveries has been modified several times since its introduction in 1977 (farms in mountain areas have been included since 1981). It has contributed to stabilizing deliveries in the order of 3 million tonnes per year (3.074 million in 1989/90 as against 3.016 million in 1982/83). The system appears rather rigid, quota entitlements are in principle tied to the farm area and not transferable.

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23 The Swiss Cheese Union (USF) serves as a central organisation to associations of milk and cheese producers, and traders. The entire production of Emmenthal, Gruyère and Sbrinz, with the exception of local sales, is to be sold to the Union at fixed prices (Section IV:2(x)). The Union is also in charge of administering the export régimes for these products, including the granting of subsidies and, for certain destinations, ensuring compliance with minimum prices (Section IV:3(ii) and (v)). In the marketing year 1989/90, some Sw F 340 million was spent on subsidizing exports.

24 In the marketing year 1988/89, subsidies for disposal reached Sw F 322.5 million. Of this, three fifths were spent on price reductions for table butter.

25 Larger producers have to pay an additional charge. It is set at 5 centimes per kilogramme for deliveries between 80,000 and 200,000 kg and at 10 centimes for deliveries above that range.

In addition, there are premiums for producers who refrain from marketing milk (between Sw F 500 and 1,820 per cow, depending on the region and number of cows).
without the land. The realisation of economies of scale in producing milk thus depends, barring certain exceptions, on renting or buying additional land. Of course, this provision is liable to affect land prices and, hence, production costs of farming.

403. Overall, Sw F 1,040 million was spent under the dairy account of the Confederation between 1 November 1988 and 31 October 1989. Of this, Sw F 535 million was used for disposing of cheese and Sw F 333 million for disposing of butter (including export subsidies for cheese and special sales measures). In the case of resolidified butter, subsidies varied between Sw F 10.60 and 13.50 per kg, as compared with a retail price of Sw F 13.20 (per kg, in tins of 450 g). The required funds came mainly from the general budget (70 per cent), an additional 25 per cent was raised by way of import charges and price supplements, and the rest was borne by the producers (levies).

404. Further measures affecting milk substitutes are designed to support marketing of Swiss dairy products and vegetable fats. For example, all imports of oilseeds and edible oils and fats are regulated by the Swiss Feed Grain and Fodder Cooperative (CCF; Section IV:2(x)); imports by private traders are conditional on the payment of price supplements set, since July 1986, at Sw F 205 per 100 kg of oil or fat. However, despite these measures and despite high subsidization of domestic butter production, the price gap between butter and butter substitutes has considerably widened over the last decade. In parallel, domestic butter consumption fell by 11 per cent between 1979/80 and 1988/90. A change in consumer preferences towards low-fat products may also have contributed to this development.

405. Of course, due to the interdependence of markets, milk production is also affected by measures in related sectors, such as fodder and beef (see below).

26 Within a radius of 10 km, producers are allowed to merge quotas and to concentrate production on one or two farms.

27 As for choice butter, subsidies amounted to Sw F 6 (per kg) while the retail price was set at Sw F 19 (per kg, in packages of 200 g).

28 The supplements are on top of the basic tariff rates which range between Sw F 10 (soyabeans) and Sw F 50 (margarines) per 100 kg.

29 At present, the retail sales price of high quality butter is set at Sw F 16.55 per kg (centrally fixed for the whole country). Nevertheless, there is loss of Sw F 8.35 per kg which is offset by federal subsidies for BUTYRA.

30 The share of butter in household consumption of all oils and fats declined from 39 per cent in 1987 to 35 per cent in 1989.
406. In 1990, the Cartel Commission opened an investigation into the dairy sector. Issues at stake were alleged distortions of competition between private milk processors and the large dairy associations which, at the same time, operate as (i) sectoral federations, (ii) responsible bodies for policy implementation and (iii) milk processors. On their part, the associations have complained about the market power of large distributors which may allegedly manage to circumvent the established régime. 31

407. In June 1991, the Federal Department of the Public Economy decided to no longer prescribe retail prices for milk; producer prices remained unaffected. Reportedly, the large milk distributors have meanwhile agreed in principle on a private price arrangement.

408. Hormonal production promoters, such as BST, have not yet been cleared for use in Switzerland. However, the Swiss authorities have indicated that the final decision by the EC, whether an approval or a continued ban, would be of major importance. 32

(b) Meat

409. Switzerland is almost self-sufficient in the major meat categories (veal, beef, pigmeat). Support for producers is mainly provided by border restrictions. 33 They are frequently adjusted in order to keep domestic prices within a range set by the Federal Council, based on proposals by the Swiss Cooperative for Slaughter Cattle and Meat (Section IV:2(x)).

410. Intensities of protection for beef and veal are largely in line with other large sectors, with PSEs exceeding 80 per cent between 1988 and 1990. Pigmeat is the only sector to deviate from this pattern; subsidy equivalents are in the order of 50 per cent (44 per cent in 1990; Table V.2).

411. In the event of production surpluses, markets are cleared by way of a reserve fund sourced from contributions by the traders. Their contractual obligation to pay into this fund is a precondition to their being

31 See Kartellkommission: Jahresbericht 1990, pp.7.

32 BST is a biotechnology-based hormone which reportedly increases a cow's milk production up to 25 per cent. The EC has suspended its final decision on approval until 31 December 1991.

33 While self-sufficiency in pigmeat was traditionally high - close to 100 per cent over the past two decades - beef and veal have displayed a considerable increase since the late 1960s, in the case of beef from 74 per cent in 1964/69 up to 88 per cent in 1987/88 (Chart V.2).
authorized to import. Payments fixed by the Federal Department of the Public Economy range between Sw F 20 per 100 kg (gross) for sheep and Sw F 85 for quality cattle (for slaughter). 34

412. In 1989, total subsidies for breeding and dairy cattle amounted to Sw F 332 million. Of this, 72 per cent was spent to support cattle keeping in mountain areas (Chart V.3), 17 per cent to promote sales in Switzerland, and the remainder to subsidise exports. These export subsidies are granted, up to a fixed maximum per head of stock, in order to match prices on traditional foreign markets. About 90 per cent of Switzerland's exports of breeding cattle is destined for Italy.

413. Since the early 1980s, a range of measures has been taken with a view to containing and directing production, for example by fixing stock maximums for farms and submitting shed building to authorization. The relevant provisions of Article 19a of the Law on Agriculture entered into force in January 1980; however, penalties on farms exceeding the ceilings have been waived until the end of 1991.

414. Sheepmeat and goatmeat imports are subject to a "prise-en-charge" system and, in this context, to the lodging of an import deposit (Chapter IV). Moreover, as for cattle, breeding pigs and horses, subsidies are granted for raising sheep and goats in disadvantaged areas.

415. Swiss hygiene requirements for slaughterhouses are in line with the EC rules. Switzerland normally accepts approval of third-country establishments by foreign veterinary services; 139 establishments in the United States are currently approved for exports (according to information by the Swiss Government).

416. Since 1957, the use of hormones as growth promoters has been prohibited in Switzerland. Imports must be free of residues.

(c) Eggs

417. Eggs in shell enter under a "prise-en-charge" system. Importers are required to purchase a certain proportion of domestic production, usually close to half of their imports. 35 In addition, the issuance of import permits has been made subject to payments into a "price equalisation fund" after the footnotes:

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34 Base tariff rates for slaughter cattle amount to Sw F 10 per animal.

35 The "prise-en-charge" requirement is confined to specified small farms with a diversified product structure. It is estimated that these farms account for one quarter of (Footnote Continued)
for eggs and egg products. It serves to cover marketing costs of domestic production.

418. Eggs for sale must be classified in weight categories; imports are required to indicate their foreign origin.

419. Domestic production is subject to certain restrictions, limiting the number of poultry per establishment and the construction of new sheds. However, there are at present no penalties on non-compliance (see Section (b) above).

(iv) Crops and other vegetable products

(a) Grains

420. Only one quarter of Switzerland's agricultural area is used for growing crops. On most of the area, rough forage is produced.

421. Protection for the bread grain sector rests mainly on the trading monopoly of the Federal Cereals Administration. It buys the entire domestic grain production at guaranteed prices. These are set annually by the Federal Council at levels related to average production costs, with variations by type and quality.36 Farmers in disadvantaged areas receive an additional premium per hectare, up to Sw F 1,150 in mountain zones.37 Total subsidies by the Cereals Administration amounted to Sw F 65 million in 1989. The funds were used for financing the disposal of low-quality grain (50 per cent), acreage subsidies (30 per cent) and price reductions.

422. Switzerland imported 235,000 tonnes of bread grain in 1989, down from 360,000 tonnes in 1987. This fall in imports reflects the development of domestic production, from 480,000 tonnes in 1987 to 570,000 tonnes in 1989 (590,000 tonnes in 1990). In 1990, a guarantee threshold of 450,000 tonnes was introduced for the first time. A levy (co-responsibility tax) on total domestic production. Of course, as noted by the OECD, any such provision is likely to influence pricing and supply behaviour far beyond the range of the direct beneficiaries. (OECD (1990), National Policies and Agricultural Trade, Paris).

36 Under the Federal Law on Bread Grain (Loi fédérale sur l'approvisionnement du pays en blé) of 20 March 1959, the Federal Council fixes prices, “after consultations with the parties concerned”, on the basis of the average production costs of holdings which are not located in regions with difficult conditions for production. The prices shall ensure the cultivation of bread grain and provide for adequate support (Article 10).

The “parties concerned” include grain producers, millers, processors, distributors, wholesalers, retailers and consumers.

37 In total, Sw F 21 million was spent on supporting the production of bread grain in disadvantaged areas in 1990.
excess production is designed to shift the costs of disposal onto the producers. According to the Swiss authorities, the measures resulted in an average price reduction (producer prices) for cereals of 7 per cent in 1990. 38

423. Imports are subject to a licensing system, administered by the Swiss Feed Grain and Fodder Cooperative. According to the Swiss Government, the issuance of licences is virtually automatic. The Swiss authorities have pointed out that at least 15 per cent of the soft wheat consumption of about 450,000 tonnes is imported for reasons of bread quality and foreign economic policy requirements. Due to climatic factors and quality aspects, demand for durum wheat (some 100,000 tonnes per annum) is entirely covered by foreign supplies. In addition, Switzerland imports some 70,000 tonnes of maize, barley and oats for human consumption.

424. Tariffs are set at Sw F 28 per 100 kg of common wheat. They are complemented with price supplements and import charges. Revenues from these price supplements (including feed grain) amounted to some Sw F 90 million in 1990 as against Sw F 408 million in 1987. This drop reflects the recent increase in self efficiency.

425. In 1989, domestic production of feed grains amounted to 729,000 tonnes. In addition, an "overproduction" of some 111,000 tonnes of bread grain was used for feeding purposes. Given a total domestic demand of feed grains in the order of 840,000 tonnes, the self-sufficiency ratio stood at 71 per cent, up from 51 per cent in 1985. In 1990, self sufficiency reached 87 per cent. 41

38 For 1991, the levy was provisionally set at Sw F 10 per 100 kg. Excess supplies are sold as feed grain.


40 Notification of Switzerland pursuant to Article XVI.1 of the General Agreement (L/6630/Add.11 of 6 February 1991).

The OECD assimilates the above 15 per cent-rule and the measures applied in this context with import restrictions. Accordingly, the current régime "corresponds in effect to an import quota system." (OECD (1990), National Policies..., op.cit., p.39).

41 In January 1991, the Federal Council suggested, in a message to Parliament, restricting cereals production to the annual average reached between 1987 and 1989 (1,150,000 tonnes). Given a self sufficiency of 85 per cent in bread grains, equaling 380,000 tonnes, this ceiling would correspond to a production of feed grains in the order of 770,000 tonnes (including denatured bread grain). These are some 80 per cent of domestic consumption in 1990.
426. The Swiss Feed Grain and Fodder Cooperative (Société coopérative suisse des céréales et matières fourragères; CCF) has a monopoly for importing feedingstuff. The Cooperative administers the import quotas for this sector - they were first introduced in the 1930s - and allocates individual quota shares among its members. Price supplements are levied and regularly adjusted so as to bridge the price differential to internal feed prices. At present, imports under some 100 tariff lines are subject to such supplements when destined for animal feed (for example feed grain, straw, fish- and meat-meal).

427. A system of premiums per hectare is also in place, varying with farm size. Additional bonuses are granted in regions with difficult conditions for farming, these totalled Sw F 41 million in 1990.

428. National reserves of bread grain and feed grain are maintained for strategic purposes. A basic reserve of 100,000 tonnes of bread grain is kept. Half is stored by the Confederation. The millers have to store, at their own expense, the other half which, however, remains public property. Millers not complying with these requirements are subject to a compensatory fee. Moreover, millers and traders may be ordered by the Federal Council to keep additional reserves. At present, these amount to 360,000 tonnes. They are financed out of an "equalisation fund" (fonds de garantie), sourced from an import charge (Sw F 4.50 per 100 kg) and a tax on soft wheat (Sw F 6.70 per 100 kg) to be paid by the millers. Durum wheat is subject to an import charge of Sw F 3 (per 100 kg).

429. These charges are varied over time in order to ensure financing of the national reserves. Hence, their actual amount is positively related to the self-sufficiency ratio.

42 As from 1 October 1990, the supplements were set at Sw F 250 per tonne of wheat, Sw F 240 for barley, Sw F 200 for oats and Sw F 18 for maize. This represented an increase between 2 per cent (maize) and 10 per cent (wheat) over the preceding levels.

43 There is also price supplement on bread grain, in view of the by-products resulting from processing. At present, it is set at Sw F 0.60 (common wheat and rye) or Sw F 1.60 (durum wheat) per 100 kg.

44 The operation of mills is subject to approval by the Federal Cereals Administration. The approval may be made subject to the conclusion of a contract that provides for the establishment of such additional stocks of grain if so demanded by the Federal Council in view of the international situation. Also, the traders may be required to keep parts of these stocks.

45 The corresponding charge on feed grain amounts to Sw F 25 (per 100 kg).
(b) Sugar

430. Sugar imports are free of quantitative restrictions. However, protection for the sector is considerable and multi-layered. Importers face tariffs of Sw F 22 per 100 kg, corresponding to an ad valorem equivalent of 50 per cent on beet sugar in 1991 (January to June). In addition, there are import taxes (Sw F 23.10), and an obligatory contribution to a national reserve fund (Sw F 35) for beet and cane sugar. In 1989, overall ad valorem incidences of border measures thus exceeded 100 per cent on both categories.

431. Domestic sugar growing also benefits from price guarantees. Since 1983, supply has been limited to 850,000 tonnes of sugar beet. The guarantee prices are set annually by the Federal Council. Within these limits, the two Swiss sugar refineries conclude individual delivery contracts with farmers. Quota shares are transferable between holdings, if approved by the refineries.

432. Domestic production is normally not profitable, despite the import barriers noted above. Losses of the refineries are offset via a system of federal subsidies, proceeds from the import charges, and contributions from the farmers.

(c) Fruit and vegetables

433. A variety of fruit and vegetables are subject to a "three-phase" system. Depending on the availability of domestic supplies, imports are either (i) unrestricted, (ii) restricted, or (iii) prohibited. As a matter of principle, domestic production is given priority to any imports, irrespective of their origin. Shifts from one phase to another are decided upon by the federal authorities, based on propositions by consultative bodies.

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46 Cane sugar, mainly supplied by developing countries, enters duty free.

47 Self-sufficiency ratios have almost doubled since the late 1960s to exceed 40 per cent in 1987/89 (Chart V.2).

48 If profits in previous year are insufficient to cover the refineries' losses, the Confederation grants an initial subsidy of not more than Sw F 10 million. Additional tranches of subsidies of Sw F 1.5 million are conditional, each, on the parallel imposition of an import charge of Sw F 3.30 (per 100 kg), and a contribution by sugar planters of Sw F 0.06 (per 100 kg of beet). In 1989/90, 7 tranches were accorded, leading in turn to an import charge of Sw F 23.10 and a farmers' contribution of Sw F 0.42 per 100 kg of sugar beet.

49 During the first phase, traders are not allowed to store fruit and vegetables for subsequent sales.
committees. Embassies in Bern are informed eight days in advance of any changes. Imports for processing are in general exempted. Chart V.4 provides an overview of the operation of the system since 1987.

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50 The committee in the fruit sector, as an example, is composed of representatives of domestic producers (one-third of all members), private traders, trading cooperatives, processing industries, consumers, and exporters.
Chart V.4
Imports of main vegetable categories under the "three phase" system, 1987-90

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Source: Government of Switzerland.
434. In addition, there is some financial support for production and trade, for example for exports to traditional markets (cherries to the EC). Such subsidies totalled Sw F 42 million in 1988/89.

435. Three safeguard actions hitherto taken by Switzerland under Article XIX of the GATT concerned fruit products; peaches in 1979, and table grapes in 1979 and 1982. These two categories are almost the only temperate-zone fruit products not subject to the three-phase system but to bound tariffs.

(d) Fresh flowers

436. Prices for plants and flowers in Switzerland are estimated to exceed the average EC level by more than 130 per cent (1988). High import barriers, particularly during the summer, appear to play a considerable rôle in this context. From 1 May to 25 October, Switzerland operates a quota régime. For the rest of the year, imports are unrestricted. Tariffs for most categories are set at Sw F 25 per 100 kg (gross), with a peak rate of Sw F 127.50 on tulips. Also, out of season, all imports of fresh flowers are excluded from preferential treatment, whether under the free trade agreement with the EC, the Stockholm Convention or the GSP scheme.

437. In 1989, Switzerland imported fresh flowers worth Sw F 190 million. To these, the EC member States are shown in the statistics to have contributed more than four-fifths, headed by the Netherlands (three-fifths of total imports). Israel was the single largest supplier among developing countries with a share of 6 per cent.

438. In general, imports during the quota season are fixed on a monthly basis. A basic quota share is allocated among importers according to their imports in the previous years; the granting of additional shares is made subject to the marketing of certain quantities of domestic production. According to the Swiss authorities, total quota volumes are usually


52 During the quota season (May to October), roses and carnations from developing countries, except for Romania and Bulgaria, and from EFTA countries enter duty free. Imports of these categories from the EC are subject to the regular tariffs of Sw F 25 (carnations) or Sw F 12.50 per 100 kg. All other deliveries from the EC/EFTA area are duty free; GSP beneficiaries are accorded reduced tariffs of Sw F 20 and Sw F 12.50 (least-developed countries).

53 However, certain deliveries from developing countries are channelled through the Dutch market. In Switzerland’s import statistics they are thus not attributed to the originating country. The “true” import share of developing countries is estimated by the Swiss authorities at one-fifth (by weight).
established following the advice of a consultative committee in which importers, wholesalers, retailers and producers have a say.\textsuperscript{54}

439. The Swiss authorities concede that basic objectives of the country's agricultural policy - supply security, protection of the environment, income policy considerations and the like - do not apply in full to this sector. It is held, however, that aspects of supply security are involved since horticultural establishments provide a basis for seed and vegetable production in times of crisis. Also, for multi-product farms, flower production is viewed as a complementary activity with considerable income effects.

(v) Beverages

(a) Spirits

440. Alcoholic beverages, like many other food products, are subject to a host of State interventions, affecting production, trade and internal marketing. The Federal Constitution requires Swiss legislation on spirits to discourage consumption, production and importation (Article 32bis(2)). Accordingly, there is, as an example, a State-trading monopoly for spirits; a licensing system for producing spirits (no licences are granted for distilling sugar, potatoes and cereals); and a monopoly tax (Chapter IV). The fiscal charges on spirits are among the highest in Europe.\textsuperscript{55} Sales prices for spirits must not be published and sales actions must not be announced. Also, advertisement for alcoholic beverages on radio and TV is prohibited (but not in cinemas).

441. The combined market share of the two leading retailers of spirits (Denner and Coop) is in the vicinity of 50 per cent. Imports account for some 30 per cent of the "official" market. However, according to estimates by the Swiss Customs Administration, similar quantities are imported directly by consumers.

\textsuperscript{54}In bilateral treaties, minimum import quantities have been fixed by country. While these quantities are to be taken into account during the allocation procedure, they have not proved a determining factor in recent years. (See Switzerland's nineteenth and twentieth annual reports under paragraph 4 of the Protocol of Accession (L/6101 of 22 December 1986)).

\textsuperscript{55}It is estimated that bottles of 0.7 to 1 litre of high-proof alcohol are subject to fiscal charges between Sw F 17 and Sw F 20. The corresponding charges in Germany are in the order of Sw F 6 to 7. According to Nachrichten für den Außenhandel, 2 April 1991.
(b) Wine

442. Grape growing in Switzerland is confined to areas which are specifically determined in a vineyard survey. Planting new vines in other areas is prohibited; in the "wine regions", a permission must be obtained. More than 60 per cent of domestic wine production is white wine.

443. Subsidies are granted for purposes such as vineyard renewal and the non-alcoholic use of grapes. They are financed out of a fund which is sourced from import charges on wine, must and grape juice.

444. According to the Swiss Government, producer prices for most wines are agreed upon between the interested parties, namely the wine growers, cellar owners and traders (consumers are not referred to in this context). The public authorities may table price recommendations.

445. A wide spectrum of trade measures serves to underpin the domestic price level. Total imports of wine in casks must not exceed 1.4 million hectolitres per year, divided into 23 country-, region- and quality-specific quotas (including individual EC member States and EFTA countries). Imports of white wine in bottles have been limited since the 1970s, introduced as a safeguard action under Article XIX of the GATT. At present, the annual import quota on white quality wines is set at 35,000 hectolitres (in exceptional circumstances, an extension of up to 10,000 hectolitres is possible). Bulk imports of white wine only serve to offset shortfalls in domestic production or to cater for industry purposes. Imports of red wine in bottles, while unrestricted, are subject to tariff supplements.

446. In 1990, total wine imports (mainly red wines) amounted to 1.71 million hectolitres, covering some 55 per cent of domestic consumption.

447. Import permits and quota entitlements are only accorded to established wine traders domiciled in the Swiss customs territory. The allocation procedure, in particular for newcomers, appears complicated and

56 See Switzerland's nineteenth and twentieth reports under Article 4 of the Protocol of Accession (L/6101 of 22 December 1986).

57 Import restrictions on wine in casks were first introduced in November 1933.

58 The supplements (Sw F 1 per litre) are levied on imports exceeding a threshold of 150,000 hectolitres per year, irrespective of their origin. They are on top of a base tariff of Sw F 0.50 per litre.
seems to hinder structural adjustment. Import permits are not transferable. The inherent rigidities of the system may have contributed to a declining number of importers, from 1,869 firms in 1933 to some 550 firms today (importers of wine in casks only). An investigation by the Cartel Commission in 1984 came to the conclusion that State intervention in the wine sector, though confined by law to protecting small producers, has resulted in a regulatory system that effectively covers the entire market.

448. A new Federal Decree on wine growing (Arrêté fédéral instituant des mesures en faveur de la viticulture), mainly containing measures of quality improvement and domestic supply management, was rejected by public referendum in April 1990. The Decree would have also established a system of regular auctions for the re-allocation of quota shares among importers. A new proposal, focusing exclusively on internal policies, is currently being prepared. The future import régime will be treated separately; the Federal Council envisages the conversion of current restrictions into tariffs as from 1 January 1992.

(c) Beer

449. The Swiss beer market has been controlled by a cartel of the breweries for more than five decades. Members of the so-called Convention of Brewers currently cater for two-thirds of domestic consumption. They had agreed to operate a system of minimum prices in retail trade, and mutually to respect their established distribution channels via restaurants. Under the Convention, breweries that violate such arrangements by attracting tied restaurants have been made subject to compensatory payments. A similar arrangement not to interfere in retail trade or to compete for distributors foundered in the early 1980s. Apparently, this was mainly due to the pressure of competing special brands, launched by important retailers, and advancing imports in retail

\[\textit{For details see Wilhelm Dietrich, "Grundsätze der Weinimportbeschränkung", Neue Zürcher Zeitung, 18 September 1990.}\]

\[\textit{According to Wilhelm Dietrich, op.cit.}\]

\[\textit{Publications de la commission suisse des cartels (1984), Les conditions de concurrence sur le marché romand des vins, Vol. 4.}\]

\[\textit{Observers argue that strong reservations by large wine importers who considered these provisions still too rigid have had considerable impact on the outcome of the referendum. (See Neue Zürcher Zeitung, 13/14 April 1991).}\]
trade. In June 1991, the brewer's association decided to relinquish the cartel as from 1992.

450. Total beer imports in 1990 amounted to Sw F 79.4 million, about twice their level a decade ago. They are subject to a complex tariff régime, including for deliveries from EC and other EFTA counties. EC breweries alone accounted for 90 per cent of the import market. Swiss beer exports were in the order of Sw F 7 million in 1990.

451. Barriers to entry into the restaurant market appear to be particularly high. In almost all cantons opening restaurants is subject to approval. As a rule, the competent authorities aim at maintaining specified ratios of restaurants per head of population in the individual communes. In the Canton of Aargau, public need for having additional restaurants is denied when there is already one per 250 inhabitants. (This appears to be the highest ratio among the cantons). In contrast, the Canton of Luzern proceeds on a ratio of 1 to 600. Such access barriers tend to operate in favour of established distribution channels. This may help to explain why the brewer's cartel has proved more resistant in the restaurant market than in retail trade.

(vi) Forestry products

452. Wood is not subject to any sector-specific trade policy objectives or instruments. As distinct from agricultural and food products, trade in

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64 For example, beer in glass bottles of less than 2 litres enters either under m.f.n. tariffs of Sw F 16 or preferential tariffs of Sw F 6 (per 100 kg) for most EC deliveries or between Sw F 18.10 and Sw F 19.65 (per hectolitre) for EFTA deliveries. The latter tariffs vary in accordance with the content of malt extract. Imports from developing countries are subject to the normal rates. Imports from Portugal are dutiable at Sw F 4.38 (per 100 kg). While the rates for EFTA deliveries already include tariff supplements and the beer tax, imports from all other sources are subject to supplements of Sw F 3.30 and a tax of Sw F 14.40 (per hectolitre). In addition, there are statistical fees and a turnover tax of Sw F 14 for imports from the EC and Sw F 15 for all other imports. (According to a constitutional requirement, the turnover tax on beer is raised as a specific tax; price differences (including tariffs) between different sources are thus reflected in different tax rates.) In 1990, ad valorem tariff equivalents ranged from 3.6 per cent (EFTA), to 6.6 per cent (EC), to 23 per cent (m.f.n. imports, including the tariff supplements). Domestic production is subject to a beer tax of Sw F 14.40 and a turnover tax of Sw F 14.40 per hectolitre (as from 1 July 1991).

65 Article 31ter of the Federal Constitution expressly authorizes the cantons to make the number of similar establishments contingent on public need "if the branch is threatened by excessive competition".

66 According to R. Senti, J. Baltensperger, op.cit.
453. Prime objectives of forestry policies by the Confederation, as stipulated by the Forestry Act of 1902, include the maintenance of the forest area of the country and the obligation to replace forests felled by new plantings. As a result, Swiss forests have expanded since the turn of the century; they currently cover 29 per cent of the total land area. Three-quarters of the forests are in public ownership, mostly by the municipalities. Conifers (spruce, larch, silver firs, pines) account for close to three quarters of the growing stock. The sector employs a permanent workforce of 5,000, supported by many casual workers (some 4,000 on a full-time basis).

454. Switzerland's total wood consumption, including semi-manufactures, paper and cardboard, amounted to 7.7 million m³ in 1989. Of this, 4.5 million m³ was covered by domestic supplies.

455. Ad valorem tariff equivalents averaged some 4 per cent in 1988 (Table AV.10), with a peak of more than 20 per cent on wood pallets. This peak fits into a more general picture of tariff escalation, with ad valorem equivalents rising from 2 per cent on raw materials, to 4 per cent on semi-manufactures, and to 4.5 per cent on manufactures (simple averages).69

456. In recent years, domestic wood production appears to have suffered from a lack of stable workforce. It is reported that forest management and continued heavy investment in the sector have been kept afloat only by considerable federal and cantonal subsidies.70 In early 1990, the forestry

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67 A new Forest Law is currently under preparation.

68 The ad valorem equivalents on pallets amounted to 24 per cent in 1989 and 27¼ per cent in 1990.

69 Wooden manufactures comprise articles such as frames for paintings, cases, boxes, casks, tools and tool handles, and carpentry (windows and the like). Furniture is not included. The latter products (Tariff Study Category 17) were subject to tariff equivalents of 5.1 per cent in 1988 (simple average), with a peak rate of over 17 per cent on certain seats convertible into beds.

70 Union Bank of Switzerland, Economic Trends 1989/90, op.cit. In 1989, the Confederation spent more than Sw F 175 million on forestry. Half of this was devoted to reforestation and protection against avalanches. According to official estimates, in 1985 and 1986 total subsidies by the Confederation and the cantons for forestry projects, including specific measures against damages, amounted to one third of the market value of the wood produced. (Office fédéral des affaires économiques extérieures et Office fédéral des forêts et de la protection du paysage (1987), Le commerce extérieur suisse du bois et les conventions-cadre qui le régissent, Berne).
sector was hit by harsh storms, compounding the impact of longer-term environmental damages.\textsuperscript{71} Hence, domestic logs were in abundant supply.

457. Such difficulties have added to political pressures on the federal administration to provide relief, for example under the safeguard provision of the free trade agreements and Article XIX of the GATT. However, no such measures have been taken. Rather, the Federal Council has maintained that the problems of the affected industries, in terms of low profitability, were predominantly of a long term nature, for example reflecting high wage levels and natural difficulties in exploiting domestic supplies.\textsuperscript{72} It was also feared that import restrictions would undermine the competitive position of domestic user industries, via higher input prices, and could trigger retaliatory actions by trading partners. Further, any such initiative would tend to encourage a sequence of additional requests for support, with the risk of contravening basic objectives and principles of Switzerland's commercial policy.

458. However, possibly in response to policy pressures, a so-called "programme d'impulsion" (1986-91) was set up by the Confederation in order to study ways and means of marketing, processing and using Swiss wood and wood products. In addition, support is granted for vocational training activities. Disbursements during the period 1986 to 1990 totalled Sw F 13.2 million. The programme is due to expire by the end of 1991. In addition, restrictive product definitions in public procurement appear to have operated in favour of domestic wood production.

(vii) Fishery

459. Compared to agriculture, Switzerland's fishery sector is of minor importance, both in terms of employment and production. Some 600 persons are currently employed on a full time basis in fishing or fish-farming. Domestic production (some 4,000 tonnes) caters for 10 per cent of consumption. According to the Swiss authorities, public support is negligible. Imports are unrestricted; average tariffs are below 1 per cent (ad valorem equivalents in 1988; Table AV.7).

\textsuperscript{71} Close to 45 per cent of Swiss forests consist of damaged trees with leaf/needle losses of more than 11 per cent.

\textsuperscript{72} Office fédéral des affaires économiques extérieures, \textit{op.cit.}
(viii) **Prospects for agricultural policy reform**

460. There appears to be widespread consensus among policy makers in Switzerland that the present instruments of agricultural policy are no longer sustainable. A variety of reasons is mentioned in this context, including (i) high budgetary costs; (ii) the impact of intensive farming on the environment; (iii) negative trade policy effects and, correspondingly, reform requirements in the Uruguay Round; and (iv) the general objective of aligning domestic regulations and policy régimes more closely with those of the European Communities.

461. Also, Swiss consumers appear increasingly to evade policy-induced price burdens by purchasing abroad. Some 1.8 million people, that is more than one-quarter of the population, lives within 30 km from the borders. In the French and German speaking cantons, some 9 to 14 per cent of the population within this zone is estimated to buy abroad at least once a month, in the Canton of Ticino this share even exceeds one-quarter. In a representative sample, more than three-fifths pointed to prices as the prime reason for their buying in France, Germany, Italy or Austria. Purchases were found to focus mainly on meat, poultry and sausage.

462. According to the Swiss authorities, some policy instruments have isolated the farming sector from market trends and contributed to preserving inefficient production techniques, farm structures and product patterns. While not questioning the more fundamental objectives of national agricultural policies, such as supply security, environmental aspects and the like, it is held that conflicting goals, instruments and interests have made changes imperative.

463. The following principles for reform have been mentioned by the Swiss authorities in preparation for this report: (i) The price mechanism should increasingly be used as an instrument to influence production levels and patterns; (ii) social benefits associated with agricultural activities should, as far as possible and necessary, be compensated through direct payments; (iii) wherever direct production controls prove indispensable, they should be framed more flexibly. Border measures are still deemed necessary to ensure domestic production and to avoid the collapse of prices. Adequate import possibilities should be offered, and eventually

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73Up to 0.125 kg of butter, 0.5 kg of red meat and 2 litres of wine per person per trip may be imported duty free in border traffic. Other purchases are generally unrestricted.

74According to R. L. Frey, op.cit.
expanded, in line with international commitments. Export subsidies are to be reduced.

464. Ideas put forward for increasing the flexibility of policy régimes include making milk quotas tradable without direct government involvement and the replacement of bilateral quotas, as in the wine sector, either by global quotas or by tariff régimes. Grain production should be reduced by set-aside programmes, possibly coupled with early retirement schemes. Conversion into tariffs is considered for various import restrictions, including those on red wine, feed grain, edible oils and fats, eggs, poultry and horse meat, and fresh flowers.

465. Supporting policies, for example regional and educational policy initiatives, should lay the ground for additional income possibilities outside agriculture. Cooperation and specialisation between farms should be further encouraged. Regulations affecting sectors that are directly linked to agriculture, whether as suppliers or users, are to be reviewed as well.

466. The Swiss Government considers it necessary, as a general principle, to put more emphasis on the positive non-market functions of agriculture. In January 1991, the Federal Department of the Public Economy, authorized by the Federal Council, circulated a report on "Agriculture with Complementary Direct Payments" to the competent political and economic circles. They are requested to comment, as part of the legislative process, on the proposed extension of direct payments. Accordingly, a modification to the Law on Agriculture should provide a basis for (i) non-production related payments with predominant income policy objectives, and (ii) specific payments, on a contractual basis, for farming activities that take particular account of environmental requirements.

467. These payments are intended to complement and partly replace traditional price policy, as provided by Article 29 of the Law on Agriculture (see above). The Commission that had investigated the issue ("Commission Popp") expected public expenditure to rise, during an initial

75 However, according to the Swiss authorities, tariffication should not include existing fiscal duties, veterinary fees, taxes on alcohols and the charges for financing national reserves.

76 The Federal Council has proposed supplements to Article 31 of the Law (Section V:2(i)) that explicitly provide for such measures.
phase, by Sw F 100 to 150 million per year. This would be an increase of 10 to 15 per cent over current direct payments.  

468. At the time of writing, EFTA countries had agreed in the ongoing negotiations on a European Economic Area to reduce, as from 1 January 1993, their tariffs on a range of agricultural products of particular importance to the less developed regions of the EC. According to a Joint EC/EFTA Ministerial Declaration of 13 May 1991, EFTA members also undertook to implement the "acquis communautaire" in the veterinary and sanitary field to the maximum extent possible. Trading conditions for processed agricultural products should be facilitated. However, participants in the European Economic Area were allowed to maintain their established agricultural policies, subject to an "evolutionary clause" which should contribute to achieving a higher degree liberalisation within the EEA (Section II:5(ii)(c)).

469. As regards the longer term evolution of agricultural policies, the Swiss authorities point to developments in the European Communities. EC reforms are expected to have a determining influence on the other European countries, including Switzerland.  

(3) Industry

(i) Coal, petroleum, natural gas

470. There is no domestic production of coal, oil or natural gas in Switzerland. Imports of these products totalled Sw F 4.9 billion in 1990, with petroleum alone accounting for almost Sw F 4 billion. The major share of crude oil imports was supplied by Libya (45 per cent), followed by Norway and the United Kingdom (16 per cent each).

471. Gas mainly comes from the Netherlands and Norway, through the German grid. Imports in 1990 amounted to Sw F 559 million. A contract by Swissgas with the German Ruhrgas AG, concluded in 1987, will provide access

77 PSE estimates on total support for Swiss agriculture, including tax benefits and the price effects of border protection, amounted to Sw F 6,950 million in 1990. As already noted, these estimates cover some four-fifths of total production.

78 In this context, Switzerland has offered m.f.m. tariff reductions for more than 20 products, mainly fruit, vegetables and some processed products. (Situation in early July 1991).

to Soviet gas supplies. Coal imports are of minor importance, mostly for use in the non-metallic minerals industry (cement).

472. According to the International Energy Agency, Switzerland's basic policy approach in this area is market-oriented, with a certain emphasis on energy conservation and environmental protection. Measures include the expansion of railway capacity and the imposition of speed limits on highways (80 km/h) and motorways (120 km/h). Swiss emission standards for motor vehicles are among the most stringent in the IEA area. Since 1987, all new passenger cars with gasoline engines have to be equipped with catalytic converters.

473. The cantons and the local communities have a strong say in the energy sector. Most gas distributors are owned by the communes, which establish the user fees. Electricity utilities are also predominantly in public ownership; tariffs in most cantons are fixed autonomously by the boards of the companies.

474. Oil and coal prices are said to reflect world market developments. However, the Swiss Price Inspector has made the domestic oil markets subject to permanent price surveillance, in view of their oligopolistic structure. In recent years, the Price Inspector intervened several times in order to prompt oil companies to pass on to consumers the full tax difference between leaded and unleaded petrol (Sw F 0.08 per litre). In a preliminary investigation in 1990, the Cartel Commission found that reference price systems and related practices by the petrol importers constituted a tacit arrangement, liable to affect competition. Since the importers agreed to terminate these practices, the Commission refrained from launching an investigation (January 1991).

475. A variety of duties, surcharges and levies are imposed on oil, gas and coal imports (Section IV:2(iv)).

80 These standards appear to operate as barriers to private imports, thus bolstering the exclusive position of the companies' "official sales agents" in Switzerland (Section IV:4(i)(d)).


82 Preisüberwachung: Jahresbericht 1988, p. 16.

83 Preisüberwachung: Jahresbericht 1990, pp. 19.

84 For example, imports of unleaded petrol are subject to tariffs of Sw F 18.669, surcharges of Sw F 30, and statistical fees of Sw F 0.186 (per 100 litre). The turnover tax (Footnote Continued)
476. In September 1990, a public referendum approved a new Article to be inserted into the Swiss Constitution, conferring on the Confederation the competence to legislate on energy policies. A new energy law which is expected to come into force in 1995 will aim at promoting both new and renewable energies, and energy saving. Meanwhile, a Federal Decree on the Economic and Rational Utilization of Energy (Arrêté fédéral pour une utilisation économique et rationnelle de l'énergie) and two Ordinances in this area will serve as a legal basis. Under the Decree, the Federal Council is mandated, for example, (i) to require producers of installations and vehicles to indicate the specific energy consumption, on a comparable basis, and (ii) to specify, in consideration of international norms, homologation procedures for energy-intensive products. Installing electrical heaters is made subject to approval.

(ii) Ores and metals

477. M.f.n. sources account for about 5 per cent of Switzerland's imports of ores and metals. In general, tariff levels are moderate. Except for unwrought aluminium which was subject to an ad valorem tariff equivalent of close to 7 per cent (1988), most raw materials enter under very low tariffs (Table AV.12). The same applies to the bulk of semi-manufactures and manufactures; tariff escalation seemingly plays no significant rôle.

478. However, there appear to be tariff peaks. For certain bars and rods of iron and non-alloy steel (HS No. 7213.3110) ad valorem equivalents amounted to more than 20 per cent in 1989, and for certain grills of wire (HS No. 7314.2000) they exceeded 25 per cent. Yet these figures might be biased as they were established on the basis of very low levels of m.f.n., as against preferential imports (Section IV:2(i)). In fact, in 1990, ad valorem equivalents on the items concerned were down to 9.1 per cent and 2.4 per cent, respectively.

479. Metal scrap and residues are subject to export taxes and restrictions. Taxes on deliveries to the EC and to other EFTA countries will be lifted as from 1 January 1993. Export licensing is imposed on nickel waste and scrap.

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(Footnote Continued)

amounts to Sw F 5.84 (per 100 kg). The costs of compulsory stocks of petrol and coal are financed through import levies (taxe Carbura), set at Sw F 2.29 per 100 litre of petrol and Sw F 18 per tonne of coal.

85 Certain aluminium imports from Yugoslavia, Romania and Turkey are only eligible for reduced GSP preferences. This holds also for basic iron and steel products originating in Bulgaria and Romania and for certain copper deliveries from Yugoslavia.
480. The recognised need to maintain safety standards for installations and to ensure the operation of gas and water supplies appears to be an important factor behind widespread cartel arrangements in the sanitary-ware sector. They have been subject to two special investigations and several preliminary investigations by the Cartel Commission, under the old Cartel Act, since the late 1960s. The arrangements are geared to safeguard uniform distribution channels and market conditions from the producers via wholesale traders to the plumbers.

481. Many aspects of current practices are based on a recommendation by the Cartel Commission of 1973. The recommendation expressly allows for the possibility of exclusive supplies to qualified plumbers. It is said to have served as a model for producers of related articles as well as for the more important importers. "Outsiders" among wholesalers who supplied non-licensed plumbers and, without intermediaries, consumers were boycotted by producers and importers. Do-it-yourself markets were denied regular supplies since, from the viewpoint of established producers and traders, they could not secure workmanlike installations.

482. The arrangements have been underpinned by a variety of standards and guidelines which had been imposed to protect water quality, safety (for example of gas installations) and the like. In a recent report (1991), the Cartel Commission urged that standards and test procedures be limited to ensuring safety and not be used as access barriers. In this context, the Commission explicitly referred to Articles 13 and 23 of the free trade agreement with the EC which prohibit implementing or maintaining measures liable to restrict trade or competition (Section IV:4(i)(c)).

483. A series of recommendations by the Commission, developed in cooperation with the parties involved, have meanwhile been accepted by the latter and, accordingly, become legally effective. The large Swiss

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87 Pivotal actors in this context are two large Swiss producers (Gerberit Holding AG and Keramik Holding AG, Laufen), the Swiss Association of Fitting Producers (Verband schweizerischer Armaturenfabriken, URS), representing 11 manufacturers, the Swiss Association of Wholesale Traders in Sanitary Ware (Schweizerischer Grosshandelsverband der sanitären Branche, SGVS) and the Swiss Association of Plumbers (Schweizerischer Spenglermeister- und Installateurverband, SSIV).

Keramik Holding AG caters for some four-fifths of the Swiss market for sanitary ware (sinks, baths, closet-bowls, fittings and the like). Gerberit AG produces siphons, tubes and related products, representing up to two-thirds of the market. The association of wholesalers (SGVS) accounts for between two-thirds and nine-tenths of the total turnover in sanitary ware in Switzerland, varying by product.

producers are now required to supply all specialised dealers in sanitary ware whose annual turnover reaches at least Sw F 150,000 (new entrants are subject to special provisions). The exclusive supply system for fittings via wholesale dealers is to be abolished and plumbers will no longer be restricted to install deliveries solely by members of the wholesalers' association. Also, the wholesalers will be free in principle to provide for installations and to operate at the retail level. A specific discount system which had been agreed upon between the wholesalers and the plumbers is to be lifted within 30 months.

(iii) **Pulp, paper and paperboard**

484. In 1989, the Swiss paper industry, including printing, employed over 80,000 persons. Some 10 per cent are in enterprises of more than 500 employees.

485. Tariff protection rises from 2.4 per cent on paper pulp and paper waste to 4 per cent and above for paper and paper board and for manufactured articles thereof (simple averages of ad valorem tariff equivalents in 1988; Table AV.13).

486. The Cartel Commission has found some evidence of abusive marketing behaviour by wholesale traders in newsprint paper. However, the Commission notes that it lacks firm facts; a complainant, subject to strong dissuasion, requested that the investigation be terminated.

487. The domestic market for books is regulated by a cartel of the publishers and booksellers. Hence, even in the longer term the Swiss Price Inspector does not expect price developments in this sector to result from effective competition. The Cartel Commission has twice launched investigations into the cartel in the German speaking part of the country (1973 and 1982). The arrangement which ensures the application of uniform prices and sales conditions has been tolerated by the Commission in view of its perceived social, cultural and economic effects. More recently, the Price Inspector investigated the use of standard exchange rate tables, with varying rates by book price, which were used by traders independent of the current exchange rate situation. An agreement was reached on certain automatic adjustment mechanisms.

488. Books and newspapers are exempt from turnover tax.


(iv) Textiles and clothing

489. As in many other developed countries, the textile and clothing industry in Switzerland has experienced strong pressures over the last decades. In 1989, employment in the textile industry amounted to 32,000 people; clothing registered 28,000 employees. Combined, both industries represented some 5 per cent of total employment in Swiss manufacturing — less than half the share in the early 1970s. Between 1973 and 1988, the number of establishments sharply declined, by 40 per cent in the textiles industry and by 58 per cent in clothing.

490. Most enterprises are relatively small. In the textiles sector, the average number of workers per enterprise was 72 in 1988, down from 78 in 1973. The average size of clothing enterprises remained stable at about 45 workers.

491. In 1989, clothing imports worth more than Sw F 4.6 billion compared with exports of Sw F 830 million. In contrast, textiles trade continued to display a considerable surplus, with exports amounting to Sw F 3.5 billion and imports to Sw F 2.5 billion.

492. Tariff escalation is evident. While ad valorem tariff equivalents for fibres amounted to 1.6 per cent, they were 4.4 per cent for yarns, 7 per cent for fabrics and close to 9 per cent for made-up articles and for clothing products (simple averages in 1988). These figures mask a considerable dispersion of individual ad valorem equivalents; on a range of items they exceeded by far 20 per cent.

493. The Swiss Government views its policy stance in the textiles and clothing sector as a pertinent example for a market-oriented approach towards structural change. It is held that, in principle, there has been no policy interference in industrial decision-making, neither via internal measures nor border restrictions. For example, there are no sector-specific subsidy schemes. Financial support for the Swiss textiles and clothing sector is predominantly granted via policies promoting research and development. Assistance (training programmes) is available to persons affected by industrial restructuring.

494. Adjustment strategies by industry appear to have mainly aimed at developing specialized production patterns, for example by focusing on high-quality yarns and fabrics, industrial textiles, luxury clothing and high-quality silk products. In addition, labour saving investment has contributed to enhancing efficiency and flexibility. The specialization process was accompanied by increased export orientation. Between 1973 and 1988, export shares rose from 54 to 77\% per cent of textile production and from 16 to 35 per cent of clothing production.
495. Outward processing has gained in importance as a complement to domestic production. In 1988, processing exports totalled Sw F 37.7 million, up from some Sw F 24 million in 1987. Most processing was done in Hungary and Yugoslavia. However, products processed in these countries on the basis of EFTA-originating material are currently not eligible for free entry into the EC. According to estimates by the Swiss administration, EC tariffs on the value added abroad, for example in Hungary or Yugoslavia, amount to some 15 to 20 per cent. Reportedly, the EC has thus far refused in the EEA-context to negotiate an extension of preferences to these imports.

496. Though being a member of the MFA, Switzerland has not resorted to quantitative import restrictions. Trade policy intervention is confined to a price surveillance system. It currently applies to 39 tariff items, roughly 4 per cent of all textiles and clothing items. The product spectrum includes silk and cotton fabrics, velvet and plush, and clothing articles (for example, coats, trousers, skirts, and underwear). In addition, imports of these products from three central and eastern European countries continue to be subject to a system of price certificates (Section IV:2(ix)). The Swiss Government currently considers the complete abolition of price certification or even of the surveillance system as a whole.

497. Textiles and clothing products are in general eligible for GSP treatment. While tariff exemptions are confined to the least-developed countries, most other developing countries are entitled to tariff reductions of 50 per cent. However, a range of more competitive suppliers in the textiles and clothing area is excluded from preferences (Bulgaria, China, the Democratic People's Republic of Korea, Hong Kong, Macao, the Republic of Korea).

498. The vast majority of Switzerland's imports in textiles and clothing are registered as being from EFTA countries or the EC under free trade area provisions. In 1989, both sources combined accounted for more than 75 per cent of clothing imports and 85 per cent of textiles imports (MFA categories; Table V.4). These supplies are neither affected by tariff barriers nor by the price surveillance system. The share of developing countries (including China) amounted to 19 per cent in clothing and 10 per cent in textiles (1989). However, according to estimates by associations of Swiss textiles and clothing producers, over 30 per cent of

91Also, while regional cumulation of processing stages for origin purposes is generally admitted among the ASEAN members, certain fabrics are specifically excluded (Section IV:2(xvi)).
Switzerland's clothing imports from Germany consist of indirect deliveries from Asian and eastern European suppliers. This would mean that developing countries and the Eastern Trading Area actually account for some 30 per cent of Switzerland's total imports of clothing. Correspondingly, the share of "true" EC deliveries would be in the order of 60 per cent.

**Chart V.5**
Switzerland's imports of textiles and clothing by area of origin, 1989

<table>
<thead>
<tr>
<th>Area of Origin</th>
<th>Textiles</th>
<th>Clothing</th>
</tr>
</thead>
<tbody>
<tr>
<td>EC</td>
<td>77%</td>
<td>70.9%</td>
</tr>
<tr>
<td>EFTA</td>
<td>9.4%</td>
<td>6.0%</td>
</tr>
<tr>
<td>MFA members</td>
<td>6.1%</td>
<td>4.1%</td>
</tr>
<tr>
<td>Developing economies</td>
<td></td>
<td></td>
</tr>
<tr>
<td>MFA members</td>
<td>17.7%</td>
<td>1.3%</td>
</tr>
<tr>
<td>Non-MFA</td>
<td>1.3%</td>
<td></td>
</tr>
<tr>
<td>Others</td>
<td>4.1%</td>
<td></td>
</tr>
</tbody>
</table>

**Source:** GATT Secretariat.

499. The trade pattern on the export side is similar. In 1989, 69 per cent of Switzerland's textiles exports of MFA categories (Sw F 2.3 billion) were destined for the EC, where the Swiss import share
exceeded 12 per cent. The EFTA area accounted for an additional 14 per cent. In clothing, EC and EFTA represented 75 per cent and 13 per cent, respectively, of Switzerland's exports. The Swiss deliveries to these markets not only benefited from duty free access but from barriers imposed against competing supplies, for example restrictions against developing countries under the MFA.

(v) Mineral products and fertilizers

500. Though tariff levels are low in general, m.f.n. imports account for no more than 5 per cent of Switzerland's total imports of mineral products and fertilizers (Tariff Study Category 06; Table AV.15). Given the particular impact of transport costs on certain items, this may be attributable to the geographical distance of Switzerland from most m.f.n. suppliers, except for central European countries. Furthermore, in some sub-categories, such as phosphates and chlorides, GSP beneficiaries hold a strong market position.

501. According to the Swiss authorities, no policy measures have been taken to ease import pressures. However, pesticides and fertilizers are among those product areas for which the Federal Council, pointing to allegedly less stringent regulations in the EC, foresees some adjustment requirements in a European Economic Area.

502. Trade in ceramic products has been affected by cartel arrangements in the sanitary-ware sector, involving all stages of production and trade (see above). A current investigation by the Cartel Commission focuses on the markets for cement, sand, gravel and ready-mix concrete.

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93 This compares with Switzerland's share of slightly more than 7 per cent in total EC merchandise imports.

94 The EC system of tariffs, import restraints under the MFA, textiles agreements with non-MFA participants, and of restraint arrangements on the part of Mediterranean countries is described in GATT (1991), Trade Policy Review - European Communities, Geneva.

95 In 1988, ad valorem tariff equivalents ranged between close to zero and 12 per cent (corrugated sheets of asbestos cement), with a simple average of less than 2 per cent.

96 However, exports of Bulgaria and Romania are not eligible for tariff exemption across the full range of mineral products and fertilizers (Section II:5(iii)).
503. The Swiss chemical industry, with its 95,000 employees, represents over 10 per cent of total manufacturing employment. The sector constitutes one of the most export-oriented and research-intensive segments of the Swiss economy. More than 90 per cent of production is exported.

504. Chemical enterprises account for some 45 per cent of total private sector expenditure on research and development (1986). In past years, more emphasis was placed on expanding research abroad than within Switzerland. Between 1983 and 1986, real expenditure outside Switzerland expanded twice as fast as expenditure on domestic research. Factors at work in this context reportedly include considerations of corporate strategy, shortage of qualified personnel in Switzerland and political decision-making problems on environmental issues. The Swiss Society of Chemical Industries (Société suisse des industries chimiques) points to what it considers an alarming shortage of domestic graduates. Half of the 1,200 chemists recruited between 1985 and 1989 were foreign nationals.

505. In recent years, the pharmaceutical industry fared considerably better than other sub-sectors. For example, the three "Basel giants" (Ciba-Geigy, Sandoz, Hoffmann la Roche) reported sales increases in the order of 15 per cent in 1989 and 1990. These were mainly attributable to buoyant export markets. Medicinal and pharmaceutical products were Switzerland's second most important export item in 1989 (Table 1.7). Net exports exceeded Sw F 2.5 billion.

506. Imports of pharmaceuticals were subject to ad valorem tariff equivalents of less than 1 per cent in 1988, as compared with 1.7 per cent for all chemicals (simple averages; Table AV.16). There is no turnover tax on pharmaceuticals.

507. The Swiss market for pharmaceuticals is subject to a wide variety of policy regulations and cartel practices, mainly justified for alleged reasons of public health and consumer protection. In order for a medicine to be admitted for sale it has to be approved by the Intercantonal Office

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97 According to Union Bank of Switzerland, The EC Internal Market..., op.cit.
99 The three above companies rank among the world's top twelve producers of pharmaceuticals. Also, they have a leading position in producing pesticides, seeds, dyestuffs and vitamins.
for the Control of Pharmaceuticals (OICM; Section IV:4(v)). The Office is mandated to appraise the product and to decide on any restrictions concerning marketing and sale (for example prescription requirements). The procedure is based on research data and documents supplied by the applicant. It is, in principle, for the company to ensure the accuracy of tests and documentation.

508. Prices for restricted pharmaceuticals ("specialities"), as fixed by the individual producers, are enforced centrally throughout the country by a cartel (Association pour un approvisionnement sûr et ordonné en médicaments). It involves most producers, wholesale traders, pharmacists and physicians. Insurances and consumers are not represented in this circle. The Cartel Commission, in two studies on this sector (1966 and 1981), has tolerated the cartel. From the Commission's point of view, price disadvantages for consumers were outweighed by prevailing interests. The Commission felt that price competition might encourage misuse of pharmaceuticals, jeopardize the system of country-wide supplies and adversely affect research activities. However, the Price Inspector is currently carrying out an investigation into pricing practices; he has noted considerable price differentials between foreign and domestic markets.

509. There are cases where the Federal Office for Social Insurance (BSV) has decided to remove products from its list of "specialities" because price increases were deemed unjustified (Section IV:4(ii)). As a result, expenditure on these products was no longer refunded by the health insurances.

\[100\] Applications for approval can be lodged only by Swiss residents who are authorized to produce or sell pharmaceuticals. Swiss legislation allows for the possibility to submit, as supporting information, studies carried out abroad. As distinct from certain other industrial countries there is no need to duplicate - reliable - test series.

\[101\] Products are categorized into five groups: (A) exclusive sale through pharmacies subject to stringent prescription requirements; (B) exclusive sale through pharmacies subject to prescription; (C) exclusive sale through pharmacies and drugstores; (D) sale through pharmacies and drugstores; (E) sale free of restrictions.

While the applicant is required to prove the efficiency of a product in absolute terms, there is no need to show that it is superior to already cleared products. However, the risks of use are balanced with possible benefits. High-risk products may be rejected if they are not more efficient than established pharmaceuticals.


\[102\] Compliance is ensured by means of high sanctions.

\[103\] Preisüberwacher: Jahresbericht 1990.
510. In 1987, the above cartel agreed on a new market regulation, including the setting of margins for all stages of trade. Since similar margins applied across all product and price categories, they constituted an incentive for traders and pharmacies to focus on higher priced genuine pharmaceuticals rather than on cheaper generics. Based on a recommendation by the Cartel Commission in 1988, the cartel has agreed with an association of medium-sized companies, mainly representing producers of generics, to modify the system.

511. While there are no regulations at the federal level requiring pharmacies to keep in stock a specified range of medicines, there appear to be such requirements by the cantons.

(vii) Machinery

512. In 1989, employment in the engineering industry (including vehicle construction and optics) approximated 280,000. The industry was the largest sector of Swiss manufacturing. Over 60 per cent of the workforce is employed in small- and medium-sized enterprises (companies of less than 500 persons).

513. Many engineering companies have opted for a strategy of high specialization (niche approach). Thus, they have avoided full confrontation with bigger foreign competitors which, based on larger domestic markets, have tended to rely more heavily on the exploitation of scale economies. For example, there is no mass production of motor vehicles in Switzerland.

514. In 1989, machinery exports of Sw F 16 billion compared with imports of Sw F 18 billion (including electric and non-electric machinery, vehicles and parts thereof). Simple tariff averages were in the order of 1 to 1.5 per cent (Tariff Study Categories 11 and 12), and 4 per cent for transport equipment (Category 13; Table AV.17). The latter includes fiscal duties on cars and certain parts thereof which equally apply to all preferential imports. Current rates vary from Sw F 53 to Sw F 81 per 100 kg (gross). Overall, four-fifths of all machinery imports enter under preferential conditions.

104 The share of generics in the Swiss pharmaceutical market is in the order of 3 per cent (Sw F 55 million in 1986) as against 7 per cent in Germany and 22 per cent in the United States. The estimates are cited in D. Zuellig, op.cit.
515. Swiss producers of telecommunications equipment, vehicles, and power supplies for electricity generating appear to have benefited from restrictive procurement practices, in particular by the cantons and the municipalities (Section IV:2(xiv)). Producers of transport facilities seem set to profit from major purchasing projects which are not covered by the GATT Code on Public Procurement, notably the construction of the Zürich S-Bahn and the Rail 2000 project of the Federal Railways. A recent study suggests that procurement costs for railway wagons in Switzerland are more than 40 per cent above the costs in France.

516. Motor vehicles and telecommunications equipment are also among the areas where national standards and type approval procedures are reputed to shield, whether deliberately or implicitly, domestic producers and importers from outside competition. As noted above, Swiss car emission standards are among the most stringent in the OECD area. Manufacturers' declarations of conformity with these requirements are as a rule not deemed sufficient by the cantonal car registration services. As a result, direct imports are subject to individual homologation procedures. The costs involved may contribute to reinforcing the exclusive position of established distributors. However, this situation may change, in the context of a European Economic Area, as from 1995 (Section IV:2(xiii)).

517. Observers also note that, possibly for protectionist reasons, Switzerland has accumulated non-tariff barriers in the telecommunications sector which appear to rank top among OECD countries. For example, costs of type approval for telecommunications terminals are estimated to be more than twice as high as in Sweden, Japan, Germany or Italy (Chart V.6). During the period 1983 to 1988, the average delay in processing applications for approval was 114 days. Moreover, 16.7 per cent of all applications filed in 1990 were not accepted. This compares with non-acceptance rates of 0.4 per cent in Austria, 3.2 per cent in Germany and 5.2 per cent in France.

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106 For this category, France displayed the lowest procurement costs among five EC member States that had been included in the study (Belgium, France, Germany, Italy, the United Kingdom).

107 See E. Scheidegger, op.cit.

108 The Swiss market for passenger cars is dominated by German supplies, accounting for 133,000 units or 41 per cent of new registrations in 1990, followed by Japanese, French and Italian deliveries (29, 13% and 9% per cent, respectively).

109 The author refers to several OECD studies on this sector.
Chart V.6

Costs and delays in type approval for telecommunications terminal equipment in OECD countries, 1983-88

Cost/application $US thousand

<table>
<thead>
<tr>
<th>Country</th>
<th>Cost/application $US thousand</th>
<th>Average delay in days</th>
</tr>
</thead>
<tbody>
<tr>
<td>Norway</td>
<td>8.0</td>
<td>10</td>
</tr>
<tr>
<td>Switzerland</td>
<td>6.0</td>
<td>10</td>
</tr>
<tr>
<td>United Kingdom</td>
<td>8.0</td>
<td>10</td>
</tr>
<tr>
<td>Canada</td>
<td>6.0</td>
<td>10</td>
</tr>
<tr>
<td>France</td>
<td>8.0</td>
<td>10</td>
</tr>
<tr>
<td>Austria</td>
<td>4.0</td>
<td>10</td>
</tr>
<tr>
<td>Finland</td>
<td>2.0</td>
<td>10</td>
</tr>
<tr>
<td>Belgium</td>
<td>4.0</td>
<td>10</td>
</tr>
<tr>
<td>Sweden</td>
<td>2.0</td>
<td>10</td>
</tr>
<tr>
<td>Japan</td>
<td>2.0</td>
<td>10</td>
</tr>
<tr>
<td>Germany</td>
<td>4.0</td>
<td>10</td>
</tr>
<tr>
<td>Portugal</td>
<td>2.0</td>
<td>10</td>
</tr>
<tr>
<td>Italy</td>
<td>2.0</td>
<td>10</td>
</tr>
<tr>
<td>Netherlands</td>
<td>2.0</td>
<td>10</td>
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<tr>
<td>Ireland</td>
<td>2.0</td>
<td>10</td>
</tr>
<tr>
<td>Spain</td>
<td>2.0</td>
<td>10</td>
</tr>
<tr>
<td>Australia</td>
<td>2.0</td>
<td>10</td>
</tr>
<tr>
<td>Denmark</td>
<td>2.0</td>
<td>10</td>
</tr>
<tr>
<td>New Zealand</td>
<td>2.0</td>
<td>10</td>
</tr>
</tbody>
</table>


518. Current Swiss legislation, the Act on Telegraph and Telephone Communication, dates back to 1922. It provides a monopoly for the PTT in most areas of equipment and services. The PTT currently accounts for almost two-thirds of all domestic sales of Swiss telecom producers. Joint ventures for research and development with the private industry appear to be the rule. Within the province of PTT, regulatory and operational aspects are not strictly separated, thus offering considerable scope for influencing the entire equipment market. Telephones can be installed only

109 The following presentation is mainly based on H. Rentsch, op.cit.
by authorized electricians; reportedly, they form a loose cartel using standard price lists.\textsuperscript{110}

519. The Swiss authorities expect deregulation measures under a new Telecommunication Act to improve the situation (see also Section IV:2 (xiii)). For example, the regulatory functions of the PTT would be assigned to a separate institution. Moreover, it is intended to lift the PTT monopoly on terminal equipment and on certain value-added services. Leasing lines, including sub-leasing, would be admitted. However, the telephone network and basic services are due to remain under public monopoly.\textsuperscript{111} The Act will probably enter into force in early 1992.

520. The area of electric machinery provides further examples for national standards that tend to insulate the Swiss market. There is a Swiss-specific system of safety plugs; and standard dimensions for kitchen equipment deviate from widespread foreign norms (DIN, ISO). While DIN and ISO are based on a normal width of 60 cm, current Swiss standards proceed on a width of 55 cm.\textsuperscript{112} As a result, markets are segmented. This may help to explain why kitchen machinery is considerably more expensive in Switzerland than on average in the EC. In 1988, according to Eurostat estimates, the price difference was 15 per cent for refrigerators and freezers, 20 per cent for cookers and 45 per cent for washers; dryers and dishwashers.\textsuperscript{113} In contrast, Swiss prices for electronic household products were found to be generally lower than the EC average (-11 per cent for radio, -7 per cent for audio Hifi equipment and +5 per cent for TV sets and video recorders).

521. The machine tool sector, comprising some 120 enterprises with 13,900 employees (1990), is usually considered a typical representative of highly specialized, export-intensive segments of Swiss industry. In 1990, 87 per cent of total production (Sw F 4.07 billion) was destined for

\textsuperscript{110}See H. Rentsch, \textit{op.cit.}

\textsuperscript{111}According to the Director-General of the PTT, the latter provision is designed to ensure continued country-wide supplies of uniform and high quality. (\textit{Neue Zürcher Zeitung}, 12 July 1991).

\textsuperscript{112}However, the Cartel Commission argues that the Swiss system is more comprehensive than existing foreign standards and, in view of its longer history, that it has not been deliberately designed to fend off import competition. The Commission suggests according importers a level playfield through developing comprehensive international or European standards. (\textit{Kartellkommission: Jahresbericht 1989, p.25}).

\textsuperscript{113}Eurostat, \textit{op.cit.}
export, half of this for the EC market. Switzerland thus was the third most important exporter of machine tools worldwide. At the same time, import penetration was high; foreign deliveries accounted for about two-thirds of domestic sales. The strong competitive position of some Swiss specialities was also underscored by attempts on the part of the United States Trade Representative to induce the imposition of export restraints on numerically-controlled punching and shearing machines (1986). Apparently, no such measures have been implemented (Section IV:3(vii)).

522. Swiss machine tool producers benefit from a range of offset arrangements in the context of military purchases abroad (Section IV:2(xii)). Under a recently concluded memorandum of understanding, bids of Swiss firms are exonerated from buy-American provisions by the U.S. Department of Defense. Domestic sales of defence equipment are liable to shrink over the next years, in real terms, reflecting a reduction in scale of the Swiss army.

523. Machine and vehicle construction (31 per cent) and the electrical industry (28 per cent) accounted for most of the research funds approved by the Commission for the Promotion of Scientific Research (CERS) during the period 1986 to 1990. The mechanical engineering sector and the electrical and electronic industries were the main beneficiaries from the support scheme for economically vulnerable regions. This may be due to similarities between conditions of location in the eligible regions and specific requirements of the industries; the support scheme as such is free of sector-specific incentives (Chapter IV).

524. Considerable political emphasis is placed on R&D in the area of microelectronics and on certain industrial applications, such as computer integrated manufacturing (CIM).

(viii) **Clocks and watches**

525. The Swiss watchmaking industry is regionally concentrated in the Jura mountain chain which stretches over the north-western parts of the country. The Jura represents more than four-fifths of total national employment in this industry. Technical change, the spread of electronic watches, and increasing competitive pressures from abroad since the mid 1960s thus have had a considerable impact not only on industrial but also on regional structures. Between 1970 and 1980, the share of watchmaking in total manufacturing employment in the Jura dropped from 43 per cent to 33 per cent (31,000 employees or 12 per cent of all employment in the region).

526. Cartel practices by the watch industry, including flanking policy measures, apparently had contributed to shield the sector from new
technological developments and structural changes abroad. Industrial structures were frozen under a cartel, prohibiting members from trading watch movements and parts with non-members and providing the possibility of declaring some transactions among suppliers and users within the cartel as exclusive. Reportedly, the most restrictive practices were abolished in the mid 1960s, others remained in force until 1974. Under the Swiss Watch Statute issued in the early 1930s, entry into the industry and any changes in production patterns were subject to Government approval. Exportation of tools for watch production (jigs), of blueprints and of watch components was prohibited. These provisions were lifted as part of a bilateral agreement on watches, reached with the EC in the context of the Kennedy Round in June 1967.

527. In response to the lasting crisis of the sector, a specific support scheme was set up in the late 1970s to foster regional adjustment (Section IV:4(vi)). Also, an ongoing rationalisation and consolidation process was further accelerated at the industry level and, beginning in the early 1970s, major product innovations were launched (for example quartz watches and LCD displays). Industry and production structures changed. Today, while there still exists a variety of independent producers of high-priced specialities at the upper end of the product line, large parts of watchmaking are represented by one conglomerate (Société suisse de microélectronique et d'horlogerie SA; SMH).

528. Over recent years, economic performance of the industry was in line with or even above the average of the Swiss economy, both in terms of

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114 The watchmaking industry has traditionally been characterized by relatively weak intersectoral links and a large number of small, highly specialized producers within the sector.

115 Further concessions by Switzerland included (i) the formal renunciation of any arrangements at the industry level which could have resulted in limiting the importation of watches and (ii) the establishment, for specified watch components, of an import quota within which Swiss manufacturers could import without being deprived from certain rationalisation premiums.

Representatives of the Swiss Chamber of Watchmakers (Chambre suisse de l'horlogerie) considered these measures to have been in line with the then ongoing process of abolishing cartel arrangements and protectionist practices in the sector. It was conceded that such practices had run counter to basic trade policy principles of the Confederation; their continuation could also have rendered impossible any commercial agreement with the EC. (C.-M. Wittwer (1980), Horlogerie et coopération économique européenne, Neuchâtel, pp. 22).

For its part, the EC undertook to curb all tariffs on watches by 30 per cent until 1 January 1970 and not to maintain or introduce non-tariff restrictions.

116 SMH was set up in 1984. Its brands include Swatch, Certina, Longines, Mido, Omega, Rado and Tissot. The company accounts for about one-third of the industry's employment and turnover and for three quarters of total production (including movements and components for independent producers).
earnings and capacity utilisation. In 1990, some 34,000 employees produced 100 million watches, roughly 14 per cent of total world production.

529. Overall, 95 per cent of production is exported. In 1990, total exports of clocks and watches amounted to Sw F 6.8 billion, almost twice as much as one decade earlier. Of this, watches represented Sw F 5.8 billion; clocks, watch movements and parts thereof accounted for the rest. Leading destinations were the EC (35 per cent of total exports of clocks and watches), Hong Kong (17 per cent) and the United States (14 per cent). A particular stronghold of Swiss industry is the high-price segment of above Sw F 500 (US$300), with a world market share in the order of 90 per cent. Within this category, sales expanded by over 20 per cent in value in both 1989 and 1990, owing mainly to a renascence of the mechanical watch as a luxury item. 117

117 While, in unit terms, Swiss exports of mechanical watches dropped sharply over the past 15 years (from 64.4 million in 1975, to 9.4 million in 1984 and to 4.2 million in 1990), export values reached Sw F 2.5 billion in 1990 which is about the same nominal level as in 1975 and almost twice the level in 1984. (According to Fédération de l'industrie horlogère suisse, Rapport 1990, Bienne).
Chart V.7
Swiss watch exports, 1975-90

<table>
<thead>
<tr>
<th>Year</th>
<th>Units (million)</th>
<th>Value (Sw F billion)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1975</td>
<td>35</td>
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<tr>
<td>1976</td>
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<td>1977</td>
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<td>1980</td>
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<td>1989</td>
<td>80</td>
<td></td>
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<tr>
<td>1990</td>
<td>79</td>
<td></td>
</tr>
</tbody>
</table>

Total exports of watches (assembled) in 1990: Sw F 5.8 billion (30.2 million units).


530. Imports of most watch categories, watch movements and bracelets for watches are subject to per-unit duties. Rates for wrist-watches vary between Sw F 0.32 and 1.39. Other categories such as wall clocks, time-registers, clock cases and watch straps are dutiable by weight, with a peak of Sw F 5,000 per 100 kg (gross) for watch straps of precious metals. However, in ad valorem terms this was no more than 1.1 per cent (1989 and 1990), as compared with peaks of 8.8 per cent (1989) or even 29.5 per cent (1990) for electronic wrist-watches with an opto-electronic display.

531. Imports of clocks and watches from Hong Kong are only eligible for reduced tariffs under the Swiss GSP scheme (Chapter II).
532. A system of official quality controls, aimed at ensuring the reputation of "Swiss made" watches, is due to expire by the end of 1991 (Section IV:4(vii)(b)).

(ix) Footwear and travel goods

533. In 1989, Switzerland imported footwear and travel goods worth Sw F 1,240 million. Imports from m.f.n. sources ranged in the order of 7 per cent of total imports; they were subject to substantial tariffs. Ad valorem equivalents on several footwear categories exceeded 10 per cent in 1989 and 1990 (Table AV.18). Footwear imports from certain developing countries are excluded from GSP treatment (the countries concerned are largely identical with the range of textile suppliers that are not accorded GSP preferences; see above).

534. Domestic producers of leather products and shoes employed less than 8,000 persons in 1989.

(x) Other manufactured articles

535. This residual category comprises a heterogenous range of products, from raw hides and skins, to rubber, to precious stones, to photographic supplies and to articles not elsewhere classified. In total, "other manufactured articles" account for some 15 per cent of Switzerland's imports. However, this figure is somewhat inflated by multiple imports of the same products, particular under the precious stones' category. Large international diamond traders, based in Switzerland, may export for display and re-import the same stones several times a year. Also, there are considerable imports of works of art and collectors' pieces (Sw F 777 billion in 1988), reflecting Switzerland's position as an international trading centre. The country does not maintain export controls on works of art or other articles that might be deemed important on cultural grounds.

536. Feature films are currently subject to fiscal duties and to non-automatic import licensing. The latter provision serves to complement

118 The system does not prevent selling watches which are not in line with the established quality requirements; however, these are not certified as a "chronomètre Suisse".

119 Since supplies from these countries are not counted as m.f.n. imports, the above share of m.f.n. in total trade is downward biased.
a company-specific quota régime (Section IV:2(vii)). Quota shares are allocated to the individual distributors up to a limit of 35 films per year. In 1990, the total annual quota of 600 films was utilized to slightly more than 50 per cent; U.S. productions ranked first, followed by French films (51). The right to import is confined to companies owned by Swiss nationals, except for firms that had already been established prior to the entry into force of the current régime in 1962. Moreover, only Swiss nationals are entitled to operate cinemas; permits are issued by the cantons. A new film régime is currently being prepared.

537. A variety of imports, in particular of hides, skins and furs, are subject to controls under the Convention on International Trade in endangered Species of Wild Flora and Fauna (CITES). Trade controls and prohibitions are also imposed on firearms and related products (Tariff Study Category 21).

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120 Imports of documentary and educational films and imports by TV stations are unrestricted. The restrictions on feature films have first been implemented by Federal Decree in September 1938. Hence, according to the Swiss authorities, they are among the few current measures that, predating Switzerland's accession to the GATT (or even the inception of the General Agreement), are still covered by the "grandfather clause".

121 Trade prohibitions for security reasons equally apply to a variety of other items falling under different Tariff Study Categories (for example chemicals, machinery, transport equipment). These prohibitions - they often relate to narrowly defined product areas - are not specifically indicated in the Annex Tables.
VI. TRADE DISPUTES AND CONSULTATIONS

(1) GATT Dispute Settlement

538. Switzerland has not yet made use of the dispute settlement procedures under GATT, Article XXIII or the Tokyo Round Agreements. It has only once been subject to a complaint under Article XXIII. In October 1982, Article XXIII:1 consultations were held with the EC, concerning imports of table grapes (Section IV:2(xviii)). The matter was not pursued further.

539. Switzerland has once been involved in consultations under Article XXII. In late 1989, the United States requested such consultations be held on the European Convention on Transfrontier Television. There has been no follow-up thus far.

540. The Swiss Government considers consultations under GATT provisions as the principal means of finding mutually acceptable solutions in the event of trade disputes. In contrast, informal contacts should be confined to clarifying the issues and avoiding misunderstandings.

(2) Other Disputes

541. The Stockholm Convention provides a platform for reconciling divergencies among the EFTA countries. Under Article 31, a complaint may be formally submitted to the Council if a participant feels that benefits conferred on it by the Convention are being or may be frustrated. The Council makes recommendations, by majority vote, on the actions deemed appropriate. If a party fails to comply with these recommendations, the other party may be authorised, on request, to suspend specified obligations under the Convention towards the offending country. However, Article 31 is to be invoked only if no solution is reached in bilateral negotiations between the countries concerned. Six cases have thus far been referred to the Council under this Article; Switzerland has not been involved.

542. Under the free trade agreement with the EC, the Joint Committee is the appropriate forum to tackle issues of mutual concern. If no solution can be found within three months of the matter being referred to the Committee or if a party fails to implement agreed solutions, the other party may adopt any safeguard measures "it considers necessary to deal with the

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1On the same issue, the United States had requested consultations with Austria, Luxembourg, the Netherlands, Norway, Spain, Sweden and the United Kingdom. Because of the EC Broadcasting Directive which implements into EC law a guideline to reserve a majority proportion of transmission time to European programmes, in May 1991 the United States placed the EC on its "priority watch list" under Section 301 of the Trade Act.
serious difficulties resulting from the practice in question" (Article 27).
In particular, tariff concessions may be withdrawn. These provisions have
not yet been resorted to by either side. However, the Committee has been
used as a basis for exchanging information and for addressing problems of
market access, for example resulting from rules of origin or
standardisation issues.

543. In addition, there exists a Switzerland-Germany Mixed Committee as an
information and consultation mechanism on bilateral issues and on questions
of European integration. A joint working group is mandated to develop
proposals for the elimination of technical trade barriers. The
establishment of similar committees with Denmark and the United Kingdom is
currently being considered.