WORKING PARTY ON PARAGRAPH 4 OF THE PROTOCOL
FOR THE ACCESSION OF SWITZERLAND

Written Questions to the Swiss Representative

In accordance with the procedure agreed by the Working Party at its first meeting on 8 May 1991, i.e. that written questions should be submitted to the secretariat before 24 May 1991 for transmission to the representative of Switzerland and to other members of the Working Party, the following questions have been received from Australia and New Zealand.

AUSTRALIA: QUESTIONS TO SWITZERLAND

1. Australia has reservations as to whether Switzerland is fully complying with the requirements of paragraph 4 of the Protocol of Accession. As we have pointed out in previous reviews, our understanding is that programmes implemented under laws other than those listed in paragraph 4, or affecting articles other than Article XI, cannot be justified under the Protocol of Accession. We also note that the partial reservation applied only in respect of particular existing legislation and would not extend to changes made to that legislation. Therefore any measures taken under new or amended legislation is not justifiable under paragraph 4. However, there are Swiss agricultural programmes implemented under legislation that was not in existence at the time the Protocol came into force. The legislation includes:

- Federal Decree on External Economic Measures, 28 June 1972;

Could Switzerland explain the basis on which these laws are considered to be justified under paragraph 4? We would also appreciate an indication as to which pieces of legislation, listed in paragraph 4, have been amended, and what impact these amendments might have.

2. We note that in Switzerland's 1991 notification pursuant to Article XVI:1 (L/6630/Add.11), several agricultural support programmes having a bearing on trade in agriculture are described as operating under legislation not listed in the three annual reports. Some of these laws are:

- Dairy Economy Order of 16 December 1988;
- Federal Act of 15 June 1962 on the sale of cattle;
- Federal Act of 21 December 1960 concerning goods at protected prices and the price equalization fund for eggs and egg products;

- Federal Order of 22 June 1979 instituting measures in favour of viticulture;

- Wine Statute of 23 December 1971;


Could Switzerland indicate whether any of these laws affect Switzerland's compliance with Article XI, or other articles of the GATT? What is the relationship between these laws and the laws listed in the 1989 annual report?

3. At the last triennial review, Australia had requested the provision of a broader range of information relating to Swiss legislation (e.g. including interpretative notes or legal commentaries) so that participants could judge for themselves whether the terms of the Protocol were being respected (L/6658, paragraph 18, 20). We would again request that such materials be made available to the Working Party.

4. Australia is concerned that some of the measures affecting agricultural trade, justified under paragraph 4 of the Protocol of Accession, do not only affect Switzerland's compliance with Article XI, but other articles as well. This applies especially to breaches of Article III, as a result of the operation of the "prise-en-charge" system which constitutes a mixing regulation. This issue was raised at the last triennial review and we do not regard Switzerland's response as having been adequate.

We therefore request from Switzerland details of how the "prise-en-charge" system is reconciled with the requirements of Article III and an explanation of how measures affecting Switzerland's obligations under Article III of the GATT can be justified under paragraph 4 of the Protocol of Accession.

5. The arrangements affecting meat imports described in the 1984-85 annual reports (L/6101), while not strictly a "prise-en-charge" system, do have similar elements in the requirement that importers contribute, in proportion to their imports, to a reserve fund to facilitate stabilization operations. We would appreciate responses to the questions in 4. above as they apply to arrangements affecting beef.

6. Australia is concerned that Swiss beef and veal imports have been declining significantly in the period under review. We also note that Australian exports have fallen by nearly 50 per cent.

Do variations in Swiss subsidies in total and on a per unit basis account for this decline in imports? Could Switzerland comment on whether the greater variability of imports from non-European countries compared with European countries can be attributed to the practice of fixing quotas
every fortnight? If so, how does this affect Switzerland's compliance with the requirement in paragraph 4 of the Protocol of Accession to "apply all restrictions ... in accordance with the principle of non-discrimination"? We would appreciate further statistics on the beef and veal sector, including production levels, self-sufficiency ratios, and the indicative target for self-sufficiency ratios. We would also appreciate an explanation of why the target price for beef was increased in 1989 when the cattle herd was increasing and imports falling.

7. We have concerns relating to discriminatory quotas on wine. Our understanding is that wine import restrictions are placed pursuant to the Wine Statute of 1971, which legalized the practice followed before Switzerland's accession to the GATT (L/6101, page 30) of concluding contracts with traditional suppliers. We do not consider that this can be justified under paragraph 4 of the Protocol of Accession, since the legislation that permits the continuation of discriminatory quotas was not listed in that paragraph, and the partial waiver related only to specific legislation and not existing practices that may subsequently have been legislated for.

We would appreciate an explanation from Switzerland as to how the wine quotas are justifiable under paragraph 4, bearing in mind the requirement therein for import restrictions to be applied in a non-discriminatory manner, and Switzerland's general obligations under Article XIII.

We would also request Switzerland to indicate whether there is a likelihood that the trend towards globalization of quotas could be further encouraged in relation to red wine in casks, and a similar system introduced for white wine.

8. In our statement to the Working Party on 8 May 1991, Australia made a number of observations which are repeated below for ease of reference.

Paragraph 4 of the Swiss Protocol of Accession requires that Switzerland should, in implementing the laws listed in that paragraph, "observe to the fullest possible extent the appropriate provisions of the General Agreement". It is our view that, judging from the stated objectives of Swiss agricultural policy, most if not all of these objectives could be met in ways that are more GATT consistent and less trade-distorting that at present. Indeed, the reliance on trade-distorting measures could jeopardize the achievement of these objectives.

For instance, one stated aim of agricultural policy is the "assurance of an equitable income" (L/6802, page 3). However, it is generally recognized that attempting to support farm income through guaranteed minimum prices and other production-based incentives have unwelcome income distribution effects within agriculture, reducing the likelihood that small farmers or farmers in marginal areas could benefit significantly from Government support.
Similarly, the aim to protect the soil or the environment generally, is ill-served by a system of import controls and domestic production incentives that rewards the intensive use of land. The same applies to the aim to "ensure supplies of wholesome foodstuffs of high quality and at accessible prices".

Several Swiss agricultural programmes have been justified on the grounds of food security. It is a justification we have not found convincing. Nevertheless, since the last triennial review there have been dramatic changes in Europe which have led to a reduction in security concerns. Our hope is that this should allow Switzerland to reduce the importance it has in place in the past on food security, and so provide greater scope for expanded food imports. We also note that Switzerland has surpluses of several commodities and is a net exporter of cheese, preserved milk products, and potatoes. This seems to indicate that in some commodities, Government support and protection is producing surpluses that may not be justifiable under food security. We are also concerned that several items subject to trade restrictions cannot realistically be considered as justifiable for reasons of food security. The commodities that fall into this category include wine and fresh flowers.

In light of these considerations, we invite Switzerland to indicate what steps are being considered to liberalize trade in the agricultural sector.

9. An issue related to 8. above, and one that has not been resolved from the last review, concerns self-sufficiency targets. The questions we have, which have not been addressed in the three annual reports covered by this review, include:

- How are indicative self-sufficiency targets determined?
- Are these targets published for individual commodities?
- Are they adjusted regularly, and do these changes take into account changes in the security environment?
- How are the interests of contracting parties taken into account and how does Switzerland ensure that minimum harm is done to other contracting parties?
- Does Switzerland have in place mechanisms to CAP production once self-sufficiency targets for particular commodities have been achieved?

In relation to this last question, we would appreciate a description of how production controls might be applied to bovine meat, eggs and pigmeat, if production of these items have reached, or might reach, the indicative self-sufficiency level.
10. Australia would also appreciate a description of the measures that Switzerland has in place to limit surpluses more generally, including commodities not subject to self-sufficiency targets.

We are particularly concerned with what appears to be an unfortunate deterioration in the supply/demand balance in relation to bread grains and feed grains. Imports of these items have fallen significantly. According to the OECD (Agricultural Policies Markets and Trade: Monitoring and Outlook, 1990, page 133) average production of wheat for the three years until 1989 is 40 per cent larger than the average in 1979-81, while unit market price support increased between the two periods by more than 30 per cent. In total, support to wheat producers, as measured by the total PSE, in 1989 reached its highest level since 1979, and internal prices are now at three times the border price. This sort of unchecked growth in production and support levels causes us concern as it indicates that Swiss policies do not appear to be aimed at minimizing the harm caused to other contracting parties.
QUESTIONS SUBMITTED BY NEW ZEALAND
TO THE DELEGATION OF SWITZERLAND

1. "Prise en charge" system: New Zealand understands that this system is used extensively to control imports of a range of agricultural products, and is considered by Switzerland to be covered by paragraph 4 of its Protocol of Accession.

(i) How does Switzerland consider the "prise en charge system", to be consistent with Article III of GATT, in particular Article III.5? Does Switzerland consider the system to fall within the purview of Article XI? If so, on what basis?

(ii) Does Switzerland consider that the exemption granted it under paragraph 4 of its Protocol extends to any provision of the GATT other that Article XI? If so, please elaborate on the provisions concerned, and the basis for such an interpretation.

(iii) What is the range of products to which the "prise en charge" system is or may be applied? What are the current ratios between domestic production and import levels for these products? Please provide a copy of the obligations attaching to the right to import.

(iv) New Zealand notes that a form of "prise en charge" may operate for certain products under certain conditions. This appears to be the case for bovine meat (if prices stray beyond the target price limits set); for fruit and vegetables covered by the "3 phase system" (i.e. either quotas or and obligation to take over domestic production applies during Phase II); and for wine (a system of "compulsory take over" exists, which, it appears, has not been enforced). Please indicate whether requirements to take over these products have been enforced since 1966. If so, when and on what basis were imports controlled (i.e. proportion of imports to domestic production, and how was this established)?

(v) New Zealand further understands that the "prise en charge" system has been expanded since Switzerland's accession to GATT (e.g. for sheepmeat). What products have been affected by such changes, and what was the legislative basis for expanding or amending the "prise en charge" system? To what products was the "prise en charge" system applied in 1958 and 1966?

(vi) The ratio of domestic product in relation to imports authorized for a number of items covered by the "prise en charge" system has altered in the years since Switzerland's accession (e.g. for eggs, WMP and sheepmeat). For products affected by the system, how has the ratio of domestic production/imports evolved since 1966? On what basis is the proportion set (e.g. self-sufficiency levels, price trends?), and what is the legislative basis for proportions to be altered? Who is responsible for decisions to change ratios?
In cases where the proportion of domestic production to be taken over has increased, how does Switzerland reconcile this with the terms of its accession protocol; in particular the requirement to cause "minimum harm" to the interests of contracting parties, and to provide a "steadily expanding market for exports of agricultural products"?

(vii) Switzerland has argued that the "prise en charge" system provides better opportunities for imports. How can this be reconciled with the fact that, in the case of sheepmeat, where consumption has increased significantly, imports have at best remained stable?

2. Policy objectives and import trends

(i) New Zealand notes that Switzerland's overall level of food self-sufficiency has been increasing steadily since the 1950s (48.7 per cent in 1956 to around 66 per cent in 1989).

(a) Could Switzerland please supply details of self-sufficiency levels for the products covered by paragraph 4 of the Protocol, since 1966. While information on imports has been provided in annual reports, information on domestic production trends in like products has been sporadic and incomplete. Could the information on self-sufficiency levels be supplemented by details of domestic production for the products concerned, for the decade since 1980.

(b) Switzerland has introduced production controls for a number of products in recent years (e.g. for dairy, meat, beetroot, rape, tobacco, wine, eggs, poultry and fruit). What explanation can Switzerland give for the need to introduce such controls? This suggests to New Zealand that more than minimum harm is being caused to the interests of contracting parties, since the same policy objectives could be achieved at reduced levels of support and protection: current high levels are clearly stimulating over production.

- How effective have production controls been on the products for which they have been introduced? We note that, for dairy products, production has tended to increase, despite the introduction of controls in 1977, and their progressive tightening since.

- How has Switzerland justified further increases to support prices for products subject to production control (e.g. milk, base price raised to Sw F 1.07 per kg. in 1989), since such increases insulate farmers from market signals and have a dampening effect on consumption (and hence imports).
New Zealand notes with concern that, despite the understandings on which the terms of Switzerland's Accession Protocol were based, imports of products covered by paragraph 4, have tended to decrease overall since 1966, while any increases in imports levels have been moderate at best. Decreases have been particularly apparent for grains, bovine meat, dairy products and apples. What steps is Switzerland prepared to take to reverse this trend and allow for increased market access opportunities?

3. Specific products

(i) Cattle and meat: L/6101 notes herd ceilings should be reached by 1992. Since ceiling is established in terms of a maximum number of animals per farm, what is meant by this comment? What proportion of farms is likely to reach or exceed the herd ceilings? Is the 1992 'target' date still accurate? What effect has the denial of cowshed building permits since 1980 had on beef production?

New Zealand asked questions concerning the nature and operation of quotas on beef imports during the seventh triennial review. These questions have not been answered in any detail, and we reiterate them. In addition, we wish to know what specific products, in what form, are subject to which quotas (i.e. annual, quarterly or fortnightly).

(ii) Dairy products: Switzerland has reported that its policy is to encourage cheese production rather than butter, and that imports of butter "are to be encouraged". Nevertheless, cheese production has decreased; butter production has continued to increase, and imports have fallen dramatically. To what does Switzerland attribute this failure to meet stated policy objectives?

The report of the Working Party conducting the first triennial review of Switzerland's Protocol of Accession noted the existence of agreements with Denmark and the EEC concerning minimum shares of the Swiss market for butter imports (45 per cent for the Swiss market for butter imports (45 per cent for the former, 20 per cent for the latter). Are these agreements, or others like them still in existence? If so, have the percentage shares involved changed? How can such agreements be reconciled with the provisions of Article XIII?

(iii) Fruit: L/6101 refers to measures "designed to stabilize production and attenuate year-to-year fluctuations". What are these measures, and how successful have they been?

(iv) Fresh flowers: Reports provided by Switzerland give details of imports for the period under quotas (1 May-25 October). What have total imports of fresh flowers been for the years covered by this review? What quantities are covered by basic as opposed to supplementary quotas? What are the requirements for marketing of domestic flowers that determine eligibility for supplementary
quotas? Given that import levels are now well above those specified in remaining bilateral quotas, what is the justification for their continuation? Are quotas allocated in a fully global manner?

(v) **Wine**: What measures is Switzerland taking to reduce and eliminate the quantitative restrictions on white wine in bottles, applied as an emergency safeguard measure under Article XIX since 1975?

What plans does Switzerland have to globalize further bilateral quotas which continue to exist for both red wine and white wine in casks? What proportion of supplementary quotas has been made available to new suppliers in recent years? What bilateral agreements has Switzerland entered into or extended since its accession? In reviewing import details for wine provided in Switzerland's annual reports, it is apparent that virtually no new suppliers have entered the market (with the exception of such traditional wine-producing countries as Korea and Canada). Given that Switzerland's wine trade has historically been dominated by bilateral contracts with established importing networks what are the opportunities in fact for new suppliers to develop wine exports?