IV. TRADE POLICIES BY SECTOR

(1) INTRODUCTION

1. The services sector remains the backbone of the economies of Switzerland and Liechtenstein in terms of output and employment. Both countries are net exporters of services. The manufacturing sector in the Customs Union is highly diversified and export-oriented, while the contribution of agriculture to GDP remains marginal.

2. The agriculture sector is still subject to substantial state intervention in Switzerland and Liechtenstein. Agriculture (ISIC, Revision 2 definition) remains highly protected, with an average tariff of 22.7%. Domestic support to agricultural production has remained high by international comparison. The customs union has continued the gradual move away from price support to direct payments to farmers. Switzerland remains an important user of export subsidies, mainly on dairy products. Tariff quotas are in place for 26 product categories; the quotas have been filled for certain products. Indicative prices are used for a number of agricultural products, mainly fodder. A price compensation scheme is in place to compensate exporters of processed agricultural goods for the high costs of locally produced inputs. Liechtenstein maintains its own direct payments system.

3. The manufacturing sector accounts for nearly 98% of merchandise exports from Switzerland and almost 100% from Liechtenstein. Apart from incentives schemes mostly oriented towards the processing of agricultural products, Switzerland and Liechtenstein do not have policies specific to manufacturing. Tariffs are low on most manufactured goods (ISIC definition), averaging 6.9%; nonetheless, they remain high on most food and certain textile products.

4. Switzerland adopted a new energy policy in 2007 with a view to securing energy supply and reducing CO_2 emissions. A new electricity law, also adopted in 2007, provides for partial liberalization of the Swiss electricity market as of 2009, and for full liberalization as of 2014. The law also established an electricity commission to regulate the electricity market. Liechtenstein's electricity market has been liberalized since 2005.

5. Financial services, in particular private banking and asset management, are of key importance to employment and GDP generation in both countries. In Switzerland, a unified financial market supervisory authority is being created and is to be operational as of January 2009. Switzerland also revised the legal framework for its insurance subsector in 2006. In Liechtenstein, total assets deposited in banks have grown strongly since 2004. Liechtenstein established the integrated Financial Market Authority in 2005 and has taken steps to strengthen rules for the prevention of money laundering, including through the establishment of the Financial Intelligence Unit in 2001. Liechtenstein has been on the OECD's List of Uncooperative Tax Havens since 1998.

6. An amendment to Switzerland's Telecommunications Law in 2007 is aimed at unbundling the local loop. The former monopolist for telecom services, Swisscom, has retained a large market share and has remained majority state owned. In Liechtenstein, a new Communication Act has eliminated the licence system. Postal services in Switzerland have been further liberalized, by the reduction of the threshold for services reserved for SwissPost to 100 g. Bilateral air transport liberalization through the agreement with the EC, provides for non-discrimination between Swiss and EC/EFTA air transport companies. Switzerland's land transport policy continues to be guided by the objective of transfering transiting merchandise freight from road to rail transport. Tourism has remained an important generator of foreign exchange in both Switzerland and Liechtenstein.

7. The conclusion and implementation of Switzerland's bilateral agreement with the EC on the free movement of persons has significantly liberalized labour movement independently of services

trade liberalization rules; priority can no longer be given to residents over EC/EFTA nationals. For third country nationals, the system of quotas with a fixed number of work permits and labour market need is still in place. Legislation on the admission of auditors entered into force in 2007; it established an oversight authority for auditing services and represented a move from self-regulation to a system of accreditation.

(2) AGRICULTURE AND RELATED ACTIVITIES

(i) Overview and main features

8. Around two thirds of the Swiss land area are suitable for agriculture, including forestry. About half of the total area suitable for agriculture is cultivated land, of which mountainous areas account for slightly over one third; about three fifths of the total are appropriate for animal grazing.

9. Liechtenstein had 133 farms in 2005, down from 199 in 2000. Mostly smaller farms were given up. About 5,400 hectares (including alps) are used for agricultural production. Milk production is the most important agricultural activity, followed by vegetable farming, forestry, and wine-grapes.

10. The contribution of agriculture to employment and GDP remains marginal in both Switzerland and Liechtenstein (Chapter I(1)). In 2006, there were 62,800 farms in Switzerland, with an average size of 17 hectares. Total annual agricultural production has fluctuated between Sw F 9 billion and Sw F 10 billion since 2001 (Table IV.1). In value terms, production of milk is the most important, followed by cattle and pig breeding. The major crops include cereals (wheat, maize, barley, and oats), potatoes, oilseeds, sugar beet, and fruit (apples, pears, plums, and grapes). Switzerland's self-sufficiency ratios have remained stable for most products, but have declined for cereals and potatoes (Table IV.2). Ratios are highest for dairy products and lowest for oils and vegetables.

Table IV.1
Swiss agricultural production, 2001-07
(Sw F million)

Branch	2001	2002	2003	2004	2005	2006	2007[a]
Total vegetable production	**4,303.9**	**4,533.3**	**4,218.2**	**4,765.9**	**4,465.7**	**4,132.7**	**4,490.6**
Cereals	487.3	504.8	410.6	492.8	448.3	439.8	415.7
Potatoes	191.8	187.7	183.1	170.6	177.1	171.4	170.9
Sugar beet	136.7	164.5	144.4	168.5	154.7	130.0	166.6
Other vegetables	473.5	504.0	547.4	538.3	530.2	522.0	528.8
Fruits	552.3	556.5	526.4	598.7	496.4	511.6	307.2
Wine	430.6	418.0	385.9	426.5	413.2	431.6	386.9
Plants and flowers	807.9	851.7	819.3	776.6	739.5	736.3	752.8
Total animal production	**5,069.9**	**5,005.8**	**4,995.7**	**5,195.3**	**4,948.8**	**4,911.6**	**4907.2**
Milk	2,613.8	2,546.4	2,420.7	2,114.2	2,336.2	2,306.6	2.233.8
Bovine	924.2	951.7	1,047.9	1,211.3	1,177.4	1,218.8	1.225.4
Porcine	1,082.0	1,033.3	1,058.3	1,088.1	975.3	959.9	1.002.2
Poultry	179.9	193.5	198.8	218.0	205.5	181.6	206.2
Eggs	180.5	188.7	183.1	177.5	179.5	176.4	173.8
Total agricultural production	**9,373.8**	**9,539.1**	**9,213.9**	**9,961.2**	**9,414.5**	**9,044.3**	**9,397.8**

a Provisional.

Source: Federal Office for Agriculture (various issues), *Rapport agricole*. Viewed at: http://www.blw.admin.ch/dokumentation/00018/00103/index.html?lang=fr.

Table IV.2
Self-sufficiency in basic food products[a], 1991, 1995, and 2001-05
(Per cent)

Product	1991	1995	2001	2002	2003	2004	2005
In digestible calories							
Cereals for bread	126	134	102	82	78	92	87
Cereals for fodder	62	75	69	67	49	75	72
Total cereals	65	68	64	59	46	63	63
Edible potatoes	107	99	93	94	87	95	91
Sugar	44	42	47	61	44	50	50
Fat and vegetable oils	24	20	20	20	19	22	22
Fruits	60	71	71	76	64	73	59
Vegetables	53	55	53	56	51	55	51
Milk for consumption	97	97	97	97	98	99	98
Butter	91	93	88	98	97	97	93
Cheese	137	129	122	113	113	114	117
Milk and dairy products	110	110	107	107	109	108	108
Veal	99	97	98	98	98	98	97
Beef	94	92	96	89	91	88	86
Pig-meat	99	98	96	95	93	93	94
Sheep	44	46	39	41	42	45	44
Poultry	46	51	40	43	45	48	49
Total meat	80	79	71	70	70	69	70
Eggs and products thereof	44	45	47	42	47	46	44
In digestible energy							
Vegetable products	42	42	40	45	39	45	43
Animal products, gross	97	96	94	94	95	94	94
Total products, gross	62	61	58	61	56	60	59
Total products, net	58	57	53	56	51	55	54
In value							
Total of food products	72	71	62	63	62	64	63

a Self-sufficiency is defined as the ratio of domestic production to the sum of production plus imports less exports.

Source: Federal Office for Agriculture (various issues), *Rapport agricole*. Viewed at: http://www.blw.admin.ch/dokumentation/00018/00103/index.html?lang=fr.

11. Switzerland and Liechtenstein are net importers of agricultural and food products. In 2007, the customs union imported agricultural goods (ISIC, Revision 2, Major Division 1) worth US$3,050 million, while exports were US$330 million. Using the WTO definition of agricultural goods, imports amounted to US$9,200 million, and exports to US$5,993 million. While imports cover the whole range of agricultural products, exports comprise mainly processed agricultural goods, mostly dairy products and canned fruit and vegetables.

(ii) Policy objectives and instruments

12. Switzerland formulates agricultural policy for the customs union, although Liechtenstein has a separate support system for its agriculture sector. The Federal Law on agriculture of 1998 is the main legal policy instrument for the sector. Compared with the limited value-added generated by the sector, public expenditure in agriculture is considerable, amounting to 6.5% of the federal budget in 2007.

13. Agricultural Policy 2007 (AP 2007), adopted by Parliament in 2003, has been Switzerland's main policy initiative in the sector during the review period, leading to changes in the Federal Law on agriculture and various ordinances. Under AP 2007, Switzerland has continued the gradual move away from price support to direct payments. AP 2007 also provided new investment assistance

measures and financial assistance for redeployment away from agriculture. Specific policy measures introduced under AP 2007 have focussed mainly on domestic support and include: the transition to a more flexible milk market through, *inter alia*, the gradual abolition of production quotas (section (iii)); conversion programmes to address overproduction in the wine and horticultural subsectors; a gradual switch to auctioning in the allocation of meat quotas (Chapter III(2)(iii)); and modified provisions for direct payments (e.g. an increased emphasis on ecological direct payments).

14. The successor to AP2007 is Agricultural Policy 2011 (AP 2011), which runs from 2008 to 2011. Its key element is the further conversion of product-specific price support into non-specific direct payments. Price support is to be more than halved, whereas export subsidies on basic agricultural products are to be phased out by January 2010 (July 2009 for potatoes and dairy products). Import tariffs for feedingstuff are to be significantly reduced. For the four-year period from 2008 to 2011, total support for agriculture is set at Sw F 13,499 million.

15. Agriculture (major division 1 of ISIC, Rev.2) has remained the most tariff-protected sector of the customs union, with a simple average tariff of 22.6%, down from 28.6% in 2004. Using the WTO definition, the simple average is 29.3%, down from 36.2% in 2004. Tariffs are particularly high in the meat and dairy subsectors, reaching 1,469% on live donkeys, mules, and hinnies (section (iii)).

16. Switzerland's outlays for direct payments have remained high, attaining Sw F 2,500 million in 2006 (Table IV.3). Growth of domestic support has slowed down since 2003. According to Switzerland's last notification on domestic support, the total aggregate measurement of support (AMS) was Sw F 3,044 million in 2004.[1] The ceiling for such support, under WTO commitments, is Sw F 4,257 million. According to the authorities, more recent data on domestic support are not available.

Table IV.3
Swiss outlays for direct payments, 2000-06
(Sw F million, unless otherwise indicated)

	2000	2001	2002	2003	2004	2005	2006
Total	**2,142.4**	**2,325.0**	**2,426.1**	**2,458.7**	**2,470.5**	**2,485.8**	**2,499.6**
General direct payments	1,803.7	1,929.1	1,994.8	1,999.1	1,993.9	1,999.6	2,007.2
Area payments	1,186.8	1,303.9	1,316.2	1,318.0	1,317.8	1,319.6	1,319.1
Holding of roughage eating animals	258.5	268.3	283.2	287.7	286.1	292.0	301.2
Holding of livestock under difficult conditions	251.6	250.3	289.6	287.3	284.0	282.2	281.3
Farming on steep slopes	96.7	96.6	95.8	95.6	95.3	94.8	94.2
Wine cultivation on steep slopes	10.1	10.0	10.1	10.5	10.7	11.1	11.4
Ecological direct payments	361.3	412.7	452.4	476.6	494.7	506.9	518.2
Ecological payment	279.0	329.9	359.4	381.3	398.1	409.3	420.2
Ecological compensation	108.1	118.4	122.4	124.9	125.7	126.0	127.0
Ecological Quality Ordinance	17.2	0.0	8.9	14.6	23.0	27.4	30.3
Extensive cereals and rapeseed farming	33.4	32.5	31.9	31.3	30.8	31.5	31.1
Organic farming	12.2	23.5	25.5	27.1	28.0	28.6	28.7
Particularly animal-friendly holding of productive animals	108.1	155.5	170.7	183.4	190.7	195.8	203.2
Summer pasturing	81.2	80.5	89.6	91.4	91.1	91.6	91.7
Water protection	1.1	2.3	3.5	4.0	5.5	5.9	6.3
Direct payments per farm ('000 Sw F)	35.7	38.9	41.8	42.7	43.3	44.1	44.9

Note: A comparison with the State account is not possible due to different definitions of year of payment.

Source: Federal Office for Agriculture (various issues), *Rapport agricole.* Viewed at: http://www.blw.admin.ch/dokumentation/00018/00103/index.html?lang=fr; and information provided by the Swiss authorities.

[1] WTO document G/AG/N/CHE/38, 28 February 2007.

17. Under the Agricultural Imports Ordinance (RS 916.01), the complex system of "indicative" or "threshold" prices remains in place for agricultural products. The system currently applies to animal feedingstuffs and seeds, although any agricultural product may be covered. The system is aimed at ensuring stable domestic prices for these products by maintaining their duty-inclusive import prices within certain brackets (Chapter II(2)(v)).[2] To this end, the c.i.f. import prices of the products are projected, and the customs duties, to bring the projected import prices into line with the projected local prices of the goods, are estimated. The Federal Department of Economy also determines a permissible bracket for fluctuations of the actual duty-inclusive import prices around the threshold or the indicative prices. Customs duties on the products are adjusted quarterly to keep duty-inclusive import prices within the price brackets.[3] Threshold/indicative prices have generally been reduced during the period under review.

18. Under the WTO Agreement on Agriculture, Switzerland and Liechtenstein have undertaken tariff quota commitments on 28 product categories. In 2001, the three tariff quotas on wines were merged. As a result, 26 product categories, covering a total of 287 tariff lines, are under tariff quota (Table IV.4).[4] Some of the quotas are administered through a non-automatic licensing system with different allocation procedures (Table IV.5). Quota-fill rates varied considerably in 2007, from zero (live swine) to full utilization (live sheep and goats, potatoes, frozen vegetables, bread grains). Under the *prise-en-charge* system, traders are required to purchase similar domestic products so that they are allowed to import. When domestic supply is considered insufficient, the quotas may be expanded unilaterally, resulting in fill ratios exceeding 100%. However, the fill ratio may change on a yearly basis, notably in case of strong import pressure that would require the use of an alternate, more restrictive allocation procedure (e.g. auction), or the combination of *prise en charge* with the latter.[5]

19. Under Article 5 of the WTO Agreement on Agriculture, Switzerland and Liechtenstein have retained the right to invoke the special safeguard clause for all imports subject to tariff quotas. This measure allows the authorities to restrict imports by means of additional duties when prices fall below, or imports exceed, given thresholds. A safeguard duty has been levied only once by Switzerland and Liechtenstein (in 1999), on imports of pig meat and its by-products. Since then, neither Switzerland nor Liechtenstein have invoked special safeguard provisions.

20. Furthermore, preferential tariff quotas (with lower in-quota tariffs in general) are in place under bilateral trade agreements with various countries (Chapter III(2)(iii)); these quotas are included in the MFN tariff quotas, i.e. there are no "reserved" quantities. Switzerland also grants non-reciprocal preferential market access (including through preferential tariff quotas) to agricultural products from developing countries.[6]

[2] The quarterly modification of applied MFN tariffs under the system reduces their predictability. See WTO (2004) for more details on the negative impact of the threshold/indicative price system.

[3] Article 20 of RS 910.1. The methods for estimating the import price and the permissible bracket for fluctuations are determined by the Federal Council. The current bracket is Sw F 3 per 100 kg (unchanged since 2000). Current threshold prices are defined in Annex 2 to RS 916.01.

[4] The merger of three tariff quotas on wines has not yet been reflected in the WTO schedules of Switzerland and Liechtenstein.

[5] Under the Switzerland-Liechtenstein tariff-quota regime, the *prise-en-charge* procedure is always combined with other procedures.

[6] RS 632.911.

Table IV.4
Tariff quotas, 2007

TQ	Product description	Average tariff rates[a] 2007 (%)		Quota commitment	Fill ratio (%)	
		In-quota	Out-of-quota		2006	2007
1	Live horses, asses, mules, and hinnies (units)	0.7	52.2	3,322	76.8	87.5
2	Live bovine animals (units)	2.4	130.9	20	6,700.0	4,750.0
3	Live swine (units)	2.1	210.8	50	0.0	0.0
4	Live sheep and goats (units)	1.2	40.2	187	295.7	135.3
5	Animals for slaughter; meat mainly produced on the basis of coarse fodder (tonnes)	16.1	140.7	22,500	165.1	168.5
6	Animal for slaughter; meat mainly produced on the basis of concentrated fodder (tonnes)	6.4	128.6	54,500	85.5	92.9
7	Dairy products, in milk equivalent (tonnes)	7.8	83.9	527,000	106.7	106.4
8	Casein (tonnes)	0.4	1.6	697	87.7	5.7
9	Birds' eggs, in shell (tonnes)	25.9	13.8	33,735	91.7	98.8
10	Dried egg products (tonnes)	35.0	29.4	977	165.8	155.9
11	Other egg products (tonnes)	26.3	81.8	6,866	115.7	101.2
12	Bovine semen (doses)	1.0	25.3	20,000	2,207.5	1,923.0
13	Cut flowers (tonnes)	1.9	43.5	4,590	165.5	75.8
14	Seed and table potatoes; potato products (tonnes)	10.4	58.7	22,250	266.2	211.9
15	Fresh vegetables (tonnes)	4.0	110.7	166,076	129.5	42.0
16	Frozen vegetables (tonnes)	31.0	84.8	4,500	132.5	122.3
17	Fresh apples, pears, and quinces (tonnes)	2.3	77.5	15,810	105.1	25.8
18	Fresh apricots, cherries, plums, and sloes (tonnes)	2.0	58.8	16,340	97.5	27.4
19	Other fresh fruit (tonnes)	0.6	41.4	13,360	87.9	81.4
20	Fruit for cider production (tonnes)	13.2	90.1	172	100.0	102.3
21	Seed fruit products (tonnes)	17.6	61.4	244	251.2	244.7
22	Grapes for pressing and grape juice (tonnes)	29.2	192.7	100,000	84.3	83.5
23	White and red wine (hectolitres)	18.7	9.3	45,000	92.5	96.2
24	Durum wheat, undenatured (tonnes)	2.9	131.0	110,000	69.8	89.3
25	Bread cereals and other cereals for human consumption (tonnes)	22.7	69.7	70,000	40.1	136.7
26	Coarse grains for human consumption (tonnes)	0.6	93.5	70,000	45.9	57.8

a The averages are based on *ad valorem* equivalents.

Source: WTO notifications in document series G/AG/N/CHE/.

Table IV.5
Administration of tariff quota, 2007

TQ	Product	Beneficiaries/eligibility requirements	Allocation procedure	Permit/licence
1	Live horses, asses, mules, etc.	No limitation	First-come-first-served[a]	Non-automatic licence
2	Live bovines	Breeders	First-come-first-served, except live bovines (auction)	Non-automatic licence
3	Live swine			
4	Live goats and sheep			
5	Meat (beef, sheep, goat, and horse)	No limitation	*Prise en charge*[b]; auction	Non-automatic licence
6	Other meat (pork and poultry)		*Prise en charge*; auction	Non-automatic licence
7	Dairy products (milk equivalent)	Producers and manufacturers	*Prise en charge*; first-come-first served	Non-automatic licence

Table IV.5 (cont'd)

TQ	Product	Beneficiaries/eligibility requirements	Allocation procedure	Permit/licence
8	Casein	No limitation	Unlimited	Automatic licence
9	Eggs in shell		First-come-first served	No licence
10	Dried egg products		Unlimited	No licence
11	Other egg products			
12	Bovine semen	Recognized insemination organizations	First-come-first-served	Non-automatic licence
13	Cut flowers	No limitation	Past imports; *prise en charge*	Non-automatic licence
14	Potatoes and products		*Prise en charge*; auction	Non-automatic licence
15	Vegetables		Past imports[c]; *prise en charge*; *pro rata*[d]	Non-automatic licence
16	Apples, pears, quinces, fresh			Non-automatic licence
17	Frozen vegetables		*Prise en charge*	Non-automatic licence
18	Apricots, cherries, etc. fresh		Past imports; *prise en charge*; *pro rata*	Non-automatic licence
19	Other fruit, fresh			Non-automatic licence
20	Fruit for cider production		Auction	Non-automatic licence
21	Seed-fruit products			Non-automatic licence
22	Grapes for pressing and grape juice		Unlimited	*Permis général d'importation* (PGI)
23	White and red wine	Licensed wine traders	First-come-first served	Automatic licence
24	Durum wheat, undenatured	Importers licensed by Reserve Suisse	Unlimited	Automatic licence
25	Bread cereals and other cereals for human consumption		First-come-first served	Automatic licence
26	Coarse grain		Unlimited	Automatic licence

a Except for horses other than for breeding (auction).
b *Prise en charge*: quota shares contingent upon purchases of local goods.
c Past imports: quota shares allocated as a function of commercial activity, purchases or imports during the preceding year.
d Pro rata: quota allocation depends on the quantities requested by individual importers.

Source: WTO documents G/AG/N/CHE/13/Add.9, 8 January 2008 and G/AG/N/CHE/13/Add.10, 27 May 2008, and information provided by the Swiss authorities.

21. The Price Compensation Scheme is aimed at compensating for high domestic prices (of locally produced raw materials used as inputs by domestic agri-industries) resulting from, *inter alia*, agricultural policy measures.[7] It consists of tariff protection for locally processed agricultural products, and "export refunds". The refunds are granted to the extent of the price differences of the raw materials used in the production of processed agricultural goods for exports. For mainly imported raw materials, the refunds correspond to the border charges paid. For locally produced raw materials (used as inputs in the production of export goods), the refunds correspond to the excess over world prices of identical products (i.e. the c.i.f. value of the latter at the border of the customs union).

22. Under the scheme, MFN import tariffs on the processed products consist of an industrial element and an agricultural element. The agricultural element is designed to offset the difference between domestic and world prices. It is determined on the basis of a standard recipe for each group of products within a tariff heading, and adjusted periodically to price differences. The industrial element is fixed by the Swiss Federal Council for the customs territory. If the sum of the agricultural and industrial element is higher than the tariff bound at the WTO, the latter applies. Only the agricultural element is levied on imports from countries eligible for preferential tariff treatment under bilateral trade agreements covering processed agricultural products. The products eligible for this type of tariff protection are: yoghurt containing fruit or cocoa (HS Chapter 4); frozen sweet corn

[7] RS 632.111.722.

(HS Chapter 7); sugar confectionery (HS Chapter 17); chocolate and other food preparations containing cocoa (HS Chapter 18); pastry cooks' products and preparations of cereals, flour, starch, or milk (HS Chapter 19); and other food preparations (HS Chapter 21). The raw materials are those used as inputs in the production of these goods, excluding: raw materials that cannot be produced in the customs territory, such as rice, coffee, and cocoa; mixtures of raw materials; raw materials filled in retail packing; raw materials processed into unusual foodstuffs; and imported mixtures not falling under HS Chapters 4 and 11.

23. Switzerland and Liechtenstein have made commitments under the WTO Agreement on Agriculture to reduce export subsidies on a number of products.[8] Accordingly, outlays for export subsidies have fallen, and remained far below the agreed maximum levels for most product categories (Table IV.6). Nevertheless, Switzerland remains an important user of export subsidies for dairy products and processed agricultural goods.

Table IV.6
Export subsidies, 2004-06
(Sw F million)

Products	Actual outlays			Commitment levels		
	2004	**2005**	**2006**	**2004**	**2005**	**2006**
Dairy products	44.41	36.28	31.7	284.0	284.0	284.0
Cattle for breeding, and horses	6.62	5.66	5.06	22.4	22.4	22.4
Fruit	16.8	8.3	8.9	16.8	16.8	16.8
Potatoes	0.7	1.2	1.2	2.3	2.3	2.3
Processed products	114.9	90.0	90.0	114.9	114.9	114.9

Source: WTO documents G/AG/N/CHE/37, 4 October 2006 and G/AG/N/CHE/42, 25 March 2008.

24. OECD estimates confirm a continued and gradual reduction in the level of support since the last TPR of Switzerland and Liechtenstein. However, production and trade distorting policies still account for more than half of that support. Over the period, the support has become less commodity-specific, as unspecific payments and payments to commodity groups were introduced or increased to compensate for the reduction of market price support. The level of support to producers declined from 71% in 2002-04 to 60% in 2005-07; this remains 2.3 times higher than the average level of support in the OECD (Table IV.7). The share of the most distortive forms of support (output and variable input-based support) fell to 75% in 2005-07, compared with 88% in 1986-88; the share of the least trade-distortive support (payments not linked to production) was 21.6%. Producer and consumer prices at the farmgate are on average two times higher than world prices. The implicit tax on consumers decreased further from 58% in 2002-04 to 44% in 2005-07. Support for general services has changed little and is currently at around 6.7 % of total support to agriculture. In 2005-07, total support to agriculture was 1.4 % of GDP, down from 1.8% in 2002-04 and about 36% of the level estimated for 1986-88. The largest share of producer support in value terms is directed to beef and veal, followed by pig meat and milk.[9]

25. Imports of agricultural products are subject to licensing requirements for the purpose of tariff quota management, as well as for health, sanitary, phytosanitary, or compulsory reserve stock (Chapter III(2)(vi)(b), (x)(c), and (vii)). Rice, wheat, sugar, wheat, and oils are subject to compulsory

[8] WTO Schedule LIX: Switzerland and Liechtenstein, 15 April 1994.

[9] OECD database 1986-2006, "Producer and Consumer Support Estimates: Switzerland". Viewed at: http://www.oecd.org/document/59/0,3343,es_2825_494504_39551355_1_1_1_1,00.html.

reserve stocks (Chapter III(2)(vii)). Imported goods produced in a manner prohibited in Switzerland, e.g. eggs from battery hens, must be labelled as such (Chapter III(2)(x)(b)).[10]

Table IV.7
Estimates of Swiss support to agriculture, selected years
(Sw F million)

	Average			2004	2005	2006	2007[a]
	1986/88	2002/04	2005/07				
Total value of production (at farm gate)	**9,482**	**7,152**	**6,773**	**7,284**	**7,019**	**6,541**	**6,759**
Total value of consumption (at farm gate)	**11,661**	**8,629**	**8,336**	**8,860**	**8,593**	**8,154**	**8,261**
Producer Support Estimate (PSE)	**8,474**	**7,339**	**6,032**	**7,137**	**6,966**	**6,115**	**5,016**
Support based on commodity output	7,057	4,433	3,061	4,208	4,022	3,175	1,986
Market Price Support (MPS)	7,015	4,085	2,740	3,876	3,691	2,834	1,696
Payments based on output	42	348	321	332	330	342	290
Payments based on input use	561	332	233	224	223	224	251
Variable input use	454	..	109	109	105	106	115
Payments based on current area planted, animal numbers, receipts or income, production required	612	..	1,034	983	992	998	1,111
Payments based on non-current area planted, animal numbers, receipts or income, production required	28	..	91	91	92	91	91
Payments based on non-current area planted, animal numbers, receipts or income, production not required	0	..	1,302	1,318	1,320	1,320	1,267
Percentage PSE	**77**	**71**	**60**	**68**	**68**	**62**	**50**
General Services Support Estimate (GSSE)	**688**	**518**	**488**	**504**	**490**	**496**	**478**
GSSE as a share of TSE (%)	**6.7**	**6.5**	**7.5**	**6.4**	**6.5**	**7.4**	**8.6**
Consumer Support Estimate (CSE)	**-7,759**	**-4,877**	**-3,605**	**-4,748**	**-4,619**	**-3,783**	**-2,412**
Total Support Estimate (TSE)	**10,251**	**8,019**	**6,635**	**7,825**	**7,603**	**6,717**	**5,584**
Percentage TSE (share of GDP)	**3.86**	**1.84**	**1.4**	**1.7**	**1.6**	**1.4**	**1.1**

.. Not available.

a Provisional.

Note: MPS commodities for Switzerland are: wheat, maize, other grains, oilseeds, sugar, milk, beef and veal, sheep meat, pig meat, poultry, and eggs. Market price support is net of producer levies and excess feed costs.

Source: OECD (2005), *Agricultural Policies in OECD Countries: Monitoring and Evaluation 2005*, p. 69; OECD (2007), *Agricultural Policies in OECD Countries: Monitoring and Evaluation 2007*, p. 215; and OECD (2008), *Agricultural Policies in OECD Countries: At a Glance 2008.* Viewed at http://www.oecd.org/document/59/0,3343,en_2649_33797_39551355_1_1_1_1,00.html.

26. Switzerland has notified its quantity of food aid to least developed and net-food-importing developing countries between 2003 and 2005.[11] Food aid was provided solely in response to humanitarian needs, and on full-grant terms. In 2006/07, 71,051 tonnes of food aid was provided.

27. Liechtenstein maintains its own direct payments system Direct payments to its farmers increased from Sw F 10.5 million in 2002 to Sw F 12.3 million in 2007 (Table IV.8). Eligibility criteria include ecological and animal-health standards, and the number of hectares cultivated. The authorities indicate that a law on agriculture is under preparation and expected to enter into force in 2009. The law is aimed at increasing the competitiveness of Liechtenstein's agriculture sector and maintaining market conditions similar to those in Switzerland. It is also planned to put more emphasis on marketing and image-building with a view to better promoting agricultural goods made in Liechtenstein. During the review period, reform efforts have concentrated on improving conditions for milk production (section (iii)(a) below). Furthermore, a law on support of investment in

[10] Article 18 of RS 910.1, and RS 916.51.
[11] WTO documents G/AG/N/CHE/39, 30 November 2007, and G/AG/N/CHE/39/Corr.1, 12 December 2007.

agriculture (in force since 1 January 2001) provides young farmers with interest-free start-up loans of up to Sw F 150,000 for constructions that are "reasonable in price and flexible in use".

Table IV.8
Liechtenstein outlays for direct payments, 2002-07
(Sw F '000)

	2002	2003	2004	2005	2006	2007
Complementary direct payments	4,541	4,726	5,170	5,256	5,379	5,789
Payments for farming in difficult production locations	934	951	952	934	947	952
Payments for ecological farming	4,361	4,330	4,761	4,666	4,820	4,977
Summer pasturing	625	575	569	559	552	578
Total	**10,461**	**10,582**	**11,452**	**11,415**	**11,698**	**12,296**

Source: Information provided by the Liechtenstein authorities.

(iii) Key subsectors

(a) Food, beverages, and tobacco products

28. Food manufacturing remains the most protected industrial activity in the customs union (see also section (ii) above). Tariffs are high, on average, and prohibitive in many cases, reaching 1,468.7% on edible frozen offal of bovine animals, other than tongue or liver. A tariff quota of 1.7 million hectolitres is in place on white and red whine (Table IV.4). Most food products and beverages are subject to the reduced VAT rate of 2.4%. Excise duties are collected on tobacco products and certain alcoholic beverages (Chapter III(2)(v)). Imports of food, beverages, and tobacco products amounted to US$6.5 billion in 2007, while exports were US$5.3 billion.

29. An agreement (between the EC and Switzerland) on processed agricultural products, which entered into force in 2005, abolished or reduced tariffs and export subsidies for numerous processed agricultural products when traded between the two parties. In addition, their bilateral trade in cheese was fully liberalized as of 1 June 2007.

30. Switzerland's food processing subsector has been a major beneficiary of the export subsidy scheme, receiving Sw F 90 million in 2005 and in 2006 each (Table IV.6). However, export subsidies for processed products have declined in recent years, mainly due to the above-mentioned agreement with the EC. Food processing companies located in Liechtenstein are eligible for the Swiss export subsidy scheme.

(b) Livestock, dairy, and related products

31. Livestock breeding and production of dairy goods are the most important agricultural activities in Switzerland and Liechtenstein (Table IV.1). Imports of various live animals, certain animals for slaughter, dairy products, and casein are subject to tariff quotas (Table IV.4). Average applied MFN tariffs are 50.05% on live animals (HS code 01), 128.8% on meat and edible meat offal (HS code 02), and 58.1% on dairy products (HS code 04). Product-specific subsidies remain in place for butter (Chapter III(4)(i)). Various milk products are eligible for price support (section (ii) above). A system of milk production quotas, established in 1999, is to be phased out by April 2009. Only a few producers remain within the quota system.

32. There are some 28,000 milk producers in Switzerland. Production has been relatively stable for more than three decades, at some 4 million tonnes per year. Milk production per cow has increased continuously, while the number of cows declined from nearly 800,000 in 1980 to some 690,000 in 2007.

33. Despite the high level of protection and policy intervention, imports in some meat and dairy products remain significant: for example, imports of meat and meat products amounted to US$581 million in 2007, and imports of dairy products were US$477 million. Due to price differences with neighbouring countries, consumers in Swiss border regions heavily rely on the cross-border-purchase of the most protected products (e.g. meat and dairy products, alcoholic beverages).

34. Liechtenstein's milk output was 14,052 tonnes in 2006, up from 13,250 tonnes in 2000. The Milk Quantity Regulation Law, adopted in 2008 has been gradually abolishing production quotas. During the transition period, quotas will be administered by the producers' association. While there is no timetable for the abolition of the quota, the ultimate objective of the law is to obtain self-regulation in the milk market.

(c) Sugar beet and sugar

35. Sugar beet is cultivated by some 7,000 farmers on an area of some 18,500 hectares. The production value of sugar beet has fluctuated between Sw F 130 and Sw F 170 million since 2001 (Table IV.1). There are two sugar refineries, in Aarberg and Frauenfeld, producing some 200,000 tonnes of sugar annually. The refineries are mandated by the Federal Council to produce an annual minimum quantity of sugar from Swiss sugar beet; this minimum was set at 120,000 tonnes until 2003, and has been 150,000 tonnes since 2004. The refineries negotiate annually with farmers' associations the necessary quantity of beet, its distribution among producers, and its price. The refineries are required to sell their sugar and other by-products of beet at market prices. In return, the Confederation grants the refineries financial assistance, amounting to Sw F 15 million in 2007 and 2008, with a view to ensuring a certain self-sufficiency in sugar. In the framework of AP2011, the subsidy will be re-directed towards sugar beet producers, who will receive Sw F 850 per hectare of sugar beet production in 2008 and Sw F 1,900 in 2009.

36. The average AVE of customs tariffs on sugar and confectionery (HS code 17) is 11.6%, with a maximum of 82.6% on glucose and glucose syrup. In addition, Switzerland maintains a preferential duty-free tariff quota of 7,000 tonnes per year on cane sugar from least developed countries (opened in 1997 in addition to WTO commitments).[12] Imports of sugar and confectionary amounted to US$308 million in 2007.

37. The agreement with the EC on processed agricultural products, in force since 2005, establishes free trade in processed sugar-containing products. In addition, various technical barriers to trade apply to these products; they have been eased in trade with the EC through mutual recognition of the equivalence of the relevant legal provisions (Chapter II(4)(ii)(c)).

(d) Other crops

38. Production of cereals and potatoes has declined slightly since 2001, reflecting a decrease in the area under cultivation for these crops (Table IV.1). Imports of cereals (HS code 10) are subject to customs duties with AVEs averaging 18.3%, and up to 290.3%, on onions and shallots. Products of the milling industry (HS code 11) bear an average AVE of 40.4%, while the average on oilseeds is 7.8%, with a maximum of 104.5% on rape and colza seeds. Durum wheat, broad grains, coarse grains for human consumption, and potatoes are subject to tariff quotas; fill rates for these products are relatively high (Table IV.4). Imports of cereals amounted to US$265 million in 2007, while exports were US$1.4 million. Imports of products of the milling industry amounted to US$72 million, and

[12] RS 632.911.

exports to US$5 million. Oilseeds imports were US$193 million, while exports were US$10.5 million. Subsidies are available to producers of oilseeds and to processing plants (Chapter III(4)(i)).

39. The annual production value of fruits has ranged between Sw F 500 and Sw F 600 million since 2001, while the annual value of vegetables, other than cereals and potatoes, has been slightly lower in most years, between Sw F 470 and 540 million (Table IV.1). Average tariffs are 37.8% on edible vegetables (HS code 07), reaching 1,256% on lettuce, and 12.9% on edible fruit and nuts (HS code 08), with a maximum of 258% on fresh grapes. Fresh and frozen vegetables, various types of fruit, fruit for cider, grapes, and seed-fruit products are subject to tariff quotas (Table IV.4). Producers of high protein peas and field beans receive a subsidy proportionate to the area under cultivation (Chapter III(4)(i)). Imports of edible vegetables amounted to US$553 million in 2007, while exports were US$4.5 million. Imports of fruits and nuts were US$870 million, whereas exports amounted to US$20.3 million.

(e) Forestry and logging, and fisheries

40. About one third of Switzerland is covered by forests; two thirds of these are located in the Alps. Switzerland's forestry policy is based on the principles of protection against natural disaster, biological diversity, and efficient use of forest resources. The Forests Law of 1991 (RS 921.0) is the main legal instrument in the subsector. Under the law, subsidies may be provided to forestry activities for measures such as tending and hauling, and indemnities may be paid for, *inter alia*, replanting or protection of valley areas against avalanches. Federal financial assistance totalled Sw F 173 million in 2006 and Sw F 149 million in 2007. Since 2008, federal subsidies are paid for the achievement of specific ecosystem services, such as protection against natural hazards or biological diversity. The average tariff on forestry and logging products is 0.5%. Exports of forestry and logging products (ISIC code 12) amounted to US$201 million in 2007, and imports to US$90 million.

41. Limited to the bigger lakes, fishing is not developed in Switzerland and Liechtenstein. In 2007, imports of (unprocessed) fishing products (ISIC code 13) were US$134 million, and imports of (processed) fish products (ISIC code 3114) amounted to US$468 million. The average tariff is 0.2% on both product categories.

(3) ENERGY

(i) Major features

42. The Swiss Federal Office of Energy formulates policies for the energy sector.[13] In February 2007, the Federal Council adopted a new Energy Strategy. With a view to securing energy supply and reducing CO_2 emissions, the Strategy is based on four pillars: (i) increased energy efficiency, through energy savings and use of new technologies; (ii) increased reliance on renewable energies; (iii) accelerated procedures for the construction of large energy infrastructure (grids, gas power stations) as a measure to avoid medium-term supply shortages; and (iv) increased international cooperation, in particular with the European Communities and other energy-producing countries. This is to ensure future supply security and allow Switzerland's participation in the European trade in CO_2 certificates (pollution rights).

43. Switzerland and Liechtenstein have not made any GATS commitment with respect to energy services *per se*. However, under "Business services", both Switzerland and Liechtenstein have

[13] Swiss Federal Office of Energy online information. Viewed at: http://www.swiss-energy.ch.

undertaken specific commitments on "Services incidental to mining, excluding prospecting, surveying, exploration and exploitation (part of CPC 883 and part of 5115)".[14] Under the GATT, import duties have not been bound on gas, petroleum, and related products.

44. Neither Switzerland not Liechtenstein produce fossil fuel. Therefore, net imports accounted for some 82% of Switzerland's energy consumption in 2007.[15] The major sources of Switzerland's total primary energy consumption in 2007 were: fossil fuels (45.2%), nuclear power (25.2%), hydro-power (11.5%), natural gas (9.7%), and others, including firewood, waste combustion, coal, and solar and wind power (8.4%). Energy imports are tariff free.

45. Liechtenstein's total energy consumption was 1,307 GWh in 2007, of which some 92% was imported.[16] Natural gas is the most important source of energy, with a share of 29% in total production, followed by electricity (29%), and fuel oil (13%). Domestic energy production is mainly through various hydro-electric power stations, although the contribution of solar power has been increasing. The Energy Commission is the regulatory agency in the subsector. The authorities' objective is to increase the share of renewable energies to 10% by 2013, through subsidies for improved insulation and sun-collectors, and tighter energy standards in construction.

(ii) Oil products

46. In 2007, Switzerland imported oil products for US$8,629 million, of which 29% was crude oil. Switzerland has two crude oil refining plants. The retail market in Switzerland and Liechtenstein is dominated by seven private companies; prices for petroleum products are market-determined. There are no restrictions for engaging in the importation of oil, provided the importer satisfies the stockholding obligation as set out in the Federal Law on national economic supply (RS 531).

47. Switzerland and Liechtenstein apply the same duties and taxes on energy. Crude petroleum enters the customs union tariff-free; VAT is collected at the standard rate of 7.6%. VAT revenues on oil products (fuels and combustibles) totalled Sw F 780 million in 2007. In addition, various other duties and taxes apply to specific petroleum products. The mineral oil tax (Sw F 3,048 million of revenues) is levied on all oil products and natural gas. With a view to reducing CO_2 emissions, bio-fuels fulfilling certain ecological and social conditions have been partially or fully exempt from the mineral oil tax since July 2008. In addition, a surtax on mineral oils is levied on transport fuels only (Sw F 2,039 million). Together, the specific consumption taxes on petroleum products accounted for almost 9% of federal revenue in 2007. Tax rebates are granted to agricultural and concessionary public transport.

48. According to the International Energy Agency (IEA), heating oil and gasoline prices in Switzerland are the among the lowest in Europe. This, coupled with the depreciation of the Swiss franc against the euro in recent years, has accentuated fuel tourism.[17]

(iii) Natural gas

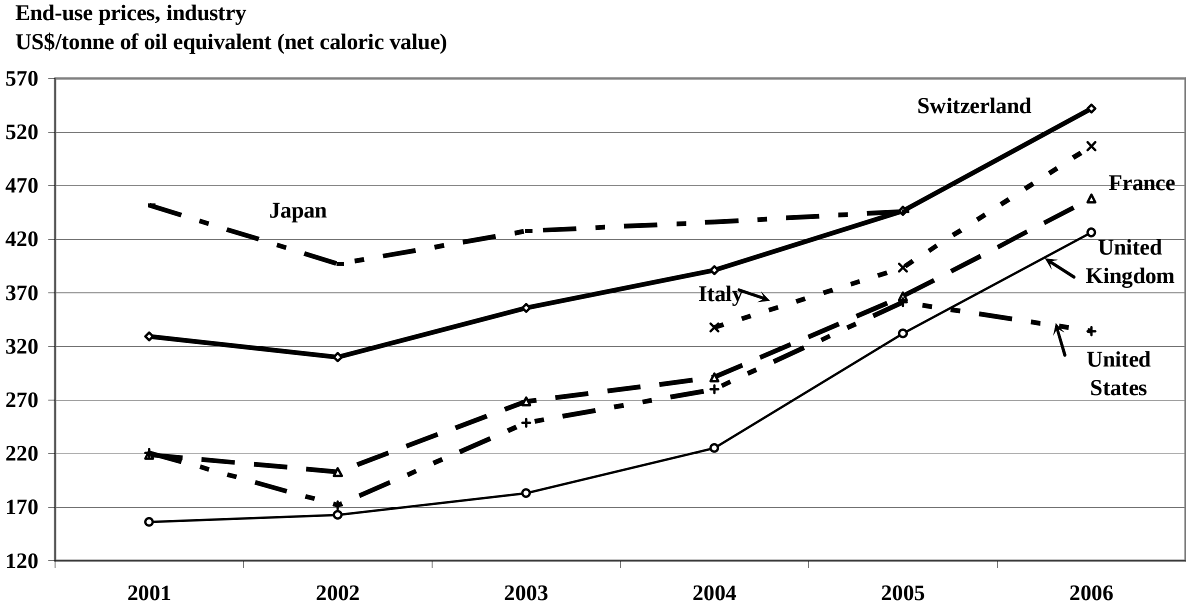
49. Natural gas sales were 31,500 GWh in 2006, up from less than 29,000 GWh in 2002. As no natural gas has been produced in Switzerland since 1994, the entire consumption is imported. Imports are duty free. Swissgas, which is mainly controlled by municipally-owned regional distribution companies, accounts for some 75% of total natural gas imports into Switzerland. The natural gas

[14] WTO documents GATS/SC/83 and GATS/SC/83A, 15 April 1994.
[15] Swiss Federal Office for Energy (2008).
[16] Amt für Volkswirtschaft (2008).
[17] International Energy Agency (2007a).

market is mostly under the *de facto* monopoly of cantons and municipalities. Even though both the Pipeline Law and the Competition Law provide for third-party access, the lack of market entrants prevents consumers from changing suppliers. The authorities ascribe this to the small size of the Swiss market and the absence of large industrial customers.

50. Natural gas prices are set directly by local authorities or subject to their approval. While natural gas prices in Switzerland still exceed those in other OECD countries, the depreciation of the Swiss franc *vis-à-vis* the euro has narrowed the gap between prices in Switzerland and other European countries (Chart IV.1).[18]

Chart IV.1
Natural gas prices in selected OECD countries, 2001-06



Source: International Energy Agency (2007), *Natural Gas Information*.

51. Natural gas in Liechtenstein is distributed by state-owned Liechtensteinische Gasversorgung (LGV). Under the current regime, LGV owns the pipeline and is the only supplier. Consumers with annual consumption of more than 10 GWh may receive discounts. They are also allowed to import directly by paying LGV for the use of the pipeline; transmission prices are subject to approval by the Energy Commission. A new Gas Market Law, based on EC Directive 2003/55, will be before Parliament in September 2008. The proposed law foresees further liberalization of the market for natural gas (production, transmission, and distribution). Under the new Law, LGV will continue to be state-owned and to own the pipeline.

(iv) Electricity

52. Total electricity consumption in Switzerland was 57,400 GWh in 2007.[19] The majority of generation is hydro-electric from some 350 power plants (55.2%, down from over 60% in 2001) and

[18] International Energy Agency (2007b).
[19] Swiss Federal Office for Energy (2008).

from five nuclear power plants (40.0%, up from 36% in 2001). Other sources of energy include fossil-fired, waste, biomass, solar, and wind energy. Imports of electricity amounted to 48,500 GWh in 2007, while exports were 50,600 GWh. Imports are mainly from French nuclear power plants, but also from Austria and Germany, while exports are mostly to Italy. Imports are duty-free and not subject to a licence.

53. The electricity branch is owned mainly by cantons and municipalities. There are 7 vertically integrated companies active mainly in production, transmission, and trade; 300 production and distribution companies; 200 companies (mostly) jointly owned by other utility companies and active in production; and around 700 mainly distribution companies operating at the municipal levels. Forty major firms account for more than 60% of total distribution. Production, transmission, and distribution activities are still under *de facto* monopolies. Seven major electricity companies currently own the electricity grid.

54. A new Electricity Law was adopted in March 2007 and entered into force in January 2008. The law provides for a two-stage opening of the Swiss electricity market. As of January 2009, large industrial and commercial clients[20] will be able to freely choose their suppliers; the market for all consumers will be opened in 2014. The law provides for regulated third-party access to the grid in non-discriminatory terms. Vertically integrated companies are required to separate from their transmission grids and to create an exclusive grid operator (Swissgrid), which will become grid owner by January 2013. Local distribution companies have to keep separate accounts for electricity generation, transmission, and distribution.

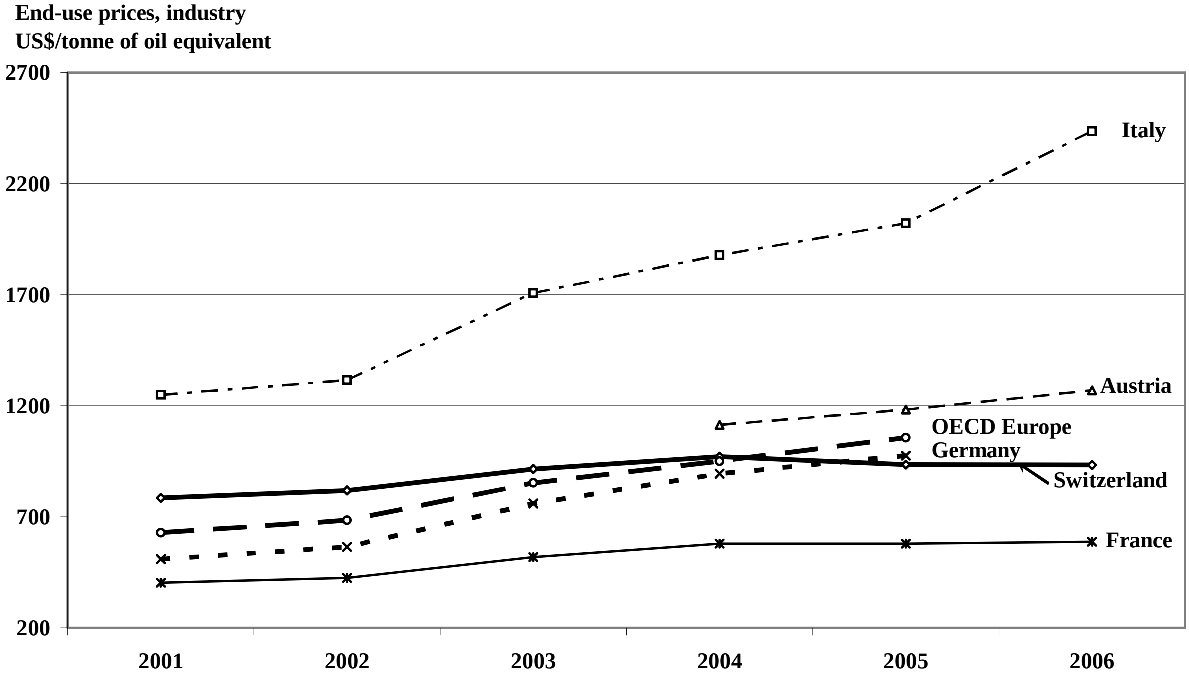
55. The Electricity Law also established an independent Electricity Commission (ElCom). The Commission, which has seven members, has the power to order decreases or prohibit increases of transmission tariffs or consumer prices if it considers them inappropriate. Before the establishment of the EICom, this responsibility was with the Price Controller. The ElCom is also responsible for preventing abuse of dominant market positions by suppliers, and to ensure grid stability and electricity supply.

56. Swiss electricity prices for captive consumers (i.e. without grid access) are set either by cantonal or communal authorities, or by companies. Therefore, prices differ between cantons and municipalities. Switzerland is the only OECD country where electricity prices for industrial users have fallen in dollar terms since 2004; prices were below the average of European OECD countries in 2006 (Chart IV.2).

57. State-owned Liechtensteinische Kraftwerke (LKW) imports, produces, and distributes electricity in Liechtenstein. It also sets electricity prices. The LKW's electricity sales were 379 GWh in 2007, of which 307 GWh were imported from Switzerland. Liberalization of the electricity market started with the adoption of a new Electricity Law in 2002, which opened the market for large customers. Since 2005, independent power producers (IPPs) may sell electricity to any customer; the transmission fee payable to LKW is subject to approval by the Energy Commission. Nonetheless, no IPPs have yet entered the market.

[20] These are clients with an annual consumption exceeding 100,000 KWh.

Chart IV.2
Electricity prices in selected OECD countries, 2001-06



Source: International Energy Agency (2007), *Electricity Information*.

(4) MANUFACTURING

(i) Main features

58. Switzerland is home to several of the world's largest multinational manufacturing companies. Despite the importance of multinationals, Swiss manufacturing is highly diversified. Most firms are small or medium-sized; they are located throughout the country, but especially in the Mittelland. Switzerland's manufacturing sector is characterized by high R&D-intensity and specialization; competitiveness has been increased through the consistent outsourcing of cost-sensitive processes.[21] Some 23.7% of the labour force worked in the industrial sector in 2006. In 2007, Switzerland imported manufactured goods for US$152 billion (Major Division 3 of ISIC, Revision 2), while its exports amounted to US$168 billion.

59. In Liechtenstein too, the manufacturing sector is important in terms of its contribution to GDP. There are some 600 companies, mostly SMEs, active in a large number of market niches. The most important branches are mechanical engineering, electrical machinery, vehicle components, dental technology, and food products. Due to the limited domestic market, the larger enterprises, especially are heavily export-oriented. As in Switzerland, the emphasis is on the development of high quality, high-tech products. Liechtenstein's direct manufacturing exports in 2006 were estimated at some Sw F 3.6 billion.[22]

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[21] Credit Suisse (2008).
[22] "Direct" exports are those not channelled through subsidiaries or logistic centres in Switzerland.

60. Manufacturing in Switzerland and Liechtenstein also includes the processing of agricultural goods (section 2(iii)(a)). While certain incentive schemes are in place to support the production of processed agricultural goods (e.g. the Price Compensation Scheme (section 2(ii)), there are no specific incentive schemes for other manufacturing subsectors. Nonetheless, the close cooperation between universities and manufacturers, as well as Switzerland's high level of R&D expenditure, has contributed to the success of its high-tech industries.

61. Using ISIC definition, imports in the manufacturing sector face an average tariff of 6.9%, down from 7.7% in 2004. However, these averages mask peaks of up to 121.6% on used clothing. Tariffs exceeding 25% are applied mostly on textile products, but also on used tyres, and fish liver oils.

(ii) Textiles, clothing, and footwear

62. Employment in Switzerland's textiles and clothing industry has contracted continuously, from over 33,000 in 1995 to less than 16,200 in 2007.[23] Imports of textiles, wearing apparel, and leather products amounted to over US$8.8 billion in 2007, while exports were US$4.1 billion. MFN tariffs on textiles and clothing products remain relatively high, averaging 12.8% on cordage and 9.1% on made-up textile goods. Tariffs exceeding 45% are applied on used clothing, catgut imitations, and woven fabrics obtained from synthetic textile strip.[24] The industry's interests are represented by Swiss Textiles.

63. The footwear industry has virtually disappeared from Switzerland, with remaining employment estimated at 350, producing mainly for niche markets.[25] Tariffs on footwear average 2.3%.

(iii) Chemical and pharmaceutical products

64. Switzerland's chemical and pharmaceutical industry consists mainly of export-oriented companies producing a wide range of highly specialized goods. Alongside major companies, the industry is made up of some 1,000 small- and medium-sized businesses, with an increasing importance of biotech companies. Some 64,000 persons are employed in the subsector. Sectoral interests are represented by SGCI Chemie Pharma Schweiz.

65. Switzerland's exports of chemicals, plastics, and pharmaceuticals (ISIC code 35) amounted to US$61.8 billion in 2007, whereas imports were US$44.3 billion. Import tariffs are low, with an average of 1.3%. Drugs and medicines are tariff-free.

(iv) Machines and equipment

66. The Swiss machine and equipment industry produces a wide range of goods, including precision instruments, watches, optical and scientific instruments, and generators and turbines. The industry employs some 98,000 people. Exports of goods belonging to the category of machinery, equipment, and fabricated metal products (ISIC code 38) amounted to US$73,622 million, while imports were US$59,062 million in 2007. Tariffs on machines and equipment are low, with an average of 1.0% and a maximum of 24%.

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[23] Swiss Textile online information. Viewed at: http://www.swisstextiles.ch/boxalino/files/Document71file.pdf.

[24] HS codes are 6309.0000 (121,6%), 5804.9010 (49%), and 540.7200 (47.4%).

[25] *NZZ Folio*, "Nichts geht mehr", November 2007.

67. Switzerland and Liechtenstein do not produce motor vehicles on a commercial scale. After customs clearance, all vehicles and specified parts must be homologated by the Federal Office for Roads. The Office addresses, *inter alia*, pollutant emission, noise, brakes, lights and lighting, speedometer and tachometer readings, and make of tyres. Inspection fees are determined at the cantonal level and range between Sw F 40 and Sw F 80. Furthermore, the owner must bear the costs of bringing the vehicle into compliance with national regulations. EC type-approvals are accepted. Sales of motor vehicles are subject to a motor vehicle tax of 4% in addition to the VAT of 7.6%. Import tariffs on motor vehicles average 1.8% on an AVE basis. Imports of motor vehicles amounted to nearly US$10.9 billion in 2007.

68. Distribution contracts between importers and foreign producers of motor vehicles must not prohibit parallel imports; all foreign dealers are allowed to sell in Switzerland.[26] Furthermore, the Competition Commission has decided that manufacturers may engage in contracts with repair garages for the delivery of spare parts only on the basis of quality criteria, and in a non-discriminatory manner.[27]

(5) SERVICES

69. The service sector is the backbone of the Swiss and Liechtenstein economies and of key importance for national income, employment, and foreign exchange generation (Chapter I(1)). Switzerland and Liechtenstein have their own policies on trade in services and act independently in international fora, including the WTO. Commitments made by Switzerland and Liechtenstein under the GATS largely reflect the state of liberalization at the time of negotiation. With the exception of presence of natural persons (the measures concerned are unbound), Switzerland and Liechtenstein have largely bound (generally without limitations) measures affecting almost all the other modes of supply of services. However, measures affecting commercial presence for the supply of certain services are either unbound or the related commitment is qualified (e.g. legal services), while those on cross-border supply of maintenance and repair of transport equipment, rental of vessels with crew, and packaging services are unbound.[28] Financial services commitments are largely qualified.

70. Switzerland submitted a revised offer in the services negotiations in June 2005.[29] Compared with its initial proposal submitted in 2003, the revised offer provides for new commitments in a number of service subsectors, particularly in construction services and tourism. However, the revised offer largely reflects measures already in place and does not go beyond the state of liberalization of Switzerland's service sector as of mid-2008. In the negotiations, Switzerland also submitted requests to some 50, mainly industrialized WTO Members.[30] The requests targeted the following subsectors: financial services, intra-corporate transfers, installers and maintainers, logistics services (services auxiliary to all modes of transport), selected business services, and tourism services.

[26] Competition Commission online information, "Communication concernant les accords verticaux dans le domaine de la distribution automobile" of 21 October 2002. Viewed at: http://www.weko.admin.ch/publikationen/00213/Zusatzinfos-F.pdf?lang=fr.

[27] Competition Commission (2008).

[28] See WTO documents GATS/SC/83 and GATS/SC/83-A, 15 April 1994 for details of specific commitments under GATS by Switzerland and Liechtenstein, respectively. For a detailed description of Switzerland's and Liechtenstein's MFN exceptions, see WTO (2000).

[29] WTO document TN/S/O/CHE/Rev.1, 14 June 2005. Switzerland submitted its initial offer in WTO document TN/S/O/CHE, 11 April 2003.

[30] The EC(15) was counted as one Member.

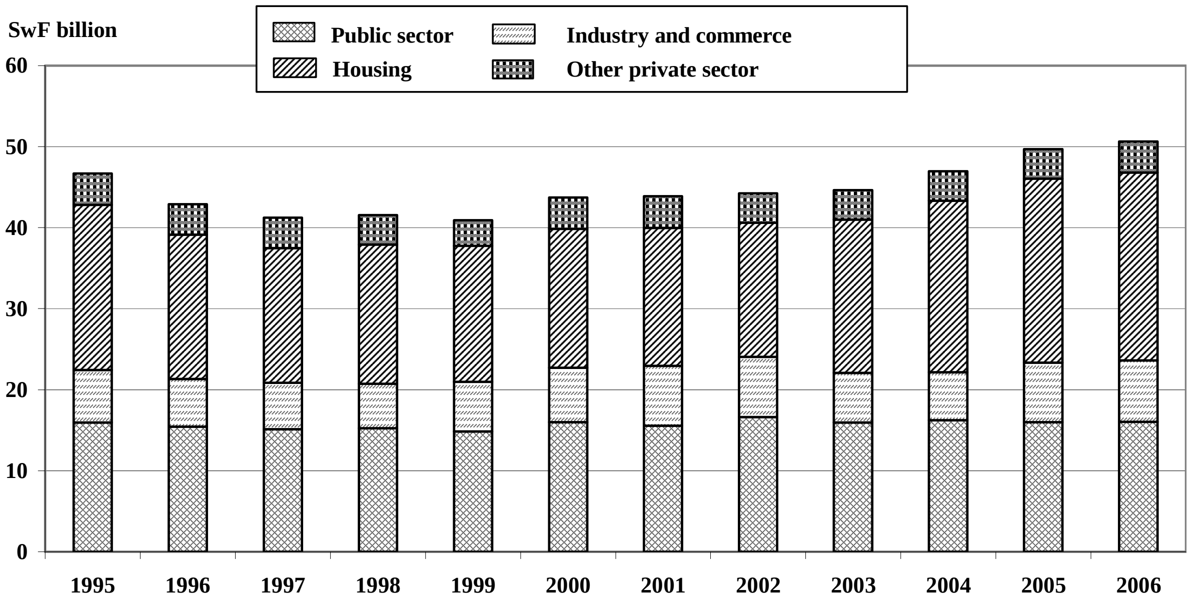
(i) Construction services

(a) Switzerland

71. Under the GATS, Switzerland has bound measures affecting market access and national treatment in all construction activities, with the exception of certain construction work for civil engineering (ex CPC 513), special trade construction work (CPC 515), and rental services for construction equipment (CPC 518). Switzerland has also scheduled certain MFN exemptions, as well as qualification requirements reflecting restrictions on access to its labour market. The MFN exemptions are: assembly and erection of prefabricated buildings and installation work for energy, heating, water, communications, and lifts. A variety of activities in these areas require permits or authorizations by cantonal or local bodies.

72. Construction spending in Switzerland has increased steadily since 2003 and amounted to over Sw F 50.6 billion in 2006 (Chart IV.3). The increase was driven mainly by strong growth in private spending for housing, and commercial and industrial buildings, whereas public construction spending has remained at constant levels since the mid 1990s.

Chart IV.3
Construction spending by project, Switzerland, 1995-06



Source: Swiss National Bank online information, "Construction projects and expenditure". Viewed at : http://www.snb.ch/ext/stats/statmon/pdf/deen/K1_Bauausgaben.pdf.

73. Restrictions to trade in this subsector used to be fourfold: standards and technical regulations have traditionally been both particularly stringent and specific to Switzerland; several professions in the subsector continue to be regulated at cantonal level; in the past, there have been a relatively large number of restrictive arrangements and other anti-competitive practices among suppliers that limited entry of new, including foreign, suppliers; and the limits on work permits for foreign employees hamper the competitiveness of this labour-intensive subsector. Together, these factors have contributed to high construction costs by international comparison. According to EUROSTAT data,

the price level in the Swiss construction subsector was 36.4% higher than in neighbouring countries, only part of which can be attributed to higher salaries.[31]

74. Technical regulations in the construction sector are initiated mostly by the Swiss Society of Engineers and Architects (SIA), a member of the Swiss Association for Standardization (Chapter III(2)(x)). However, the SIA has to withdraw national technical regulations whenever corresponding European technical regulations are adopted. Furthermore, in spring 2008, Switzerland and the EC included a chapter on construction goods into their mutual recognition agreement.

75. The 1995 Federal Law on the internal market (Chapter III(4)(iii)) was expected to establish a unified construction market in Switzerland, by eliminating barriers such as local residence and establishment requirements, and membership obligations in local trade associations, and by opening up procurement at the sub-federal level. The LMI states that goods, services, and labour legally eligible for access to one canton can also be offered in any other canton. Nonetheless, competition is still limited in Switzerland's construction industry, which has suffered from various restrictive arrangements and other anti-competitive practices among suppliers. Since the last TPR of Switzerland and Liechtenstein in 2004, the Competition Commission has undertaken inquiries, covering road surfacing, "price supports" for electricians by an installation company, joint price lists of brick producers, and a merger between two major construction companies (Chapter III(4)(iii)).

(b) Liechtenstein

76. The non-financial services regime also applies to construction services (Chapter II(5)(ii)). In the public sector, both the GPA and the EEA regimes apply. Liechtenstein has included MFN exemptions under Article II of the GATS to ensure "adequate" market access to local suppliers of construction and related engineering services.[32] However, the authorities indicate that this reciprocity requirement has never been applied in practice, and that Liechtenstein intends to give up the MFN exemption in the framework of its next revised offer.

(ii) Financial services

77. Switzerland's financial services subsector employed 192,900 in 2007, equivalent to 5.9% of total employment, and contributed 11.8% to GDP. In Liechtenstein, financial services accounted for 29% of GDP in 2005**,** the latest year for which figures are available.

78. Under the 1980 Currency Treaty between Switzerland and Liechtenstein, Swiss monetary policy is also applicable to Liechtenstein; the Swiss franc has been used as legal tender in Liechtenstein since 1924. The Swiss National Bank (SNB) has the same powers over, and obligations to, Swiss and Liechtenstein banks. Under the 2004 Federal Law on the Swiss National Bank, SNB pursues a monetary policy aimed at price stability, taking due account of economic development. In addition, the SNB must contribute to the stability of the financial system. The Act and the corresponding ordinance also clarify the SNB's oversight responsibilities as regards payment and securities clearing, and settlement systems.

79. In their specific commitments under the GATS, Switzerland and Liechtenstein have, with certain limitations, made commitments in all subsectors included in the Annex on Financial Services.[33] Going beyond the Understanding on Commitments in Financial Services, both countries

[31] OECD (2008), p.2.

[32] See WTO documents GATS/EL/83 and GATS/EL/83-A, 15 April 1994 for Final Lists of Article II (MFN) Exemptions for Switzerland and Liechtenstein, respectively.

[33] WTO document GATS/SC/83/Suppl. 4, 26 February 1998.

have gone further in terms of liberalization of cross-border supply, by expanding the sectoral coverage of commitments made under mode 1 for banking and other financial services (excluding insurance).[34] In the case of insurance, however, commitments on cross-border supply remain limited to marine, aviation, and transport (MAT); reinsurance; and auxiliary services (as stipulated in the Understanding).

80. Switzerland and Liechtenstein are parties to the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds of Crime (Strasbourg Convention of 8 November 1990), as well as the UN Convention against Transnational Organized Crime (Palermo Convention of 15 November 2000) and the 1999 International Convention for the Suppression of the Financing of Terrorism. Both countries also supports the United Nations Global Programme against Money Laundering. While Switzerland is a member of the Financial Action Task Force (FATF), Liechtenstein participates in the Select Committee of Experts on the Evaluation of Anti-Money-Laundering Measures (also known as Moneyval).[35]

(a) Banking and fund management services

Switzerland

81. Switzerland is one the most important financial centres in the world, attracting high volumes of foreign business. This is largely the result of political, economic, and social stability, prudent monetary management, a liberal regime on capital movements, and a tradition of bank secrecy. The Swiss franc is the world's fifth most important reserve currency.[36] Furthermore, due to low Swiss interest rates, bond issuance in Swiss francs is an attractive option even for non-Swiss borrowers. Switzerland has a universal banking system; thus, securities and investment fund activities are also dominated by banks. Private banking is by far the most important subsector, and Switzerland is the world leader in cross-border private banking. At end 2007, Swiss banks managed customer deposits totalling Sw F 5,235 billion for domestic and international clients.

82. At end 2007, Switzerland's banking system consisted of 330 banks (Table IV.9). The two biggest banks, UBS and Credit Suisse, rank among the world's top ten financial institutions.

83. Banking activities are mainly regulated by the Banking Law and the Banking Ordinance.[37] To obtain a licence from the Swiss Federal Banking Commission (SFBC), a bank must provide evidence of clearly defined business, adequate organization, and good reputation of the managers; the latter must be domiciled in a place allowing them to ensure "responsible management". Natural persons or legal entities holding, directly or indirectly, 10% or more of the capital or voting rights, or who otherwise significantly influence the bank (qualified participation), must guarantee that their influence will not adversely affect the bank's activity. They must notify the SFBC before acquiring or selling a qualified participation or when their participation crosses (upwards or downwards) the threshold of 20%, 33% or 50%. The minimum, fully paid-up share capital is Sw F 10 million.[38]

[34] A footnote to mode 1 commitments for Banking and Other Financial Services (excluding insurance) states: "Are covered not only transactions indicated in paragraph B.3 of the 'Understanding' but the whole range of banking and other financial services transactions (excluding insurance)."

[35] The role of Moneyval is to evaluate the implementation of both FATF recommendations and the provisions of the Strasbourg Convention for members of the Council of Europe that are not members of FATF.

[36] IMF online information, "Currency Composition of Official Foreign Exchange Reserves". Viewed at: http://www.imf.org/external/np/sta/cofer/eng/cofer.pdf [2 July 2008]

[37] RS 952.0, as amended; and RS 952.02, as amended.

[38] Article 4 of RS 952.02.

Table IV.9
Structure of the Swiss banking system, 2008

	No.	Balance sheet total (Sw F billion)
All banks	**330**	3,457.9
Cantonal banks	24	356.6
Large commercial banks	2	2,341.1
Regional and savings banks	76	85.3
Loan associations	1	123.1
Other banks, of which:	183	487.8
Commercial banks	7	47.2
Stock exchange banks	48	144.6
Other banking institutions	6	7.2
Foreign-controlled banks	122	288.8
Branches of foreign banks	30	34.4
Private bankers	14	29.5

Source: Swiss National Bank (2008), *Banks in Switzerland 2007*, Volume 92. Viewed at: http://www.snb.ch/de/iabout/stat/statpub/bchpub/stats/bankench [14 July 2008].

84. The SFBC, an independent federal authority, is responsible for bank regulation and supervision.[39] It supervises all financial institutions that are active in licensable activities, in particular the acceptance of deposits from the public on a professional basis. Thus, SFBC supervises banks, securities dealers and stock exchanges, investment funds, and the two mortgage bond institutions, as well as the disclosure of shareholdings and public takeover bids.[40] As PostFinance is not a bank, it is not subject to the Banking Law and is supervised by the Federal Council, the Federal Department of Finance, and the Department of the Environment, Transport and Energy and Communications.

85. The establishment of all branches, subsidiaries or agencies of foreign banks in Switzerland requires a licence issued by the SFBC. The name of a foreign bank must not give the impression that it is a Swiss bank. Access remains subject to reciprocity, except in cases covered by international obligations, such as the WTO Agreements. In addition, general requirements for the establishment of foreign companies in Switzerland apply to banks. Once established, foreign-owned banks enjoy the same status as Swiss banks. The SFBC is empowered to supervise foreign establishments in Switzerland, but it also permits foreign authorities to conduct inspections at Swiss establishments of foreign banks. Since 2000, the SFBC has also licensed Internet-exclusive banks and securities dealers. Regulation is identical to that of institutions with physical presence, including regarding due diligence and money laundering provisions.

86. Bank secrecy, defined in Article 47 of the Banking Law, is an important aspect of the Swiss banking system; it covers all business relations between the bank and its customers and is not limited in time. Furthermore, breach of bank-client confidentiality by bank employees is a criminal offence. However, bank secrecy is lifted in criminal cases (such as guns or narcotics trade, corruption, terrorism, money laundering, and tax fraud) and can be lifted in civil cases under certain conditions (such as inheritance, divorce or bankruptcy). With regard to international legal and administrative assistance in tax matters, Swiss legislation distinguishes between tax evasion and tax fraud. With regard to international legal and administrative assistance in tax matters, Swiss legislation distinguishes between tax evasion and tax fraud. Tax evasion is committed when a taxpayer fails to

[39] Administratively, the SFBC is integrated in the Federal Department of Finance; however, it is independent of the directives of the Federal Council. See SFBC online information. Viewed at: http://www.ebk.admin.ch/.

[40] Independent asset managers who do not keep accounts for clients under their name, and "introducing brokers" for foreign securities dealers who are not closely linked to one specific foreign securities dealer are not supervised by the SFBC.

submit a tax return or when a valid tax return is incomplete (e.g. as a result of false or incomplete entries). Tax fraud is committed when, for the purposes of tax evasion, falsified or non-genuine records, such as accounts, balance sheets or income statements and other statements of third parties, are used to deceive. The tax return itself is not considered to be a document. Tax fraud can also exist without documents being falsified when wilful deceit is practised to evade tax. Switzerland provides legal and administrative assistance in tax matters, when the foreign procedure concerns an offence that is regarded as tax fraud in Switzerland.[41]. The Money Laundering Law of 10 October 1997 is the legal basis for combating money laundering.[42] Pursuant to Article 6 of the Act, financial intermediaries are obliged to clarify the economic background and the purpose of a business relationship or transaction if there are indications that assets stem from illegal operations. In such a case, the intermediary must also inform the Money Laundering Reporting Office (MROS).

87. The 24 cantonal banks, which are fully or partly owned by the cantons, concentrate on credit, deposit business, and mortgages in their local areas[43]; they account for over 30% of domestic banking business; 21 cantons guarantee their bank's liabilities. In addition, cantonal banks benefit from preferential treatment regarding capital requirements and taxation. However, these special rules have been under examination for a number of years with a view to eventually abolishing them. Only two institutions have the right under the Mortgage Bond Act of 1930 to issue mortgage bonds: the Central Bond Issuing Body of the Swiss Cantonal Banks (Pfandbriefzentrale der schweizerischen Kantonalbanken) and the Mortgage Bond Bank of Swiss Mortgage Institutions (Pfandbriefbank schweizerischer Hypothekarinstitute). Only cantonal banks may participate in the former, while participation in the latter is limited to banks whose head office is in Switzerland and for which Swiss mortgage loans represent at least 60% of their balance sheet assets.

88. The Union of Raiffeisen Banks is an association of 390 small regional banks, each of which operates independently, pooling local savings and lending money to local businesses. The Union is organized as a cooperative with more than 1.5 million people holding cooperative shares. The client assets of the Raiffeisen banks amounted to Sw F 94 billion in 2007. Furthermore, some 76 regional savings banks, most of them associated with the RBA Holding AG, are active in local retail banking.

89. PostFinance, a branch of state-owned SwissPost, offers financial services in some 2,469 post offices and 29 advisory centres. With its 2,700 staff, PostFinance had assets of nearly Sw F 44 billion in 2007, spread over more than 3.3 million accounts. As PostFinance is not a bank as defined by the Banking Law, it may only offer financial services for which no licence is required. Thus, payment transactions represent its main business area, whereas various financial services, such as deposits or loans, are offered on behalf of Swiss banks.

90. SWX Swiss Exchange, founded in 1995 and based in Zurich, is Switzerland's stock exchange. The SWX group, in cooperation with Deutsche Börse, also operates Eurex, a derivatives exchange, as

[41] The Swiss Penal Code distinguishes three categories of offences. The relevant criterion is their gravity as expressed by the maximum penalty they carry. Thus, "felonies" are offences carrying custody of more than three years, "misdemeanours" are offences with a maximal penalty of no more than three years of custody or financial penalty, and 'contraventions' are petty offences carrying a fine. With regard to these different categories of offences, according to Swiss law, tax fraud belongs to the category of 'misdemeanours', which means it is considered as an offence with a maximal penalty of no more than three years of custody or financial penalty. In contrast, tax evasion in Switzerland is generally punished with a fine and is therefore considered as a contravention and not as a misdemeanour (as would be the case for tax fraud) under the Swiss Penal Code. It is incumbent upon the taxation authorities and not the prosecution authorities to implement proceedings against tax evasion.

[42] RS 955.0.

[43] Each canton, except for Solothurn and Appenzell Ausserrhoden, has its own cantonal bank.

well as Scoach, an exchange for structured products. In 2007, total turnover of foreign and domestic securities (equities, funds, bonds, derivatives) was Sw F 2,528 billion[44]; total market capitalization of SWX Swiss Exchange was some Sw F 1,187 billion. The main legislation on stock exchange operations is the 1995 Stock Exchange Law (LBVM) and the relevant ordinances.[45] Under the LBVM, stock exchanges must ensure sufficient self-regulation, and are subject to supervision by the SFBC. In order to be granted a licence, securities dealers must provide information and ensure internal separation of their trading, portfolio management, and settlement business; minimum fully paid-up capital is Sw F 1.5 million. Stock exchanges organized under foreign law are granted authorization to operate in Switzerland if they are subject to "appropriate supervision". As at end-2007, 3 domestic and 36 foreign stock exchanges have been granted authorization. Foreign securities dealers may request SFBC authorization to establish a Swiss branch; they must provide information and evidence of "adequate organization, sufficient financial resources, and qualified staff". In addition, foreign supervisory authorities must consent to cross-border operations, and to provide administrative assistance and information to the SFBC.

91. Collective investment funds are subject to the revised Collective Investment Law (LPCC) and ordinance.[46] The new legislation provides that asset managers of Swiss collective investment schemes, based in Switzerland, must be authorized by the SFBC and are under its constant prudential supervision. These asset managers may be natural or legal persons; in the latter case they must be a joint-stock company, a stock company with unlimited partners, a limited liability company, a general partnership or a limited partnership. Asset management of Swiss collective investment schemes may also be delegated to foreign asset managers who are subject to recognized supervision. Foreign collective investment schemes can be distributed publicly in Switzerland with SFBC approval; a representative agent resident in Switzerland and licensed by the SFBC must be appointed for this purpose.

92. The supervision of Switzerland's financial sector has been under review for a number of years, and various reform projects in financial market regulation are under way.[47] The most important project is the establishment of a unified and independent financial market supervisory authority (FINMA). Under this initiative, the SFBC, the Federal Office of Private Insurance (FOPI), and the MROS will be brought together through a Federal Act on Financial Market Supervision. Under the FINMA, which will become operational on 1 January 2009, the dualistic, indirect supervision model will be retained, whereby banks rely mostly on external auditors for supervision. At the same time, sanctions against infringement are to be harmonized, streamlined and reinforced. The authorities indicate that new rules on money laundering and financing of terrorism are also under preparation in the light of new FATF recommendations.

Liechtenstein

93. Most activities in Liechtenstein's financial services subsector are related to asset management. The subsector has traditionally benefited from Liechtenstein's political stability, its close ties with Switzerland including the currency union, favourable tax arrangements, and strict bank secrecy. Bank secrecy (Article 14 of the Banking Act) covers all business relations between the bank and its customers and is not limited in time. However, bank secrecy is lifted in criminal cases (such as arms or narcotics trafficking, corruption, terrorism, money laundering, and tax fraud). Liechtenstein's

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[44] Federal Department of Finance (2008a).

[45] RS 954.1; RS 954.11; RS 954.193; and RS 954.195.1.

[46] RS 951.31; RS 951.311; and RS 951.312.

[47] For an overview of the various ongoing reform projects and their current status, see FinWeb online information, "Legislative action in the financial sector". Viewed at: http://www.finweb.admin.ch/e/reformprojekte/index.php [6 April 2008].

legislation distinguishes between tax evasion and tax fraud; the former is the omission to declare income or assets to the tax authorities, while the latter is any tax-related fraud, such as the submission of forged documents to the authorities. In the case of tax evasion, bank secrecy is upheld, even after a request from foreign authorities, as tax evasion is not considered a criminal offence under Liechtenstein law. However, breach of bank client confidentiality by bank employees is a criminal offence.

94. Following several years of stagnation, total assets deposited at Liechtenstein's banks have grown strongly since 2004, reaching Sw F 171 billion in 2007 (Table IV.10). In addition to the 15 banks (of which six are foreign owned), there are 448 investment undertakings (240 foreign owned), 84 authorized trustees, and 277 trust corporations. The banking subsector is highly concentrated, with three banks accounting for 89% of total banking assets.

Table IV.10
Liechtenstein banking indicators, 2000-07
(Sw F million, unless otherwise indicated)

	No. of banks	Balance sheet total	Net profit	Total deposits
2000	14	36,963.5	549.1	112,679.8
2001	17	34.788.0	443.8	105,655.7
2002	17	32,665.4	251.8	96,194.2
2003	16	34,908.3	331.8	103,466.9
2004	15	34,205.2	423.6	106,988.9
2005	15	38,175.6	742.9	128,718.7
2006	15	43,377.0	626.9	160,925.1
2007	15	49,694.3	721.7	171,447.9

Source: Amt für Volkswirtschaft (2008), *Statistiches Jahrbuch 2007/2008*; and information provided by the Liechtenstein authorities.

95. As a result of Liechtenstein's participation in the EEA, all its banking, securities, insurance, and accounting legislation is based on EC legislation, although financial institutions (mainly banks) are also required to meet the accounting rules of the Swiss Federal Banking Commission due to the monetary union between both countries.

96. The Banking Act of 1992 and the corresponding Banking Ordinance, as amended, are the main legal instruments governing the banking subsector and investment firms.[48] The Financial Market Authority (FMA), established in January 2005, is responsible for supervising banks, investment firms, investment undertakings, trustees, lawyers, accountants, and auditors. Banks and investment firms require a licence from the FMA in order to commence operations and may only take the legal form of limited companies (Aktiengesellschaft).[49] The head offices and the principal management must be domiciled in Liechtenstein. The minimum required fully paid-up capital is Sw F 10 million for banks and Sw F 1.5 million (or the equivalent in euros or U.S. dollars) for investment firms, but, in practice, the FMA requires Sw F 20 million for banks and Sw F 3 million for investment firms. The members of the board of directors may have their domicile outside of Liechtenstein as long as they fulfil the obligations of their functions; they must be duly authorized to fully represent their company.[50]

[48] LLG 1992, No. 108, as amended; and LLG 1994, No. 22, as amended.
[49] Exceptions may be granted by the FMA .
[50] Banks are obliged to adopt a dual management structure, with a board of non-executive directors and a management board; internal auditors, reporting directly to the board of directors, must also be appointed.

97. The establishment of a branch or subsidiary of a non-EEA bank or investment firm also requires a licence. In addition to satisfying the aforementioned requirements, the institution must be subject to home consolidated supervision comparable to Liechtenstein supervision, and the home authorities must raise no objections. A foreign institution wishing to establish a representation in Liechtenstein requires a licence issued by the FMA; this is granted if it is supervised in its home country (consolidated supervision in the case of a group) in a manner comparable to Liechtenstein supervision, the home supervisory authorities do not object to the presence of the bank in Liechtenstein, and the managers of the representation "guarantee irreproachable business activities". No reciprocity requirements exist. However, according to the authorities, so far no non-EEA bank has requested to establish a branch in Liechtenstein.

98. Investment firms and undertakings domiciled in an EEA member-state have the right of free movement of services for the activities covered by their home licences; they do not require a Liechtenstein licence. However, their operations in Liechtenstein must be supervised by their home authorities. The same applies to the establishment of branches of EEA financial institutions in Liechtenstein. Suppliers from non-EEA countries must obtain a Liechtenstein licence. The FMA grants the licence if the written application indicates, *inter alia*, the name of the company in the third State and the name of the appointed bank in Liechtenstein; an up-to-date prospectus and the most recent yearly and half-yearly reports of the investment undertaking must also be submitted. Certification is required from home state authority that the undertaking is subject to consolidated supervision equivalent to Liechtenstein supervision.

99. Investment undertakings are governed by the Law on investment undertakings (IUG).[51] Before initiating business activities, any investment undertaking requires a licence from the FMA. Investment undertakings are divided into investment funds on a contractual basis (which have the legal form of a trusteeship), and investment companies (which have the legal form of a limited company). The minimum required fully paid-up capital is Sw F 1 million. Investment companies must be incorporated as limited liability companies, with fixed or variable capital. Regardless of form, investment undertakings are obliged to have both a board of directors and a custodian bank, which must be registered in Liechtenstein. Furthermore, the principal administration of an investment undertaking must be domiciled in Liechtenstein. The marketing of mutual funds may be undertaken only by banks, fund management companies, or trustees with commercial presence in Liechtenstein. There are no secondary markets or underwritings in Liechtenstein. Liechtenstein banks may participate in secondary markets, however, through their Swiss operations. Units of foreign investment undertakings may be sold in Liechtenstein under licence or, if reciprocity exists, after notification.

100. The Law on asset management (Asset Management Act, AMA) entered into force on 1 January 2006. This Act lays the foundation for asset management companies as new, internationally recognized, financial intermediaries. The FMA supervises implementation of the Asset Management Act and the related ordinances as well as compliance with regulations, and it takes any necessary measures. The minimum required fully paid-up capital is Sw F 100.000. There were 90 asset management companies in Liechtenstein at the end of 2007.

101. The Due Diligence Act[52], as amended, and the corresponding ordinance are the main legal instruments to prevent and combat money laundering and financing of terrorism. Customer due diligence is based mainly on the obligation to prepare and maintain a customer profile, including beneficial ownership information, source of funds, and purpose of the relationship. According to the

[51] LLG 2005, No. 156.
[52] SR 952.1.

IMF, "both money laundering and financing of terrorism are criminalized broadly (though not fully) in line with the international standard".[53]

102. The Financial Intelligence Unit (FIU), which is part of the Ministry of Finance, is responsible for combating money laundering. In 2007, the FIU examined 205 cases raising suspicion; 141 led to further enquires by the prosecutors office.[54] The authorities indicate that Liechtenstein has transposed the EC's Second Money Laundering Directive and initiated implementation of the Third Directive.

103. Liechtenstein is one of three countries on the OECD List of Uncooperative Tax Havens. This list is part of a framework established by the OECD in 1998 to identify and address the problems caused by "harmful tax competition" by both preferential tax regimes and "tax havens". According to the OECD, countries placed on the list have not yet made commitments on transparency and effective exchange of information.[55] According to the authorities, negotiations on an anti-fraud agreement regulating cooperation on tax matters with the EC and its member states were largely concluded in June 2008.

(b) Insurance

Switzerland

104. With the world's highest average per capita premium volume (over Sw F 7,000 per year), Switzerland benefits from an unusually high degree of insurance cover taken on by national consumers, while internationally the industry is particularly strong in the field of reinsurance. As at June 2008, there were 213 companies offering insurance services: 117 non-life insurers (78 Swiss, 39 foreign), 26 companies offering life-insurance (22 Swiss, 4 foreign); 26 reinsurance companies; and 44 captives (self-insurers).

105. Insurance activities in Switzerland are governed by the Insurance Surveillance Law (LSA, RS 961.01), the Insurance Contract Law (LTA, RS 221.229.1), and complementary ordinances. Revisions of both laws entered into force in January 2006 with a view to strengthening solvency requirements and improving consumer protection and insurance supervision. The Federal Office of Private Insurance (FOPI) is responsible for supervision of the insurance subsector (with the exception of compulsory health and accident insurance); this task will be taken over by the FINMA in January 2009. The supervision of compulsory social insurance is under the responsibility of the Federal Social Insurance Office (FSIO), while SECO is in charge of supervising the unemployment insurance, and the Swiss Federal Office of Public Health is responsible for supervising all matters concerning sickness and accident insurance.

106. Insurers with their principal office in Switzerland require approval by FOPI before commencing business; foreign companies whose only business in Switzerland is reinsurance are exempted and are not subject to FOPI supervision; these companies are supervised by their respective home country jurisdiction. Each class of insurance activity requires separate approval. Composite life, non-life, and non-insurance-related operations are not allowed. There is a public monopoly on fire and natural damage insurance (on buildings) in 19 cantons. As part of its social security system, Switzerland maintains a monopoly on accident and occupational disease insurance in certain

[53] IMF (2008a).
[54] Financial Intelligence Unit des Fürstentums Liechtenstein (2008).
[55] For further information, see OECD online information, "List of Unco-coperation Tax Hevens". Viewed at: http://www.oecd.org/document/57/0,3343,de_2649_37427_30578809_1_1_1_37427,00.html [16 April 2008].

categories of industries exposed to higher risks, such as construction, forestry, and certain transportation services.[56]

107. Minimum fully paid-up capital requirements range from Sw F 3 million to Sw F 8 million for non-life insurers; from Sw F 5 to 12 million for life insurers; and from Sw F 3 million to Sw F 10 million for reinsurance companies. Minimum capital requirements are based on the class with the highest risk amount. Foreign-owned insurance companies must have a representative with residence in Switzerland; this can be either a board member or a director. To cover costs and losses in the initial years of operation, an organizational asset fund must be formed, equal to between 20% and 50% of minimum capital, and available at short notice. Furthermore, class-specific levels of reserves must be available.[57]

108. As a general rule, cross-border supply of insurance services is not allowed. However, cross-border supply is allowed for risks related to international transport, war, and any risk located outside Switzerland. Representative offices may not engage in business or act as agents. Foreign insurers establishing in Switzerland must have been in operation for at least three years. The manager of a foreign insurance company must be domiciled in Switzerland and, apart from the organizational fund, the branch must have unrestricted access to assets equal to 50% (for non-life insurance) or 100% (for life insurers) of its minimum guarantee fund.

109. The 1989 bilateral agreement granting EC non-life insurers the right of establishment in Switzerland (on a reciprocal basis) has made their regulations somewhat less restrictive than for non-EC companies. In particular, in contrast with other foreign non-life insurers, EC non-life insurers are not required to deposit part of their assets with the SNB. Cooperation between the supervision authorities of Switzerland and Liechtenstein is regulated by a bilateral agreement on direct insurance and insurance brokerage.[58]

110. Basic sickness and health insurance is compulsory for all residents and can be provided by either recognized non-profit health organizations or private insurance companies; it covers sickness, maternity and accident (if not covered by accident and occupational sickness insurance).[59] Optional insurance may also be purchased, but this falls under private insurance law. All insurers offering the basic sickness insurance scheme are obliged to provide identical services, which are defined by law as "effective, appropriate, and efficient"; apart from pharmaceuticals, there is no specific list of benefits for insured persons. Each person may freely choose any health insurer; the latter must not refuse insurance or impose any reservations or qualifying period.[60] Under the Sickness Insurance Act, insurance companies must offer a uniform premium within each canton, without consideration of the age of new insured entrants. The insurer may only distinguish three categories of premiums within the canton and allow reduced premiums to children and young people in education (between 18 and 25 years). Under the Act, the Confederation and the cantons subsidize sickness insurance premiums for persons with low income. The financial contribution from the Confederation is allocated to the cantons according to their population, their respective financial capacities, and the amount of the premiums. The federal contribution corresponds to 7.5% of the gross cost of the compulsory sickness insurance. All other complementary insurance services are regulated by private laws under the

[56] The Federal Law on accident insurance (RS 832.20) is the legal foundation for the national workplace accident insurance.

[57] WTO document, GATS/SC/83/Suppl.4.

[58] RS 0.961.514.

[59] Foreign insurance companies are allowed to invest in real estate up to the value of technical reserves required.

[60] Compulsory health insurance is based on the Federal law on health insurance of 18 March 1994, in force from 1 January 1996.

Insurance Contract Law. In order to participate in the basic sickness insurance scheme, sickness insurance suppliers must be organized as an association, mutual association, foundation or joint-stock company without a commercial objective.

111. Social security consists of old age and surviving spouse pension, disability insurance, unemployment insurance, and loss of earnings benefit and workplace accident and occupational sickness insurance. There are three pillars: the old-age and surviving spouse, and disability insurance[61], a highly redistributive public scheme, which is compulsory for all persons living or working in Switzerland; an occupational pension scheme that is compulsory for employees with an annual income exceeding Sw F 19,890[62] and optional for self-employed persons (it is designed to enable the insured to maintain current living standards after retirement); and a third pillar consisting of individual savings. Premiums are set by law. Life insurance dominates the provision of old-age pensions under the second pillar of the pension system (obligatory private provision) and the third pillar (voluntary old-age savings).

112. Insurance services are exempt from VAT. A withholding tax of 8% is levied on settlements from life insurance or 15% on private annuity insurance. The insurance premiums tax is a stamp duty levied on certain insurance premiums at a standard rate of 5%; life insurance premiums are taxed at a reduced rate of 2.5%.

Liechtenstein

113. At end 2007, there were 37 insurance undertakings operating in Liechtenstein (13 non-life insurance, 19 life insurance and five reinsurance companies) (Table IV.11). Gross premiums amounted to nearly Sw F 6.9 billion in 2007, 96% of which in life insurance. Total capital investments reached Sw F 22.3 billion in 2007, 96% in life insurance and 3% in reinsurance. Eleven of the 37 companies (six non-life and five reinsurance) operated as captives. In addition, 26 foreign insurance companies (25 Swiss, 1 EC) have established branches in Liechtenstein. By end 2007, over 270 EEA and Swiss insurance undertakings had registered their intention to provide cross-border insurance services, although these undertakings very rarely become active.

Table IV.11
Insurance companies in Liechtenstein, 2002-07
(Sw F million, unless otherwise indicated)

	2002	2003	2004	2005	2006	2007
Gross premiums written	670	1,480	2,560	4,200	6,810	6,898
Investment assets	2,350	3,730	6,610	10,210	16,380	22,310
Equity	281	475	444	437	598	689
No. of enterprises	21	23	28	31	35	37
No. of employees	130	122	152	165	206	311

Source: Information provided by the Liechtenstein authorities.

114. Insurance activities in Liechtenstein are governed by the Insurance Supervision Law[63] and the associated ordinance.[64] A licence is required for each insurance branch. Insurance undertakings are supervised by the Financial Market Authority. Undertakings must adopt the legal form of a limited company, Societas Europeas, a cooperative, or European Cooperative (SCE). Aside from minimum capital requirements (Sw F 5 million to Sw F 10 million for both life insurers and reinsurance

[61] *Assurance-vieillesse et survivants/Assurance-invalidité*, AVS/AI.
[62] The threshold was reduced from Sw F 25,320 in January 2005 to Sw F 19,350 in January 2006.
[63] LLG 1996, No. 23.
[64] LLG 1997, No. 85, in force from 24 January 1997.

companies; and Sw F 0.5 million to Sw F 1 million for each class of non-life insurance), an organizational fund for formation costs or exceptional business expansion amounting to 20-50% of the minimum capital is required. Exact minimum capital requirements depend on the company's business plan.

115. Insurance companies are forbidden from undertaking non-insurance activities. The main administration of the company (including accounting) must be situated in Liechtenstein. Undertakings domiciled and licensed in an EEA country may conduct direct insurance business in Liechtenstein without a Liechtenstein licence, as the single-licence principle has applies since the country's accession to the EEA. A company may offer either life or non-life insurance; insurance undertakings engaged in life insurance may not be active in any other branches of insurance apart from supplementary insurance against accidental death, sickness, and invalidity.

116. Cross-border provision of insurance services by EEA companies is possible, provided the insurance undertakings have the necessary solvency margin. On the basis of a bilateral agreement in force since 1998, insurance undertakings domiciled in Switzerland or Liechtenstein are granted freedom of establishment and operation in the other country. This agreement was extended in 2007 to allow insurance intermediaries to engage in cross-border activities. Other non-EEA-country insurance undertakings require authorization in order to operate in Liechtenstein; they must establish an agency or a branch office in Liechtenstein and have assets available in Liechtenstein equivalent to at least half the guarantee fund. Insurance undertakings with their head office in a foreign country and engaged solely in reinsurance activities are exempt from Liechtenstein supervision.

117. Liechtenstein imposes a special tax on foreign insurance companies; the rates are 1% on premium receipts from life and pension insurance, and 2% on all other premium receipts. Insurance services are not liable to VAT.

118. Basic health insurance is compulsory for all persons residing (including foreigners) and/or working in Liechtenstein. It can only be provided by authorized non-profit health insurance companies and covers sickness, maternity, and accident risks (if not covered by compulsory workplace accident insurance) through benefits in cash and in kind as defined by law. All benefits in kind are required to be "effective, appropriate and efficient". Each insured person may choose any of presently four recognized health insurers; these do not have the option to refuse insurance, regardless of age or state of health. Under the Health Insurance Act, insurance companies must offer a uniform premium for adults, which must be accepted by the Office for Health, and a reduced premium (half) for young people (17-20 years); the companies may not ask for a premium for children (0-16 years). Under the Act, the state subsidizes insurance premiums in various direct and indirect ways, e.g. by contributions to the costs of medical care. The recognized insurers are supervised by the Office for Health. Optional insurance may be purchased outside the scope of the compulsory scheme.

119. Under the compulsory accident insurance, all employees are covered by an insurance contract that must be concluded by every employer against the risks of accidents at work, leisure accidents, and occupational sickness. The premiums are imposed by the Government according to different risk classifications depending on the type of activity. The scope for competition among insurers is limited to administration costs. All compulsory accident insurers are registered in a list and supervised by the Office for Health.

120. Social security also consists of old age and widowers' pension, disability insurance, and unemployment insurance. There are three pillars of old age and widower's pension and disability insurance: the compulsory scheme for all persons living or working in Liechtenstein; the occupational pension scheme that is compulsory for employed persons earning more than

Sw F 19,890 per year, and designed to enable the insured person to maintain his/her living standards after retirement; and a pillar that consists of individual saving measures. The first pillar is operated by a public establishment. The second and the third pillars, which are operated by private insurers, are governed by the Financial Market Authority, which took over the supervision of the insurance subsector from the Insurance Supervisory Authority in January 2005.

(iii) Telecommunications

(a) Switzerland

121. Teledensity has remained high in Switzerland, with mobile connections increasingly substituting for fixed telephone lines (Table IV.12). Switzerland had one of the highest Internet and broadband penetration rates in Europe at over 30% in 2007, ranking third among OECD countries.[65]

Table IV.12
Swiss main telecom indicators, 2000-07

	2000	2001	2002	2003	2004	2005	2006	2007
ISDN subscribers	726,341	860,801	913,480	927,000	928,888	907,334	863,138	820,000[a]
Main (fixed) telephone lines in operation	5,235,733	5,383,483	5,387,568	5,323,452	5,253,450	5,149,736	5,039,600	5,000,000
Main (fixed) telephone lines/100 inhabitants	72.6	74.3	74.0	72.3	70.8	69.0	69.4	66.81
Mobile cellular telephone subscribers (digital)	4,638,519	5,275,791	5,736,303	6,189,000	6,275,000	6,834,000	7,418,000	8,096,000[a]
Mobile cellular telephone subscribers/100 inhabitants	64.3	72.8	78.8	84.0	84.6	91.6	98.8	106.6[a]
Internet subscribers	1,665,428	2,093,162	2,337,048	2,730,622	2,250,434	2,585,277	2,875,128	2,950,000

a Data from OFCOM.

Source: International Telecommunication Union (2007), *ITU World Telecommunication/ICT Indicators Database 2007*; and information provided by the Swiss authorities.

122. Switzerland's initial commitments on basic telecommunications largely reflect the monopoly situation that prevailed prior to the 1997 liberalization.[66] Following the passage of the 1997 Telecommunications Law (LTC)[67], Switzerland communicated revised commitments to the WTO.[68]

123. The LTC, last amended in 2007, and the accompanying ordinance (*Ordonnance sur les services de telecommunications*, OST) are the main legal instruments for Switzerland's telecommunication subsector. The stated objective of the LTC is to ensure private and business users the availability of quality and affordable services, both nationally and internationally. The law also aims to guarantee universal services and efficient competition.

124. The Federal Communications Commission (ComCom), an independent extra-parliamentary commission, is responsible for regulating telecoms market, including allocation of spectrum licences (e.g. GSM or UMTS) through open tendering, the designation of a universal service provider (by issuing a licence for supply of universal services), dispute settlement regarding interconnection and local loop unbundling, and for the approval of national numbering plans. In April 2007, a general

[65] OECD online information, "Penetration: Broadband subscribers per 100 inhabitants (December 2007)". Viewed at: http://www.oecd.org/dataoecd/21/35/39574709.xls [26 March 2008].

[66] These commitments are contained in WTO document GATS/SC/83/Suppl.3, 11 April 1997. See also WTO documents S/C/N/271-296, 26-27 February 2004, on technical issues.

[67] RS 784.10.

[68] WTO document GATS/SC/83/Suppl.3/Rev.1, 28 January 1998.

licensing requirement for telecoms service providers was replaced by a general obligation to register. For spectrum use, however, the licence requirement remains unchanged. The Federal Office of Communications (OFCOM) under the Federal Department of Environment, Transport, Energy, and Communication (DETEC), acts as secretariat to ComCom. Some tasks of minor regulatory importance (licensing for private radio applications) have been delegated to OFCOM by a decree of ComCom.

125. Articles 16 and 17 of the LTC provide for the availability of reliable universal services at affordable prices. Universal services comprise: public telephony (connection and transmission of speech and data); access to emergency call services and localization of these calls; an adequate network of public telephone kiosks; access to directories of subscribers in Switzerland; and special services for the hard of hearing and visually impaired. The Federal Council also determines the minimum quality criteria that the universal service provider must fulfil. Following a ComCom public invitation to tender for the universal service licence, Swisscom is the only universal service provider until end 2017.[69] The new licence obliges Swisscom to provide a broadband Internet connection in addition to analogue and digital telephone connections. The directory enquiry service, call diversion, and advice of charge are no longer part of the universal service.

126. Telecommunications services providers with a dominant market position (including suppliers of part of the universal services) must provide interconnection to other suppliers without discrimination and in accordance with transparent and cost-related principles. Interconnection prices of a market-dominant provider are regulated on the basis of the "long-run incremental costs" (LRIC) method applied by most European countries. Dominant providers must publish a basic offer every year. In interconnection disputes, ComCom has to check if an operator is in a dominant position. In such cases, the Federal Competition Commission (ComCo) must provide an opinion to ComCom. The dominance of a provider is analysed according to the rules set by the Cartels Law.

127. Providers of telecommunications services are required to ensure portability of numbers and freedom of choice in the selection of suppliers of national and international connections. Under the Swiss interconnection regime, suppliers interested in concluding an interconnection contract must first negotiate the terms. If, after a three-month period, the negotiations are unsuccessful, the parties may then appeal to ComCom, which, on the basis of OFCOM's recommendations, will settle the dispute and fix the conditions for interconnection. As established by the LTC, interconnection prices must be cost-oriented only in the presence of market dominance; in the absence of market dominance, they must follow market standards. In the latter case, appeal to ComCom is only possible to ensure interoperability of services forming part of the universal service. Cross-subsidization of telecommunications services is not legally prohibited.

128. As established by Article 22 of the OST, the Federal Council fixes upper price limits for telephone connection for users, and national calls. From 1 January 2008, the provisions on universal services guarantee everyone's right to an analogue connection for a maximum of Sw F 23.45 per month (excl. VAT) or a digital connection (ISDN or a comparable technology) for Sw F 40.00 per month, or a broadband internet connection for Sw F 69.00 per month. The upper price limits for national telephone calls were set at Sw F 0.075 per minute (excluding VAT). In order to finance uncovered costs of universal services, OFCOM may charge a fee on other telecommunications services but, according to the authorities, this has never been imposed

[69] For further information on the terms and conditions of the concession, see ComCom online information, "Universal service licence for Swisscom". Viewed at: http://www.comcom.admin.ch/aktuell/00429/00457/00560/index.html?lang=en&msg-id=13239 [20 March 2008].

129. An amendment to the LTC, opening the way for the liberalization of the "last mile", entered into force in April 2007. Unbundling of the local loop is to be achieved by offering competing suppliers two options to have access to the last mile. Under the first option, the supplier may operate his own facilities for broadband and other services on the premises of the dominant supplier. The copper cable between the customer and the connection centre of the dominant supplier is simply switched to the new supplier, who provides his/her services exclusively to the customer (full unbundling). Under the second option, the competing supplier may offer broadband services using the dominant supplier's equipment for a maximum period of four years, with the latter providing all other services. During the four-year period, the competing supplier must install the necessary equipment to be able to offer the other services (bitstream access). Under both options, prices between the competing and the dominant suppliers are freely negotiated.[70] In case of disagreement, the ComCom determines a price based on cost. [71]

130. The LTC allows OFCOM to prohibit companies established abroad to provide telecommunication services in Switzerland unless similar rights are granted to Swiss companies in the home country of the company. However, this provision has never been used. The revised LTC also provides for the creation of a conciliation body to resolve simply and quickly any disputes between users and providers of telecom services; the body became operational in July 2008. It also bans the mass mailing of unsolicited advertising messages (spamming).

131. Swisscom has remained the largest company in Switzerland's telecom subsector and is the market leader in every telecoms activity either under its own brand or through its subsidiaries. With a staff of some 19,800, it generated a turnover of some Sw F 11.1 billion in 2007. As at June 2008, the Federal Government held 52% of Swisscom's shares, down from 66% in 2005. Plans to fully privatize Swisscom were rejected by the National Council in 2006. No privileges are associated with the state ownership. In January 2007, Swisscom's market shares were 58.1% for fixed telephony, 62.3% for mobile telephony, and 42.3% for internet access lines. Since April 2007, access to leased lines is regulated by ComCom.

132. Since the last TPR of Switzerland and Liechtenstein in 2004, telecommunications has continued to be an important area of activity of the Price Controller (Chapter III(4)(iii)). In 2007, the Price Controller advised the Federal Council to explore the possibility of a bilateral agreement with the EC with a view to reducing mobile roaming tariffs.

133. In cases relating to telecommunications services, the Competition Commission operates in close cooperation with OFCOM and ComCom (Chapter III(4)(iii)). Market dominance is examined by ComCom on a case-by-case basis as part of interconnection procedures. In February 2007, the Competition Commission decided that Swisscom Mobile had abused its dominant market position and imposed a fine of over Sw F 333 million[72], and in September 2007, decided that Swisscom had abused its dominant position in the area of broadband internet access.

[70] While the amendment to the LTC is largely based on the EC's legal framework, this provision giving primacy to negotiations is in contrast to EC legislation.

[71] As at August 2008, the price of local loop unbundling (the first option) is being evaluated by ComCom; a decision is expected by autumn 2008. The implementation of bitstream access (the second option) is blocked in legal procedures. ComCom decided in Autumn 2007 that Swisscom is dominant regarding the provision of bitstream access. However, Swisscom, filed a recourse against this decision. The case is pending before the Federal Administrative Court.

[72] The final decision is pending (June 2008) as Swisscom Mobile lodged a complaint before the Federal Court.

(b) Liechtenstein

134. Since its last TPR, Liechtenstein has implemented various EC directives on telecommunications.[73] As a result, a new Communication Act, which entered into force in June 2006, eliminated the licence system. All activities in the area of electronic communication are licence-free; a notification to the Liechtenstein Office for Communications, the national regulatory authority, is required.

135. Since January 2007, state-owned Liechtensteinische Kraftwerke (LKW) has owned the major part of the communication network. Telecom Liechtenstein AG[74], which had a turnover of Sw F 51.2 million in 2007, is a fully state-owned company providing fixed-line services and responsible for network planning, operation, and maintenance. Both companies are obliged to make their infrastructure available to other enterprises in a neutral, non-discriminatory, and cost-based manner. Interconnection regulations are based on the relevant EC principles. Neither Telecom Liechtenstein AG nor LKW enjoy any exclusive rights.

136. Four mobile phone companies were in operation as at August 2008. Interconnection charges are agreed between operators. There are some 50% more mobile connections than fixed lines (Table IV.13). Portability of numbers is not yet ensured. A study commissioned by the Office for Communications in 2007 on Liechtenstein's mobile telephone market concluded that competition was insufficient as barriers to entry were high and established companies had significant market power, all of which had led to higher-than-necessary prices.[75] A market analysis of Liechtenstein's telecommunication market is ongoing (August 2008) to determine whether any of the fixed net or mobile companies have significant market power, which might require regulatory measures.

Table IV.13
Liechtenstein main telecom indicators, 2006

	2006
ISDN subscribers	16,162
Main (fixed) telephone lines in operation	23,071
Main (fixed) telephone lines/100 inhabitants	70[a]
Mobile cellular telephone subscribers (digital)	34,055
Mobile cellular telephone subscribers/100 inhabitants	98[a]
Internet subscribers	9,170[b]

a Total inhabitants: 35,000.
b ADSL + dial-up.

Source: Office for Communications.

(iv) Postal services

(a) Switzerland

137. The Federal Law on postal services of 1997 is the legal basis for postal services in Switzerland.[76] It divides the Swiss postal services market into three segments: "reserved" services,

[73] These are: the Access Directive (2002/19/EC); the Authorization Directive (2002/20/EC); the Framework Directive (2002/21/EC); the Universal Service Directive (2002/22/EC); and the e-Privacy Directive (2002/58/EC).

[74] The company was called Liechtenstein TeleNet AG until 2007. Liechtenstein Telecom AG was the result of the merger of Liechtenstein TeleNet AG and its subsidiary Telecom FL AG at end-2007.

[75] Amt für Kommunikation (2007).

[76] The law (RS 783.0) was amended in 2000, 2003, 2006, and 2007.

offered exclusively by Swiss Post as a monopoly under its universal services obligations; non-reserved services, also offered by Swiss Post under its universal services obligations, but in competition with other suppliers; and liberalized services. Reserved services consist of domestic and incoming international letters, not exceeding 100 g.[77] The universal services obligations defined in the Federal Law on postal services include postal deliveries on at least five days a week in all parts of Switzerland, "in good quality and at reasonable prices". Compliance with the universal service obligations is monitored by the Postal Regulation Authority (PostReg), established in January 2004. Full market opening from April 2012 is under consideration.

138. Non-reserved services, which can also be offered by licensed private operators, consist of outbound international services for letters and all postal services (domestic and international) for packages up to 20 kg. Licences, which are provided by the Department of the Environment, Transport, Energy, and Communications according to the revised Ordinance on postal services[78], are required if sales exceed Sw F 100,000. In February 2008, licences had been granted to 27 companies. All other services can be provided freely by private, including foreign, suppliers, and are not subject to monopoly rights or licensing.

139. Swiss Post is fully owned and controlled by the Confederation. It employs some 41,000 staff, making it the second-largest employer in Switzerland, with a network of 2,469 post offices in 2008 (down from about 3,500 in 2000). Swiss Post receives an annual subsidy from the Federal Government for the delivery of newspapers with subscription; the subsidy was reduced from Sw F 80 million to Sw F 30 million in January 2008. In addition to providing postal services, Swiss Post manages 3.3 million deposit accounts and is thus a significant participant in the financial services market (see also Chapter IV(5)(ii)).

(b) Liechtenstein

140. Postal services are supplied by Liechtensteinische Post AG, a majority state-owned company. In line with the Post Law of 1999, amended in 2004, and EC directive (2002/39/EC) on postal services, it enjoys exclusive rights over letters of up to 50 g (up to 100 g until December 2005). All other postal services have been fully liberalized, and Liechtensteinische Post AG provides them in competition with several private operators, mostly from Switzerland.

(v) Transport

(a) Air transport

Switzerland

141. Switzerland's GATS commitments on air transport cover aircraft repair and maintenance services. In particular, Switzerland has bound measures affecting cross-border supply, consumption abroad, and commercial presence for aircraft rented without operators, i.e. dry leasing, excluding for companies flying on regular schedule or on charter. Switzerland has also bound measures affecting commercial presence for cargo handling services. Its MFN exemptions under Article II of the GATS cover the sale and marketing of air transport services, and CRS services.[79]

142. The Swiss legal framework for civil aviation consists of domestic law and international agreements; the latter are of particular importance given the small size of the country. The main

[77] Before April 2006, the threshold was 1 kg.
[78] RS. 783.01, in force since 1 January 2004.
[79] WTO document GATS/EL/83, 15 April 1994.

domestic law is the Federal Law on aviation[80], together with its implementing ordinances.[81] Policy implementation and enforcement were mainly under the responsibility of the Federal Office of Civil Aviation (OFAC); its tasks include licensing and registration, drafting legislation, and negotiating international agreements on civil aviation. The OFAC operates under the Federal Department for the Environment, Transport, Energy and Communications.

143. The agreement between the European Community and the Swiss Confederation on Air Transport, and the revised EFTA Convention, which both entered into force in June 2002, prohibit all discrimination based on nationality between Swiss and EC/EFTA air companies that are based and licensed in Switzerland or EC/EFTA. Accordingly, Switzerland has extended national treatment to EC and EFTA firms. Carriers incorporated in Switzerland, or in any EC/EFTA country, may supply scheduled and non-scheduled services corresponding to third and fourth freedom rights between the respective country and Switzerland. Since June 2004, Swiss carriers have also been allowed to collect passengers or cargo between any points in different countries within the EC (i.e. seventh freedom). However, the agreement does not allow cabotage (eighth freedom); negotiations on these additional rights are expected to start by mid-2009, taking into account the results of an ongoing impact study on the consequences of the liberalization. The agreement prohibits, on a reciprocal basis, anti-competitive practices, including abuse of dominant positions, except those that affect only the internal territory of one party and are covered by domestic law.

144. All companies that provide commercial air transport services to, from, or within Switzerland must have an operating permit and an Air Operator Certificate (AOC), both granted by the OFAC. Based on EC technical regulations, the AOC, *inter alia,* testifies that the company has sufficient financial means to maintain flights for at least 24 months. Once they possess an operating permit and an AOC, companies may apply to the OFAC for licences to serve particular routes. The OFAC's decision to grant both operating permits and licences is based partly on ownership and control provisions. Domestic routes are in principle reserved for "Swiss-based carriers" as defined below. However, the OFAC has discretion to admit foreign carriers, based on common interest. The few requests that have been presented were for taxi flights, and were approved. For international routes, the OFAC admits Swiss or foreign carriers, in accordance with the relevant bilateral agreements.

145. The Federal Council has authority to decide the extent to which a commercial air transport company must be owned or effectively controlled by Swiss citizens to be considered as Swiss-based (LA, Art.27). As stipulated in the Ordinance on air navigation (OSAv), the company must be registered in Switzerland, and effectively controlled and majority-owned by either: Swiss companies or nationals; foreigners residing in Switzerland; or foreign companies associated with Swiss citizens or companies by virtue of international accords (such as the agreement with the EC described below).[82] Crews engaged in domestic air passenger and freight services must be EC or EFTA nationals or Swiss residents. Crews from third countries can be employed if the SECO deems their employment necessary, which normally is the case, according to the authorities.

146. Switzerland has three national (Zurich, Geneva, and Basel) and ten regional airports. Total passengers reached 33.5 million in 2006, up from 28.2 million in 2002; Zurich accounts for nearly 58% of all passengers. The canton of Zurich holds a 33% stake in Zurich airport, while Geneva airport is fully owned by the canton of Geneva.[83] According to the authorities, no state subsidies are

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[80] RS 748.0.

[81] The main implementing ordinance is RS 748.01.

[82] For limited companies, over half of the voting shares must be nominal, and be owned by Swiss residents or companies, or by foreigners who are associated with them by virtue of international accords.

[83] Basel-Mulhouse-Freiburg is a bi-national airport, owned by the Swiss authorities (Confederation and Cantons) and the French Government.

granted to the airports. Swiss International Air Lines is Switzerland's largest airline; since 2005, it has been fully owned by Lufthansa. In 2007, it carried 12.2 million passengers and had a turnover of Sw F 4,895 million.

147. Passengers arrivals and departures increased from 27.9 million in 2004 to 36.3 million in 2007. Airport services are provided mostly by independent companies. The revenues from airport charges (weight-, noise-, and emission-related landing charges, passenger charges, parking charges, and handling charges) are used to finance all airport-related expenses. Airport charges are subject to the general supervision of the Federal Office for Civil Aviation and the Price Controller. According to the authorities, the regulations on ground handling are based on the relevant EC directive.[84] Air carriers are not required to use domestic repair and maintenance facilities.[85]

148. Skyguide, a state-owned company, is responsible for managing and monitoring civil air traffic in Swiss airspace, at Zurich, Geneva, Berne, and Lugano airports (but not EuroAirport Basel-Mulhouse-Freiburg), as well as it has been assigned in adjoining non-Swiss airspace.[86] Its activities are mainly financed by fees. Switzerland participates in the EC's Single European Sky project, but is not part of the European Common Aviation Area (ECCA).

149. Since 2002, the Swiss regulations on slot allocation have been harmonized with the relevant EC regulation.[87] Slots are required for the Zurich and Geneva airports and are allocated by Slot Coordination Switzerland, an independent, non-profit organization supervised by the OFAC. Sales of slots are not permitted.

150. International traffic rights for transport of passenger and freight from non-EC/EEA countries are generally governed by bilateral agreements and contingent upon reciprocity provisions. Some 145 agreements are in place (June 2008). In order to carry out operations in Switzerland, a foreign carrier must have been designated by its home country. Agreements may be of a single-designation type, allowing only for one carrier per signatory, or multiple-designation. Most agreements are based on capacity sharing, and specify frequency and rates; recent exceptions are the "open sky" agreements with the United States and Pakistan.[88] The authorities indicate that Switzerland's current policy is to seek liberal agreements, including on ownership and control.

151. Code-share arrangements between EC carriers and carriers from third countries that have implications for the Swiss market require authorization from OFAC. This is granted according to the provisions of the bilateral agreements with the states concerned, or on the basis of Swiss interests. Reciprocal rights for Swiss companies in the State concerned are a prerequisite. No data are available on the number of arrangements that have been authorized.

Liechtenstein

152. Liechtenstein does not have an airport, but has a privately owned heliport. It applies the EEA rules on civil aviation, which entered into force in 2003. Under an agreement concluded in 1950, the Swiss regulations on civil aviation also apply to Liechtenstein; this agreement was amended in 2003 to avoid conflict with EEA rules. Liechtenstein became a member of the European Aviation Safety Agency (EASA) in June 2006.

[84] RS 748.131.1 refers to EC Directive No. 96/67.
[85] The applicable regulations are: RS 748.127.2; RS 748.127.22; RS 748.127.23; and RS 748.127.3.
[86] For further information, see Skyguide online information, "About Skyguide". Viewed at: http://www.skyguide.ch/en/AboutSkyguide/.
[87] EC Directive No. 95/93.
[88] RS 0.748.127.193.36 and RS 0.748.127.196.123.

(b) Overland transport

153. The supply of international transport services (passenger and freight) as well as transit traffic takes place under bilateral or multilateral agreements and is subject to reciprocity provisions. In the WTO, Switzerland and Liechtenstein have maintained certain MFN exemptions on road transport under Article II of the GATS.

Switzerland

154. Some 69% of Switzerland's imports and about 61% of its exports are transported by road. Resulting from Switzerland's geographic location, a large share of north-south merchandise trade transits through the country. The Federal Office for Transport is the regulatory body for public transport; it grants licences and concessions, issues security certificates, and determines the pricing policy for access by companies to the rail network. For regular passenger transport, the concession is subject to proof that the service "does not have any detrimental effect on the national economy".[89] In practice, no requests for such a concession have been denied in the past ten years. The concession is granted in principle for renewable periods of ten years.

155. The Constitution obliges the Federal Government to transfer the largest possible share of merchandise freight transiting the Alps from road to rail transport. This mandate is to be achieved through: (i) the modernization of Switzerland's public transport infrastructure; (ii) heavy vehicle fees; and (iii) the reform of rail transport with a view to stimulating competition in this subsector.

156. The modernization of Switzerland's transport infrastructure comprises a number of bigger projects, most notably the New Railway Link through the Alps, a project to build faster north-south rail links across the Alps by constructing base tunnels several hundred metres below the level of the current tunnels. Improved connection to the high-speed rail nets in Germany, Italy, and France is also a major target. Investment in the railway infrastructure is financed by a special fund for railway projects, which is outside the federal budget; the fund is mainly financed by the heavy vehicle fee.

157. The heavy vehicle fee applies on all Swiss and foreign vehicles exceeding 3.5 tonnes. The fee varies from Sw F 272 to SwF 369 for a 300 km passage, depending on the vehicles' weight, a distance-based component, and on Euro standard vehicle categories.[90] The average fee for the 300 km-passage of a standard 40-tonne vehicle from Basel to Chiasso, for example, is Sw F 325. Income from the fee amounted to Sw F 1.49 billion in 2007.

158. Reform of the Swiss rail system is to be achieved in two steps. The first phase, which began in 1999, obliged companies to distinguish transport services from transport infrastructure for accounting and organizational purposes. It also established access to the Swiss rail network for all companies, against payment. Access to the Swiss rail system by foreign undertakings has been granted on the basis of bilateral agreements, notably the bilateral agreement with the EC on land transport. The second phase of rail reform, for which legislation is currently under preparation is aimed at increasing interoperability with railway systems of neighbouring countries and reforming financial support for the railway system.

159. The Swiss Federal Railways (SBB) is a joint-stock company fully owned by the Confederation; it remains under the supervision of the Federal Council. SBB holds exclusive rights over long-distance passenger services. In exchange for this privilege, it is assigned specified basic

[89] See also Switzerland's commitments in WTO document GATS/SC/83, 15 April 1994.

[90] In contrast to Germany and Austria, where the fee applies on highways only, in Switzerland it applies on all types of road.

tasks by the Federal Council, in particular a regular supply of basic rail transport services throughout the country. The Swiss Confederation and cantons also provide financial assistance to rail transport suppliers for services ordered by the public authorities. The Confederation's total financial support amounted to Sw F 2.9 billion in 2007, of which Sw F 1.7 billion was paid to SBB. In 2006, SBB made a profit of Sw F 259 million. Rail freight was about 11.8 million tonne-kilometres in 2007 (about 39% of total tonne-kilometre freight transport); around 72% of total rail freight revenue was earned by SBB Cargo.

160. The agreement between the Swiss Confederation and the EC on the carriage of goods and passengers by rail and road (RS 0.740.72) led to further liberalization of international road transport on a bilateral basis. The agreement allowed grand cabotage (on a reciprocal basis) for Swiss hauliers in all EC member states from 2005.[91] Bilateral agreements on road passenger and freight transport have also been concluded with a number of non-EC states.[92]

161. National road transport services are provided mainly by companies that are majority publicly owned (cantons and municipalities) and by PostBus, a subsidiary of Swiss Post.

Liechtenstein

162. The Office for Trade and Transport (OTT), established in January 2007, is responsible for regulating the transport subsector. Liechtenstein does not have any highways but has 108 km of main roads and 253 km of side roads, and 9 km of railways. It has no rail company; the railway track is owned and operated by Austrian Federal Railways. International road transport services for goods and passengers are supplied by private companies. Public transport throughout the country is offered by privately owned Liechtenstein Busanstalt, which receives subsidies for its services. Liechtenstein also applies the Swiss Heavy Vehicle Fee. Road freight and passenger transport carriers require a permit issued by the OTT: certain criteria must be met on, *inter alia*, reliability, financial standing, qualification or business establishment. In addition, carriers need a special licence issued by the OTT for international transport in the EEA. Liechtenstein is included in most bilateral transport agreements concluded by Switzerland. The agreements normally contain a "Liechtenstein clause" extending the provisions to Liechtenstein.

(vi) Tourism

(a) Switzerland

163. In 2007, the tourism subsector generated foreign exchange worth Sw F 14.6 billion (Table IV.14), while Swiss tourist spending abroad amounted to Sw F 11.5 billion. Grisons and Berne received the largest number of tourists, followed by the Valais and Zurich. While the largest number of tourists come from Germany, the United Kingdom, and the United States, strong increases have been recorded for visitors from China and Russia.

164. At federal level, the main legislation for the tourism subsector comprises: the Tourism Law of 1995, the Law to Promote Innovation and Cooperation in Tourism of 1997, and the Hotel Law of 2003.[93] In addition, all cantons except Aargau and Zurich have their own tourism legislation. The

[91] However, "small cabotage" (cabotage within EC members states or within Switzerland) remains prohibited.
[92] Albania, Algeria, Azerbaijan, Belarus, Bosnia-Herzegovina, Croatia, Georgia, Jordan, Kazakhstan, Macedonia (FYR), Moldova, Morocco, Russia, Serbia, Syria, Tunisia, Turkey, Ukraine, and Uzbekistan.
[93] RS 935.12.

"*clause du besoin*", which regulated the cantons' licensing of the supply of restaurant services[94], has been abandoned since 2004, with a grace period of ten years. It is currently applied only in the canton of Basel-Land. By 2014, the location and operation of restaurants should be fully market determined. Cantonal legislation for tour guides has been revised, opening the required tests to foreigners, who may operate independently. Federal legislation restricts the acquisition of real estate (in Switzerland) by non-Swiss persons domiciled abroad and by non-EEA nationals domiciled in Switzerland.[95]

Table IV.14
Swiss tourism indicators, 2001-07

	2001	2002	2003	2004	2005	2006	2007
Arrivals	13,693,664	13,138,936	12,798,902	..	13,802,796	14,811,349	15,632,542
Hotel capacity (beds)	264,759	263,449	263,024	..	274,035	271,591	270,146
Room occupancy (%)	42.7	41.0	39.8	..	40.3	42.9	45.8
Bed occupancy (%)	35.9	34.3	33.4	..	32.9	35.2	36.9
Tourism receipts (Sw F million)	11,448	11,286	11,613[a]	11,941[a]	12,477[a]	13,544[a]	14,623[a,b]

.. Not available.

a Since 2003, figures include consumption expenditure by people granted short-term residence permits (less than four months).

b Provisional.

Source: Information provided by the Swiss authorities.

165. Switzerland Tourism, a public corporation, is in charge of marketing and promotional activities; its annual budget is some Sw F 73 million of which Sw F 46 million comes from the federal budget. Innotour is a programme of the State Secretariat for Economic Affairs to improve the quality of and promote innovation in Switzerland's tourism subsector. Between 2003 and 2007, Sw F 28 million were spent on a total of 60 projects in areas such as quality management and reservation systems. The Swiss Society for Hotel Credit (Société suisse de crédit hôtelier), a state-owned corporation, provides subprime loans to small and medium-sized companies investing in tourist areas.

166. Sales of accommodation services are subject to a reduced value-added tax of 3.6%. Prices in the tourism subsector are set freely.

(b) Liechtenstein

167. Tourist arrivals and nights spent by tourists in Liechtenstein have been declining since the 1980s, but began to increase again in since 2004. About 35,000 nights were spent in summer 2007, down from some 65,000 in summer 1985. Winter nights spent fell from over 70,000 in the mid-1980s to 58,500 in 2006/07. The majority of tourists come from Germany and Switzerland.

168. Liechtenstein's tourism regulations are similar to those of Switzerland except for rules governing the acquisition of real estate. Liechtenstein Tourismus, a state institution established by the Tourism Law of 2000, is the main promotional agency responsible for marketing tourism in Liechtenstein. It is financed by annual public support of Sw F 750,000 and revenue derived from the accommodation tax (Sw F 3 per night per person). Certain promotional activities are coordinated with Switzerland. Tourism activities are also marketed by local tourism initiatives and the municipalities.

[94] Article 196, Chapter 7, of the Federal Constitution. The clause was originally designed to safeguard existing restaurants; licensing criteria include the number of restaurants in the neighbourhood and population density.

[95] Federal Office of Justice (2005).

169. The Tourism Law was amended in 2004 following a judgement by the States Court of the Principality of Liechtenstein in November 2003, which ruled the application of certain provisions unconstitutional, in particular concerning the tourism levy.

170. The acquisition of holiday apartments (secondary residence) above 1,000 m altitude is limited to households resident in Liechtenstein that have Liechtenstein, EEA or Swiss nationality. No more than one secondary residence is allowed per household.

(vii) Professional services

171. The conclusion and implementation of Switzerland's bilateral agreement with the EC on the free movement of persons (Chapter II(x)) has led to significant changes in the conditions affecting the general employment of EC nationals by domestic firms and the conditions for foreigners to work in Switzerland. Since June 2004, priority may no longer be given to residents over EC-15/EFTA nationals. For the states that joined the EC in 2004, the agreement entered into force in 2006, and a transitional period limiting labour migration applies until 2011. In 2009, this agreement is to be extended to Romania and Bulgaria, subject to an optional popular vote. As a result, Switzerland applies a dual system of recruiting foreign labour that differentiates between EU/EFTA and third countries.

172. According to the Foreign Nationals Act, entries of nationals of third countries are subject to a quota system, labour market needs tests and prior controls on wages and employment conditions. Only workers with good skill levels may access the Swiss labour market. In 2007, the annual quota was 4,000 residency permits and 7,000 short-term permits. The country-wide quotas are allocated per canton. A growing proportion of these foreign workers are being employed in knowledge-intensive sectors such as information technology, financial services, and chemical industry.

173. Various professions are regulated at the federal or cantonal level. A comprehensive list of regulated professions has been compiled by the Federal Office for Professional Education and Technology.[96] The Office is also in charge of recognizing certain professional diplomas.[97]

(a) Legal services

Switzerland

174. The Federal Law on the free movement of lawyers (LLCA)[98], in force since June 2002, established and unified at federal level the requirements for the practice of law.[99] However, cantons retain the right to determine the requirements for cantonal licensing; there is no federal licensing. The LLCA allows the free movement of lawyers within the country, enabling them to appear in a court of law in any canton, irrespective of the canton in which they are registered, without special authorization. In 2007, about 9,000 lawyers were registered in Switzerland.

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[96] See Federal Office for Professional Education and Technology online information. Viewed at: http://www.bbt.admin.ch/dossiers/anerkenn/eu/d/regl.pdf.

[97] Depending on the profession, diplomas must be recognized by the relevant professional association or the Federal Office for Professional Education and Technology. For further information on recognition of foreign diplomas and work experience, see Federal Office for Professional Education and Technology online information, "Links to areas the OPET is not responsible for". Viewed at: http://www.bbt.admin.ch/themen/hoehere/00169/00371/00384/index.html?lang=en.

[98] RS 935.61.

[99] Ehle and Scheckle (2005), pp. 269-273.

175. Under the LLCA, a lawyer wishing to represent clients in court must acquire a cantonal lawyer's licence and be registered in the canton in which he has his professional address (for legal consultancy, see below). In order to obtain this cantonal licence, a person must have followed studies in law leading to a graduate degree awarded by a Swiss university, followed by practical experience in Switzerland of at least one year, and success in an examination of juridical knowledge in theory and practice. Registration also requires certain personal qualifications, such as independence, solvency, and absence of penal convictions.

176. Nationals from member states of the EC or EFTA, who are entitled to practice the legal profession under one of the professional titles listed in the annex to the LLCA, may represent parties before judicial authorities in Switzerland for a maximum of 90 days a year; they may not register in the cantonal registry. Moreover, they may permanently represent parties before judicial authorities in Switzerland if they register in the official list of nationals of member states of the EC or EFTA with the cantonal supervisory authority for lawyers. In the rare case of proceedings for which legal representation is mandatory, e.g. representation in court in penal proceedings concerning serious accusations, they must act together with a cantonally-registered lawyer.[100] After three years of practice in Switzerland, they are eligible to register in the canton in which they have their professional address. Lawyers with three years of practice of Swiss law or who have passed the examination may be registered, and have the same rights and duties as Swiss lawyers.

177. Non-EC or non-EFTA lawyers who do not comply with the general requirements may not be registered and may work only as legal consultants. As bound in its GATS Schedule, Switzerland imposes no restrictions on the provision of consulting services by foreign lawyers in either home-country or international law as regards cross-border supply, consumption abroad, and commercial presence.

178. Supervision of lawyers is exercised at the cantonal level: each canton designates an authority responsible for the supervision of the lawyers practicing in its territory. Appeals against decisions of the authority can be filed at the cantonal court and then the Federal Court of Justice. Members of a bar association are also subject to its supervision. The relevant cantonal supervisory authorities must be informed of any violation of professional rules by licensed lawyers. There are 24 independent cantonal bar associations, as well as a Swiss Bar Association, which acts as an umbrella organization. Fees are generally in line with the guidelines of the relevant bar association, or fixed by cantonal legislation.

Liechtenstein

179. The Lawyers Act[101] is the main law regulating the legal profession, which is supervised by the Financial Market Authority (FMA). Liechtenstein has not made any GATS commitments regarding legal services: however, there are no restrictions on cross-border supply and consumption abroad of legal consultancy services.[102] In June 2008, 149 (including 22 foreign) lawyers, 25 law partnerships, 73 associate lawyers, 5 legal agents, 10 patent attorneys, and 4 patent attorney partnerships were operating in Liechtenstein.

180. Registration in the national List of Lawyers is required in order to hold the legally protected title of lawyer and practice law. This requires Liechtenstein or EEA nationality or equivalent status pursuant to an international agreement, success in the bar examinations, and a law practice in

[100] EC or EFTA lawyers who have been on the official list for three years and can prove that they have been effectively and regularly active in the area of Swiss law may be listed in the cantonal register.

[101] LLG 1993, No. 41.

[102] WTO document GATS/SC/83A, 17 April 1994.

Liechtenstein. Participation in the examinations requires the completion of two years of practical experience in a court of justice or with a licensed lawyer[103], and a law degree obtained in a recognized university following studies for at least four years. The professional body of Liechtenstein lawyers is the Chamber of Lawyers, a public law body constituted of all lawyers on the List of Lawyers or the List of Resident European Lawyers; the chamber is supervised by the Government.

181. EEA nationals who are entitled to practice law under one of the professional titles listed in the Annex to the Lawyers Act are allowed to offer legal cross-border services temporarily. Furthermore, they may practice law in Liechtenstein permanently (freedom of establishment) if they are on the List of Resident European Lawyers.[104] In proceedings in which the party must be represented by a lawyer, the EEA lawyer must act together with a nationally registered lawyer.[105] EEA lawyers who have been on the List of Resident European Lawyers for at least three years and can prove that they have been effectively and regularly active in the area of Liechtenstein law or who have obtained a diploma entitling them to practice in one of the EEA member states, and have passed the special qualification examination for foreigners, may be listed in the national List of Lawyers with the same rights and duties as Liechtenstein lawyers.

182. Non-EEA lawyers cannot be registered. They may be permitted by the FMA in individual cases to act as representatives or defence lawyers of a party before a Liechtenstein court or authority if there are special reasons.[106] They may only act in agreement with a nationally registered lawyer.

(b) Accounting and auditing services

Switzerland

183. In its GATS commitments, Switzerland does not impose any limitations on the provision of accounting, auditing, and book-keeping services as regards cross-border supply, consumption abroad or commercial presence for either market access or national treatment, except that auditing services to a joint-stock company (*société anonyme*) or a limited company (*société en commandité par actions*) must be provided by at least one person with commercial presence in Switzerland.

184. The Federal Law on the licensing and oversight of auditors (LSR), which entered into force in September 2007[107], abolished the system of autonomous regulation by establishing the Federal Audit Oversight Authority (FAOA), which is responsible for accrediting auditors. The Law lays down accreditation conditions, consisting either of an auditing diploma obtained in Switzerland or a combination of university studies with practical experience. Pursuant to Article 4(2)(d) of the Law, equivalent foreign education and experience can be recognized. Moreover, applicants with foreign education must demonstrate the required knowledge of Swiss law. As at June 2008, 9,042 auditors and audit firms were registered with the LSR. The law also sets out provisions for the establishment of auditing companies.

[103] At least one year with a lawyer (or administrative authority) of Liechtenstein and at least six months with a Liechtenstein court of justice or the Liechtenstein public prosecutor's office. Article 2, paragraph 3 indicates that, as regards lawyers and administrative authority, corresponding experience gained abroad is acceptable.

[104] LLG 1993, No. 41, Article 45.

[105] LLG 1993, No. 41, Articles 49 and 57a.

[106] LLG 1993, No. 41, Article 68.

[107] RS 221.302.

185. Companies that audit financial institutions supervised by the Swiss Federal Banking Commission (Chapter IV(5)(ii)) must have gained SFBC authorization.[108] Only two categories of legal entities must be recognized as bank auditors: auditing associations affiliated with at least 12 banks and with capital, guaranteed capital or reserves of no less than Sw F 1 million, as well as an organizationally independent internal auditing department; and fiduciary and auditing companies with paid-up capital of at least Sw F 1 million.[109] Authorized auditors must be Swiss-certified, or hold an equivalent foreign diploma or demonstrate bank auditing skills.[110] Recognition of foreign-controlled auditing firms is decided by the SFBC.

186. The Code of Obligations provides general guidelines for the preparation of financial statements.[111] Swiss companies with international presence and foreign companies use either International Financial Reporting Standards (IFRS) or U.S. Generally Accepted Accounting Principles (GAAP), while companies with predominantly Swiss presence use the Swiss GAAP ARR (Accounting and Reporting Recommendations). The Swiss GAAP ARR is also allowed for SWX Local Caps (local companies), real estate companies, and investment companies. In fiscal year 2007, 191 SWX listed companies used IFRS, 17 Swiss GAAP ARR, and 32 U.S. GAAP.

187. The Listing Rules of the Swiss Exchange (SWX) require listed companies to provide audited annual financial statements and reports.[112] Article 6 of the Rules establishes that auditing bodies must be subject to the Swiss or a recognized foreign oversight authority.

188. No legal changes have taken place in the regulation of accounting services. Accounting services are generally not regulated as such, and a professional title does not confer the right to practice a specific activity: rather, the professional title is a sign of competence. The principal professional body representing Swiss accountants is the Swiss Institute of Certified Accountants and Tax Consultants[113]; members can be either natural persons or enterprises.

Liechtenstein

189. As at June 2008, 23 auditors and 26 auditing companies held a Liechtenstein licence, while 5 foreign auditors and 22 foreign auditing companies operated under the agreements on free movement of services. Under its GATS schedule, Liechtenstein maintains no restrictions on cross-border supply, or consumption abroad for accounting, auditing, and bookkeeping services; certain market access limitations are specified for the supply of services through commercial presence. Liechtenstein has made no commitments on the presence of natural persons for these services.[114]

190. The auditing profession in Liechtenstein is regulated and supervised by the Financial Market Authority, in accordance with the Law on Auditors and Audit Companies.[115] A licence is required to obtain the legally protected professional title of auditor (*Wirtschaftsprüfer*) and gain authorization to conduct professional audits and to provide related advice on accounting and finance, tax,

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[108] As at June 2008, 19 auditing firms were recognized by the SFBC.

[109] Limited liability companies (GmbH) must also have at least four associates.

[110] Article 35 of RS 952.02.

[111] See RS 221.431 for general book-keeping rules.

[112] SWX Stock Exchange (2007). Foreign companies listed on the SWX are exempt from this requirement if their shares are traded primarily on a securities exchange in their country of domicile.

[113] For further information on the Institute, see Chambre Fiduciaire online information. Viewed at: http://www.chambre-fiduciaire.ch/.

[114] WTO document GATS/SC/83A, 17 April 1994.

[115] LLG 1993, No. 44.

organization, and information technology. The criteria to be met are: Liechtenstein or EEA citizenship, the holding of the legally prescribed academic qualifications, practical experience of at least three years under a licensed auditor or auditing company, and success in the auditors' examinations. The professional domicile must be in Liechtenstein. Auditing activities may also be undertaken by legal entities (auditing companies (*Revisionsgesellschaften*)) with their head office in Liechtenstein. In order to be granted a licence, the majority of the capital and of voting rights must be held by Liechtenstein-licensed auditors or audit companies, the majority of the members of the administrative body of the company must be licensed auditors, and management must include a full-time managing director who is a Liechtenstein-licensed auditor.

191. EEA and Swiss nationals who are licensed for auditing activities in their home state enjoy freedom of establishment in Liechtenstein. Licence requirements for these categories of foreign auditors are: academic qualifications equivalent to those requested from domestic auditors; success in special qualification examinations for foreigners; liability insurance; and professional domicile in Liechtenstein.

192. EEA citizens holding an auditing licence from their home country may exercise auditing activities in Liechtenstein temporarily. Licence requirements are: academic qualifications equivalent to those required of domestic auditors, success in special qualification examination for foreigners, membership in the relevant professional association in the home country, and liability insurance.[116] Non-EEA auditors wishing to undertake auditing in Liechtenstein temporarily may be approved by the FMA under the conditions applicable to EEA auditors. However, unlike for EEA auditors, there is no right to approval.[117]

(c) Engineering and architectural services

Switzerland

193. Switzerland's market for engineering and architectural services is highly fragmented; the types of business range from independent specialists to large offices and companies. The main professional societies are the Swiss Society of Engineers and Architects, and the Technical Union of Switzerland (UTS/STV). Generally Switzerland has not imposed any limitations on market access or national treatment for the architectural and engineering professions.

194. Professional names such as "architect", "engineer" or "technician" are not legally protected in most cantons, and no licence is required for the exercise of those professions. Thus, anyone, Swiss or foreign, can practice these professions.[118] On the other hand, six cantons (Fribourg, Geneva, Lucerne, Neuchatel, Vaud, and Ticino) regulate the professions of architect and civil engineer by requiring a professional qualification. Membership in a professional association is generally not necessary. Registration in the Swiss Register of Engineers, Architects, and Technicians (REG) typically requires a diploma plus at least three years of professional experience (two years for technical school graduates). These registers are open to foreign professionals if they have been exercising their profession generally for two to three years in Switzerland or abroad.

[116] LLG 1993, No. 44, Article 42, paragraph 2.
[117] LLG 1993, No. 44, Article 41, paragraph 2.
[118] A country-wide exception applies to official land measurements, which may be carried out only by licensed surveyors (*ingénieur-géomètre breveté*). For further details, see WTO (2004).

Liechtenstein

195. As at August 2008, 211 architects and 114 engineers were registered in Liechtenstein, working as independent specialists or in architectural and engineering offices and companies. The main professional society in Liechtenstein is the Liechtensteinische Ingenieur und Architektenvereinigung. "Architect", "engineer" and "technician" are legally protected professional names. Requirements to obtain a licence to work as an engineer or architect are, in addition to a diploma, at least three years of professional experience, and an office in which to carry out the profession. Citizens from non-EEA-member countries need twelve years' prior residence in Liechtenstein. Permanent domicile in Liechtenstein is required for non-EEA citizens.

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