

WORLD TRADE ORGANIZATION

RESTRICTED

S/FIN/W/12/Add.2

10 July 1997

(97-2938)

Committee on Trade in Financial Services

Original: English

COMMUNICATION FROM SWITZERLAND

Initial Offer on Financial Services

Addendum

The following communication is circulated at the request of Switzerland to members of the Committee on Trade in Financial Services.

Switzerland hereby submits its initial offer of Specific Commitments and Article II (MFN) Exemptions in financial services for the resumed financial services negotiations. It does reflect legislative and regulatory changes that have occurred since 1995 and thus further improves the already liberal regime Switzerland provides in the financial services sector.

This initial offer is conditional and its maintenance will depend on the level of commitments undertaken by other WTO Members.

Switzerland retains its right to modify or withdraw all or parts of its specific commitments on financial services and to list MFN exemptions, in accordance with the Second Decision on Financial Services of 21 July 1995 as amended by the decision of 29 May 1997.

SWITZERLAND
INITIAL OFFER - SPECIFIC COMMITMENTS ON FINANCIAL SERVICES

| Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons | | | | |
|---|--|--|------------------------|--|
| Sector or Sub-sector | Limitations on Market Access | Limitations on National Treatment | Additional Commitments | |
| 7. FINANCIAL SERVICES | Commitments on banking, securities and insurance services in accordance with the "Understanding on Commitments in Financial Services" (hereafter "Understanding") and subject to limitations and conditions as contained in Part I (horizontal commitments) and as listed below. It is understood that paragraph B.4 of the "Understanding" does not impose any obligation to allow non-resident financial services suppliers to solicit business. | | | |
| | <u>Insurance and Insurance-Related Services</u> | Monopoly rights as indicated in paragraph B.1 of the "Understanding": a public monopoly on fire and natural damage insurance on buildings exists in 19 cantons (Zurich, Berne, Lucerne, Nidwalden, Glaris, Zoug, Fribourg, Soleure, Bâle-Ville, Bâle-Campagne, Shaffhouse, Argovie, St-Gall, Grisons, Appenzell Rhodes Extérieures, Thurgovie, Vaud, Neuchâtel, Jura). In the cantons of Nidwalden and Vaud, the public monopoly on fire and natural damage insurance covers also movable property located in the buildings. | | |

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons

| Sector or Sub-sector | Limitations on Market Access | Limitations on National Treatment | Additional Commitments |
|----------------------|---|--|------------------------|
| | <p>(1) Transactions as indicated in paragraph B:3 of the "Understanding": the underwriting of aircraft liability insurance requires a commercial presence in Switzerland.</p> <p>(2) Transactions as indicated in paragraph B.4 of the "Understanding": the underwriting of aircraft liability insurance requires a commercial presence in Switzerland.</p> | <p>(1) Acquisition of real estate by foreigners is limited as indicated in Part I; in addition the following specific restrictions apply: foreign or foreign-controlled insurance companies are authorized to acquire property that serves as a security for mortgage loans in case of bankruptcy or liquidation on condition that the acquirer sells the property within two years from date of acquisition; foreign or foreign-controlled insurance companies are authorized to invest in real estate, provided the total value of the buyer's property does not exceed the technical reserves necessary for the company's Swiss activities, according to Swiss law.</p> <p>(2) None</p> | |

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons

| Sector or Sub-sector | Limitations on Market Access | Limitations on National Treatment | Additional Commitments |
|----------------------|---|---|------------------------|
| | <p>(3) Commercial presence does not cover the setting up of representative offices; for insurance companies incorporated in Switzerland, the legal form of a joint-stock company (Aktiengesellschaft, société anonyme) or a mutual association (Genossenschaft, société cooperative) is required; for branches of foreign insurance companies, the legal form of the insurance company in the head office country must be comparable to a Swiss joint-stock company or to a Swiss mutual association; participation in the basic health insurance scheme requires health insurance suppliers to be organized in one of the following legal entities: association (Verein, association), mutual association, foundation (Stiftung, fondation) or joint-stock company; no new health insurance supplier shall be recognized for participation in the basic health scheme until 31 December 1995; participation in the statutory pension funds scheme (Berufsvorsorge/ prévoyance professionnelle) requires pension funds to be organized in the form of a mutual association or a foundation.</p> <p>(4) Unbound except as indicated in Part I</p> | <p>(3) A minimum of three years of experience in the direct insurance business in the head office country is required; acquisition of real estate by foreigners is limited as indicated in Part I; in addition the following specific restrictions apply: foreign or foreign-controlled insurance companies are authorized to acquire property that serves as a security for mortgage loans in case of bankruptcy or liquidation on condition that the acquirer sells the property within two years from date of acquisition; foreign or foreign-controlled insurance companies are authorized to invest in real estate, provided the total value of the buyer's property does not exceed the technical reserves necessary for the company's Swiss activities, according to Swiss law.</p> <p>(4) Unbound except as indicated in Part I</p> | |

| Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons | | | | |
|---|--|-----------------------------------|------------------------|--|
| Sector or Sub-sector | Limitations on Market Access | Limitations on National Treatment | Additional Commitments | |
| Banking and Other Financial Services (excluding insurance) | Monopoly rights as indicated in paragraph B.1 of the "Understanding": two mortgage bonds issuance institutes have been granted a monopoly for the issuance of specific mortgage bonds ("Schweizer Pfandbrief"); <i>with regard to the first institute</i> only Swiss cantonal banks <i>are accepted as members and in the case of the second institute</i> Swiss-controlled banks <i>banks with head office in Switzerland whose national mortgage loan business amounts to at least 60 per cent of the balance sheet can be members of these two institutes</i> ; the issue of other mortgage-backed bonds is not affected by this regulation. | | | |

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons

| Sector or Sub-sector | Limitations on Market Access | Limitations on National Treatment | Additional Commitments |
|----------------------|--|---|------------------------|
| | <p>(1*) Membership in stock and options and futures exchanges requires a commercial presence in Switzerland; participation in settlement and clearing networks is <i>may</i> be subject to a commercial presence in Switzerland; mutual funds (collective investment funds) have to be lead marketed through banks having a commercial presence in Switzerland; <i>marketing or distribution of foreign investment funds as defined by Swiss law requires authorisation and can only be made through a licensed representative agent</i>; Swiss franc denominated issues can be lead-managed only by a bank <i>or a licensed securities dealer</i> having a commercial presence (registered office or branch office) in Switzerland.</p> <p>(2) Swiss franc denominated issues can be lead-managed only by a bank <i>or a licensed securities dealer</i> having a commercial presence (registered office or branch office) in Switzerland.</p> | <p>(1) Acquisition of real estate by foreigners is limited as indicated in Part I; in addition the following specific restriction applies: foreign or foreign-controlled banks are authorized to acquire property that serves as a security for mortgage loans in case of bankruptcy or liquidation on condition that the acquirer sells the property within two years from date of acquisition; the issue of foreign collective investment funds is subject to stamp duty.</p> <p>(2) None</p> | |

* Not only transactions indicated in paragraph B.3 of the "Understanding" but the whole range of banking and other financial services transactions are covered (excluding insurance).

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons

| Sector or Sub-sector | Limitations on Market Access | Limitations on National Treatment | Additional Commitments |
|----------------------|---|---|------------------------|
| | <p>(3) Commercial presence of foreign financial institutions <i>service suppliers</i> is subject to specific licensing requirements relating to the name of firm and the regulations on financial institutions in the country of origin; commercial presence may be denied to financial institutions <i>service suppliers</i> whose ultimate shareholders and/or beneficial owners are persons of a non-GATS Member; representative offices can neither conclude or deal business nor act as an agent.</p> <p>(4) Unbound except as indicated in Part I</p> | <p>(3) Acquisition of real estate by foreigners is limited as indicated in Part I; in addition the following specific restriction applies: foreign or foreign-controlled banks are authorized to acquire property that serves as a security for mortgage loans in case of bankruptcy or liquidation on condition that the acquired sells the property within two years from date of acquisition.</p> <p>(4) Unbound except as indicated in Part I</p> | |

SWITZERLAND - LIST OF ARTICLE II (MFN) EXEMPTIONS

| Sector or subsector | Description of measure indicating its inconsistency with Article II | Countries to which the measure applies | Intended duration | Conditions creating the need for the exemption |
|--|--|---|--------------------------|---|
| Banking and Other Financial Services (excluding insurance) | To allow persons established in the Principality of Liechtenstein, without requiring a commercial presence in Switzerland, to participate in settlement and clearing networks and to lead-manage Swiss franc denominated issues. | Principality of Liechtenstein | Indefinite | Measures ensuing from the monetary union between Switzerland and the Principality of Liechtenstein. |