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SWISS POLICY IN RELATION TO
INTERNATIONAL FINANCIAL SERVICES

Alexis P. Lautenberg, Minister
Head of the Financial and Economic Division
Swiss Federal Department of Foreign Affairs

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It is with great pleasure that I have accepted the invitation to this conference. I intend to limit myself to some remarks on the Swiss policy in relation to the developments in the field of international financial services. In fact, I am glad to be allowed to comment on this subject, not only because it is of crucial importance for my country while keeping my division quite busy, but also because I would feel much less at ease in the market specific subjects which are dealt with by the real experts.

I do not intend to give you a detailed review of the global macro-economic changes and their equivalent in the political area. Let me, however, start with some thoughts centering my remarks on the Swiss policy in relation to international financial services in their broader context. I believe this is necessary because sectoral policies tend more and more to be part of overall strategies, taking into account the ever increasing integration of both political and economic factors **and** of the different sectors of economy.

The world economy is changing at a rapid pace. An overview of these developments ought to take into account a number of trends determining the political and economic interplay among nations. Of particular importance is the evolution of the free world economy away from dominance by a single nation to one in which there are three primary centers of economic power: the United States, Japan and Europe.

The globalization of trading patterns and financial flows has heightened the interdependence and need for cooperation among these economic powers. At the same time, however, the movement toward development of regional economic zones, major imbalances in macroeconomic performance among the economic players and within the latter - if we think of the EC -, and rising concern about relative competitive position have caused stress in the cooperative relationship that has served us well in the postwar era. There has been some progress in dealing with such tensions, but it has been slow. Our ability to sustain the needed level of international economic cooperation will determine whether the future development of world trading patterns and financial flows will be as mutually beneficial as it was in the past.

Yet, this task may be further complicated by the fact that the relative "weight" of the United States, Japan and the EC as the three main poles and centers of gravity is increasing. Each of these major centers tends to exert a strong attraction on its geo-economic environment. This is true not only in the North American context where the U.S.-Canadian Free Trade Agreement represents clear evidence of such a trend. In Western Europe the efforts of the EC to achieve an integrated internal market have gained momentum and the present efforts of the EC and the European Free Trade Association (EFTA) to create a common European Economic Space (EES) are nothing but a logical result of this trend.

In the Pacific, Japan is becoming more and more the driving force for the development of the whole area. In other regions, too, the economies of a number of developing countries are growing rapidly. These economies feel a similar need for regional cooperation, aiming, at the same time, at their progressive integration into the global economy. Only through such cooperation and integration will they be able to gain the full benefit of greater specialization in providing the goods and services that each can produce most efficiently - the essence of the economist's principle of comparative advantage. It seems only logical, that as their economic structures and performance improve, these economies take upon themselves an adequate share of responsibility in the functioning of the system.

As this evolution takes place, it is obviously difficult for the existing mechanisms of cooperation to cope with the rapid changes. Multilateral rules have to be adapted and improved, as they are a necessary condition for stable relations between industrialized countries and for the effective integration into the world economy of a rising number of developing countries. At the same time, as we try to establish new and/or adapt existing rules with a global impact, we have to take care of special economic relationships that exist among particular groups of countries. Of course the creation of a single European market is of direct relevance for this global process. This is particularly true in the areas which are not covered by a set of multilateral rules yet, as for example financial services.

Of course, the need for increased international cooperation is particularly felt in the financial sector. Since the early eighties the strong trend towards deregulation and innovation combined with the use of new methods of calculation and technologies have led to an enormous growth of financial transactions. The globalization of markets not only increases the competition, but also tends to increase the comparability of the framework conditions of the different financial centers and the subsequent call for a level playing field. Here again, the factor of regional integration plays an important role - in two respects: On the one hand the above-mentioned trend reinforces the search for harmonized rules within a regional entity, on the other hand the so achieved regional framework will enhance the desire of third countries for global rules extending beyond a particular region.

In other words, the field of financial services tends to follow in some respect the overall tendency towards the creation of integrated economic areas. On the other side the greater versatility and speed of transactions of financial instruments as well as their dependence from the monetary context confers a special role to national and or regional supervision while the scope of transactions is getting more and more global, as 24 hours trade divides the globe in different time-zones.

With these introductory remarks I have tried to give you a broad macro-economic background of the need for international co-

operation. Solutions have to fit both the macro-economic and monetary environment and the specificities of the financial sector. Whereas the core of international cooperation in the field of services was centred, for a long time, at OECD level (particularly within the Committee on Capital Movements and Invisible Transactions / CMIT) and the Bank for International Settlements (especially the "Basle or Cooke/Muller Committee of the G-10 Banking Supervisors), these complex developments call now for a new, broader approach, taking into account both the growing role of financial services as opposed to the classical banking sector and the rising number of new performing actors.

As to Switzerland cooperation is based on the following three main pillars:

- a global pillar, centred mainly on the negotiations on trade in services within the GATT Uruguay Round, as well as the further work based on the Liberalization Codes of the OECD; we also tend to attribute a growing importance to the regulators work developing in the International Organization of Securities Commissions (IOSCO);
- a regional pillar, taking into account the specificities at the european level, e.g. the Single Market of the EC and the creation of a single European Economic Space including the EC- and EFTA countries;

- and a bilateral pillar, which for the moment still constitutes an important complement to the other two avenues of cooperation.

As you know, it has been agreed, in the context of the GATT-Uruguay Round, to set up a multilateral framework for the rapidly growing trade in services. Switzerland expects a lot from the establishment, at global level, of common principles for the liberalization of the area of services. Up to now only some sectors have been liberalized and this process has been essentially limited to the industrialized countries of the Organization for Economic Cooperation and Development (OECD).

The importance we attribute to the work in GATT is easily explained by the following reasons : Firstly, because sectoral and regional agreements may harm the position of outside countries; secondly, because of the importance of the services sector for our economy; thirdly, because of the vital function of the improvement of market access for worldwide oriented service providers and finally, because of the positive impact global rules will have to play in the definition of our future relation with the EC.

Currently the so-called Group of Negotiations in Services (GNS) is working on a legal framework (General Agreement on Trade in Services / GATS) containing a series of specific principles, such as national treatment, non-discrimination, most favored nation

clause and transparency. These shall constitute the points of reference for the negotiation of liberalization agreements in individual services sectors. The various sectoral tests, carried out so far, have permitted to collect some experience as to the application of these principles to different sectors. As it was to be expected evidence has shown that the banking and financial sector is a particularly complex case due on the one hand to its direct interface with the monetary side of the economy and on the other hand due to the complexities and specificities of the regulatory provision ruling this sector. A successful insertion of this sector into the context of GATS will depend on the elaboration of formulae allowing for both a professional treatment and for specific undertakings. Thus a call for a separate agreement would no longer be justified. The latter would seem to amount to a counterproductive precedent, since GATS is meant to be a framework agreement with a constitutional function.

While we honestly hope that this difficult operation at global level will succeed, we do favour the possibility of a parallel approach which is the gradual association of a number of newly industrialized economies to the system established by the OECD, i.e. in the field of financial services to the system established by the OECD liberalization Codes. On the one hand, the efforts undertaken by the OECD over the years may serve the establishment

of GATS in terms of philosophy and experience of liberalization. On the other hand it may in the short term be easier to pursue a more ambitious liberalization process in a less heterogeneous circle.

So we have since the beginning supported the OECD-agreement announced in May 1989 to further liberalize capital movements and financial services by enlarging the coverage of the two legally binding Codes on capital movements and current invisible operations. For the first time the Codes will include short-term capital movements such as operations in forward markets, swaps, options and other innovative instruments, then cross-border services including underwriting, broker/dealer services and portfolio management as well as establishment-based activities and certain governmental measures like deposit requirements and discriminatory taxes. The approach of the Codes is to engage Member countries in a process of progressive liberalization allowing reasonable scope for countries to move towards the ultimate goal in different ways and at different speeds according to particular circumstances. Members unable to liberalize immediately may lodge "reservations" on particular operations. Reservations are subject to periodic examination by the Committee on Capital Movements and Invisible Transactions (the "CMIT"). Examinations generally result in the withdrawal or limitation of some reservations and recommendations from the Organization that remaining reservations be narrowed down or withdrawn. Once removed, however, reservations, in most cases, cannot be lodged anew, hence the

so-called "ratchet effect" of the Codes. A safeguards or "derogation" clause may be invoked by a Member country facing severe difficulties, but only for limited periods and subject to rigorous review.

As the main exception to the principle of non-discrimination the Codes explicitly mention special customs or monetary systems, a particularly interesting feature if we consider the already mentioned trend towards the creation of integrated economic areas. We obviously follow the developments in the EC very closely and are rather confident that they will be globally beneficial to the financial services sector and not only the EC members. Switzerland is supporting an open and liberal attitude of the EC towards third countries, this all the more that we are, with our EFTA partners, exploring with the Community the creation of a common European Economic Space implying among others the liberalization of capital movements and financial services. The fact that success is often reached more easily on a regional level puts a particularly heavy responsibility on these players as they are expected to opt for solutions that constitute a contribution for a global liberalization.

Finally, we act on a bilateral level, where either the multilateral basis is not (yet) sufficiently extended or where specific circumstances call for a tailor-made solution. This is for example the case with countries presenting segmented markets i.e. systemic differences as compared to our own financial system

(Japan, South Korea). The aim of our bilateral approach is to improve the situation where our financial institutions are - despite national and MFN-treatment - not granted effective market access and a similar range of competitive opportunities. In these cases we operate applying the reciprocity clause of the Swiss banking law. While such an approach may seem in contradiction with the principle of multilateralism generally followed by the Swiss foreign economic policy, the application of reciprocity seems to us to be justified under certain conditions: Firstly, it has to be applied in an offensive way, i.e. in order to open up less liberal markets as opposed to a defensive, protectionist way. Secondly, in most cases it is applied in markets with major systemic differences, thereby aiming at improving the permeability of segmented markets. Used in this way, reciprocity cannot be considered as an end in itself, but as an instrument designed to reach fair and open market conditions.

Another important mainly bilateral field cooperation is the dialogue among regulators. Although international meetings like Bürgenstock or Boca Raton offer an excellent opportunity to gather the regulators of the most important financial centers, and although the International Organization of Securities Commissions (IOSCO) is very much furthering multilateral regulatory cooperation, bilateral contacts remain an important feature. While these take place essentially between exchanges and SROs, led by an approach of mutual recognition in a variety of fields, a major responsibility remains on the shoulders of

Governments. This holds particularly true in the field of exchange of information and enforcement. Due to the strongly differing national backgrounds there is an inherent risk that existing incompatibilities between national legislations lead to solutions which potentially could offset the cooperative aim. From this point of view it is essential that bilateral approaches do not lead to an extension abroad of national regulations, thereby infringing foreign sovereignty and distorting competition, but on the contrary help to overcome the gaps between national regulations while respecting the limits of the corresponding legislations. It is before this background that the conclusion of MOUs is gaining importance as a flexible and adaptable instrument.

I am coming to my concluding remarks. I have tried to give you a brief overview on the Swiss policy concerning international cooperation in the field of financial services. All our efforts, whether global, regional or bilateral, are aiming towards a further liberalization of markets and elimination of systemic differences with a view to offering all market participants globally effective market access and a similar range of competitive opportunities. A precondition for such an ideal level playing field situation are well functioning and efficient markets. Therefore, our efforts are also guided towards a coordinated approach in relation to systemic risks and investor protection without holding a brief for an unconditional involvement of regulation and supervision. The primary aim of regulation

is to assure the efficiency of the market. On the other hand it is obvious that market forces cannot work unconditionally as the present environment is far from being perfect and therefore the global community does not allow major institutions or markets to fail.

I am perfectly aware that these targets of international cooperation can only be achieved if everyone is doing his homework. On the one hand we have to adapt our internal regulatory structure both legally and institutionally to the international evolution with a view to participating in the international co-operative framework. In this regard I can recall our efforts in the field of anti-fraud legislation (insider dealing, pending money laundering legislation, planned market manipulation offense) or the work done by a study group mandated by the Minister of Finance whose report will be published these days. All I can tell you in this respect for the moment is that the government plans to present a draft legislation on stock exchanges and professional financial intermediaries by the autumn of this year and a financial services bill in a medium term perspective. On the other hand we have to make sure that our own financial market is as open and as attractive to foreigners as possible. We have nothing but to win from a situation in which the Swiss institutions and their foreign partners in our country and abroad cooperate and compete on our capital market. Not only will we have the best argument for open markets abroad and have a relatively good position in multilateral negotiations, but also

will the market participants - borrowers, intermediaries, investors as well as the tax collector - profit and the markets be efficient. And this is exactly what all the efforts I have mentioned before stand for : Well functioning markets with the highest possible efficiency.