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A SWISS-AMERICAN TREATY THAT WILL BENEFIT THE SWISS IMAGE

A TREATY of mutual judicial assistance which might put an end to persistent hints that Swiss banks are storing the Mafia's money has been concluded on 25th May. The Treaty, which is the first judicial assistance agreement ever signed by the United States, will have to be ratified by Congress and by the Swiss Parliament. It was finalised after negotiations which were protracted over five years and which required a compromise between two very different legal systems. The treaty is defined in a 100-page document.

Its central point is that the principle of Swiss banking secrecy is safeguarded, while the concern of the American side to obtain, for judicial purposes, information normally kept secret under Swiss law, is satisfied under certain well-defined conditions.

Although the agreement covers every field of judicial co-operation, the clauses with a bearing on banking secrecy have caused the most interest because the Swiss numbered account has a worldwide "reputation" and, more practically, because it has become an instrument of tax evasion or conversion of illegal funds for organised crime. As Dr Weitnauer put it after signing the Treaty, "International co-operation also exists, alas, among criminals". This truth has become a growing feature of crime as a whole and has done more than anything else to bring Swiss banks into the limelight and, occasionally, into disrepute.

Swiss banking secrecy will be lifted under three conditions: If the request by the American side concerns the investigation of a "serious offence"; if the "disclosure is of importance for obtaining or proving facts which are of substantial significance for the investigation", and if "reasonable but unsuccessful efforts have been made in the United States to obtain the evidence or information in other ways".

Both sides agree to assist each other in "investigations of court proceedings in respect of offences, the punishment of which falls, or would fall, within the jurisdiction of the judicial authorities of the requesting State". The treaty also covers assistance in returning any property or assets taken from the requesting State by means of such an offence.

The main stumbling block of the talks was the fact that fiscal offences, which is the usual way American gangsters can be trapped, are not considered as illegal in Switzerland. It was, therefore, necessary to prove that these acts were linked to others indictable under Swiss law. The negotiators also had to take account of individual State laws in America. Under many state systems it would be necessary for inspectors to enquire on Swiss territory. This will be tolerated when proved absolutely necessary.

The interrogation will be carried out under Swiss ethical norms and within the framework of a Swiss-led enquiry.

Another important hitch pertained to the disclosure of information derived from opening numbered accounts. The Swiss could not obtain the promise that such facts would be kept secret as under the American Constitution everything must be told in an open court. But the Swiss received assurances that such facts would not be used as evidence against anyone in an unrelated case.

The agreement will be welcome by all as embodying Switzerland's participation in an international fight against crime. In view of growing criticism against the consequences of banking secrecy (which are applied in many other countries but perhaps not so stringently) the time had come for Switzerland to make some practical concessions leaving principles intact.

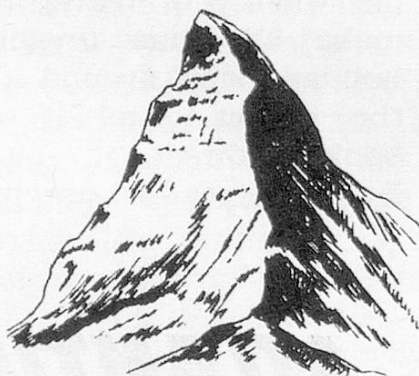
The insistence that both sides should be convinced that criminal offences have been committed is a must. Although it is fashionable to condemn Swiss banks as the cause of millions of pounds and dollars of lost fiscal revenue, this collective and lofty assessment disregards the legitimate interests of those who have earned money by their efforts and who ask why they should surrender sizeable portions of it to the State. This is why exceptions to banking secrecy must only concern criminal investigations and not tax evasion (or "avoidance").

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Whatever one's ideology may be, ownership seems a legitimate thing in today's prosperous West. One can imagine the inconvenience of an Anglo-Swiss judicial assistance agreement which would provide for bank-account disclosures for fiscal offences. Thousands of Britons and Swiss residents would find their livelihood in jeopardy. British Treasury sleuths are already a serious menace to Britons owning real estate abroad, and some even managed to break in a few numbered accounts last year with the connivance of Swiss bank employees. Admittedly, it is immoral for millionaires in famished countries to store their assets in a Swiss bank, but honest, hardworking citizens, particularly if they are foreign residents and already pay high taxes, surely have a right to keep some money where they know it is safe. Seen from that angle, Swiss banking secrecy is a blessing to the international community.

Switzerland's Leading Concerns in 1972

According to a survey carried out by the Union Bank of Switzerland, the Nestlé group, with a consolidated turnover of 15.8 billion Swiss francs, remained first last year among Switzerland's leading firms, ahead of Ciba-Geigy (S.Fr. 8.1 billion) and Brown Boveri (S.Fr. 6.4 billion). The Hoffman-La Roche pharmaceutical group, which published its consolidated turnover for the first time (S.Fr. 4.8 billion), comes fourth. Compared with 1971, the rate of growth in the turnover of the main industrial firms has fallen off slightly. With regard to big commercial firms the two giants of the retail trade come well ahead of the others, i.e. Migros, with a turnover of S.Fr. 4.9 billion and Coop (4.1 billion) followed by Gebrüder Volkart (S.Fr. 1.2 billion), a firm specialising in international trade. Sixty per cent of the sales of the first 40 commercial firms are accounted for by foodstuffs. The "Zurich" group, which published consolidated results for the first time, is the country's leading insurance company: S.Fr. 3.3 billion in net premiums from accident, damage and reinsurance transactions and 737 million francs from life assurance. With 3.4 billion francs' worth of overall receipts and employees numbering 49,823, the Swiss General Post Office is Switzerland's biggest transport company. Next comes the Swiss Federal Railways with 2.2 billion francs' worth of receipts and 41,750 employees. (SODT)

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