[Vanderbilt Journal of Transnational Law](https://scholarship.law.vanderbilt.edu/vjtl)

Volume 7
Issue 2 *Spring 1974*

Article 7

1974

Recent Treaties

James H. Bloem

Follow this and additional works at: https://scholarship.law.vanderbilt.edu/vjtl

Part of the Criminal Law Commons, and the Privacy Law Commons

Recommended Citation

James H. Bloem, Recent Treaties, 7 *Vanderbilt Law Review* 469 (2021)
Available at: https://scholarship.law.vanderbilt.edu/vjtl/vol7/iss2/7

This Symposium is brought to you for free and open access by Scholarship@Vanderbilt Law. It has been accepted for inclusion in Vanderbilt Journal of Transnational Law by an authorized editor of Scholarship@Vanderbilt Law. For more information, please contact mark.j.williams@vanderbilt.edu.

RECENT TREATIES

CRIMINAL LAW—TREATY ON MUTUAL ASSISTANCE IN CRIMINAL MATTERS BETWEEN THE UNITED STATES AND SWITZERLAND

The special requirements of secrecy[1] observed by Swiss financial

---

1. Switzerland has long recognized the right of individual privacy in financial transactions and trade secrets. Switzerland's tradition of neutrality repeatedly has made it a haven for refugees of religious, political and racial persecution. In the 16th century, thousands of French Huguenots, including the Protestant theologian John Calvin, fled to Switzerland because of religious persecution. Some of these refugees became bankers and had to maintain secrecy regarding their financial affairs with clients in their homeland. The ideas and practices that prevailed in Switzerland during this era are said to be the origins of modern Swiss banking practice and procedure. Address by True Davis, former United States Ambassador to Switzerland, *published as American Comments on Swiss Banking*, PROSPECTS (No. 100, Aug. 1965) (publication of the Swiss Bank Corporation) (portions of the address appear in 5 COLUM. J. TRANSNAT'L L. 128 n.1 (1966)).

The modern duty of secrecy has a dual foundation in Swiss law. The prohibition against banking disclosure is derived from article 47(b) of the Federal Law Relating to Banks and Savings Banks of November 8, 1934: "1. Whosoever discloses a secrecy that has been entrusted to him or of which he has received knowledge in his capacity as official, employee, agent, liquidator or commissioner of a bank, as observer of the banking commission, as official or employee of a recognized auditing firm, or whosoever attempts to induce somebody else to commit such a violation of the professional secrecy, shall be punished with imprisonment up to 6 months or with a fine up to 50,000 francs. 2. If the act has been committed by negligence, the penalty shall be a fine up to 30,000 francs. 3. The violation of professional secrecy remains punishable beyond the termination of the official or professional relationship, or the exercise of the profession." Federal Law of Nov. 8, 1934, Concerning Banks and Savings Banks, art. 47(b), [1971] AS 808 (Switz.), *translated in* Meier, *Banking Secrecy in Swiss and International Taxation*, 7 INT'L LAW. 16, 18 (1973) [hereinafter cited as Swiss Banking Law].

A second prohibition against economic espionage is found in article 273 of the Swiss Penal Code: "A person who, through searching, secures a manufacturing or business secret, in order to make it accessible to a foreign official agency, or to a foreign organization, or to a private business enterprize, or to their agents, a person who makes accessible a manufacturing or business secret to a foreign official agency, or to a foreign organization, or to a private business enterprize, or to their agents, shall be punished by imprisonment, in serious cases in the penitentiary. In addition, a fine may be imposed." Law Concerning Economic Information in the Service of a Foreign Country, StGB § 273 (Switz.), *translated in* Meyer, *The Banking Secret and Economic Espionage in Switzerland*, 23 GEO. WASH. L. REV. 284, 302 (1955). The term "economic espionage" has been construed liberally by Swiss courts to bring financial disclosure within its meaning.

institutions[2] have been the subject of criticism by United States law enforcement agencies[3] for nearly four decades.[4] These agencies[5] have been frustrated in their attempts to enforce various sections of the Internal Revenue Code[6] and the Securities and Exchange Commission Regulations[7] and most especially to curb the activities of organized crime. The Government often has been unable to prosecute suspects because the available evidence has been insufficient to sustain a conviction and the evidence necessary to complete the investigation[8] has been within the sanctums of Swiss banks.[9] Since many members of organized crime have been convicted of tax or securities violations,[10] it is mandatory that the Government be able to trace the flow of illegal transactions through Swiss financial institutions. The inability to complete investigations and to obtain proper evidence has led to an increasing concern about potential effects on the principles of self-assessment and voluntary compliance on which the United States tax and securities laws are based.[11] Additionally, the use of Swiss banks as

---

See, e.g., Thurgau, Staalsanwaltschaft v. Dändliker, 65 BGE 47 (1939), *discussed in id.* at 317.

2. The secrecy provisions apply to Swiss commercial banks, private bankers, savings banks and quasi-banking finance corporations that solicit money from the public. The provisions do not apply, however, to industrial and commercial finance corporations, stock exchange brokers that are not engaged in an actual banking business, quasi-banking finance corporations that do not solicit money from the public, fiduciaries administering estates, and attorneys and business agents that merely take care of their clients' funds without conducting a banking business. Meyer, *supra* note 1, at 300.

3. *Hearings on H.R. 15073 Before House Comm. on Banking and Currency*, 91st Cong., 1st Sess. 3 (1969) [hereinafter cited as *1969 Hearings*].

4. The Swiss Banking Law became effective March 1, 1935. *See* note 1 *supra*.

5. The Internal Revenue Service, Securities and Exchange Commission and the Federal Bureau of Investigation.

6. INT. REV. CODE OF 1954.

7. 17 C.F.R. §§ 200-87 (1973).

8. Statement by Robert N. Morgenthau, former United States Attorney for the Southern District of New York, Dec. 4, 1969, in *1969 Hearings, supra* note 3, at 18.

9. The evidence would be inadmissible because the Swiss banks refuse to furnish witnesses competent to introduce the documents into evidence because of the prohibitions of the Swiss Banking Law. *See* Swiss Banking Law art. 47(b), *supra* note 1.

10. Note, *Secret Foreign Bank Accounts*, 6 TEX. INT'L L.F. 105, 108, 112-14 (1970).

11. Statement by Randolph W. Thrower, former Commissioner of Internal

agents to conceal the real party in interest in financial transactions has resulted in securities violations and tax evasions when the proceeds of illegal activities are channeled back to Switzerland and not reported.[12] The United States has taken unilateral and bilateral measures to control these illegal transactions.[13] The Currency and Foreign Transactions Reporting Act of 1970,[14] while protecting the banking privacy which exists in the United States,[15] requires certain reporting and record keeping by banks when such data may be useful in criminal, tax and regulatory investigations or proceedings.[16] Furthermore, the Internal Revenue Service[17] requires each

---

Revenue, Dec. 10, 1969, in *1969 Hearings, supra* note 3, at 64; statement by Irving M. Pollack, Director of Trading and Markets, Securities and Exchange Commission, *Hearings on Legal and Economic Impact of Foreign Banking Procedures on the United States Before the House Comm. on Banking and Currency*, 90th Cong., 2d Sess. 31 (1968) [hereinafter cited as *1968 Hearings*].

12. *1968 Hearings, supra* note 11. Many of the securities violations that concern Swiss banks acting as agents for undisclosed principals involve noncompliance with special margin requirements established in Regulation T, adopted by the Federal Reserve Board in accordance with the Securities and Exchange Act of 1934. Regulation T provides for special omnibus accounts that facilitate transactions between brokers and dealers enabling Swiss banks to deal in their own names with United States brokerage houses and also permits brokers and dealers, including Swiss and other foreign banks, to extend large amounts of credit to each other. SEC Reg. T, 12 C.F.R. § 220.4(b) (1973).

13. Statements by Wright Patman, Democrat of Texas serving as Chairman of the House Committee on Banking and Currency, and Robert N. Morgenthau, in *1969 Hearings, supra* note 3, at 132.

14. 12 U.S.C. §§ 1951-59 (1970); 31 U.S.C. §§ 1051-62, 1081-83, 1101-05 [hereinafter cited as 1970 Act]. This Act is also known as the Secret Foreign Transactions Reporting Act.

15. In the United States, no one may demand to see an individual's bank records without consent or a summons in accordance with the fourth amendment prohibition against unreasonable searches and seizures and the fifth and fourteenth amendment requirements of due process of law. *See, e.g.*, United States v. Dauphin Deposit Trust Co., 385 F.2d 129 (3d Cir. 1967); Peterson v. Idaho First Nat'l Bank, 83 Idaho 578, 367 P.2d 284 (1961).

16. 31 U.S.C. § 1951 (1970). Under Title I of the Act and regulations promulgated by the Secretary of the Treasury, individuals that carry with them more than $5,000 in cash, foreign currency, travelers' checks, money orders or bearer-form commercial paper out of or into the United States must report it to the customs officials at the port of entry. If the monetary instrument is mailed or otherwise separately transported, a report must be filed with the Commissioner of Customs, Department of the Treasury. 12 U.S.C. §§ 1951-59 (1970); 31 C.F.R. § 103.23, 103.25. Title II of the Act and relevant regulations require American banks and financial institutions to report all domestic and foreign currency trans-

taxpayer to disclose any interest in or authority over foreign banks, brokerages or similar accounts for taxable years beginning on or after January 1970.[18] These counter-measures, however, rely extensively on the voluntary compliance of the taxpayers. If an individual suspected of using Swiss financial institutions in the furtherance of organized criminal activities does not disclose financial transfers to Switzerland or the existence of Swiss bank accounts, the illegality is difficult to prove without direct evidence. Aside from the actual discovery of a violation by United States law enforcement agencies, the only sources from whom direct proof may be obtained are the respective cantonal banking authorities and the Swiss government, which has promulgated the requirements of secrecy observed by Swiss financial institutions.[19] Previous bilateral attempts between the United States and Switzerland to render mutual assistance in apprehending criminals have proven unsuccessful.[20] The Convention with the Swiss Confederation for the Avoidance of Double Taxation with Respect to Taxation on Income[21] provides for the exchange of information for the prevention

actions involving more than $10,000 and to keep records of all transfers of more than that amount into or out of the United States. This data must be retained for at least two years and in some cases five years to allow law enforcement agencies to reconstruct the flow of transactions in such accounts. Failure to comply with these provisions of the Act may result in civil or criminal penalties and confiscation of the currency moved in violation of the reporting and record keeping provisions. 31 U.S.C. §§ 1051-62, 1081-83, 1101-05 (1970); 31 C.F.R. § 103.22(a), 103.36(c), 103.47, 103.49 (1973).

17. INT. REV. CODE OF 1954, § 6011(a). This section authorizes the Internal Revenue Service to obtain financial information from all persons subject to United States tax.

18. 31 C.F.R. § 103.24 (1973). The question on Form 1040 reads: "Did you at any time during the taxable year, have any interest in or other authority over a bank, securities, or other financial account in a foreign country (except in a U.S. military banking facility operated by a U.S. financial institution)?"

19. For an informative discussion of the internal regulation and secrecy requirements of Swiss banking institutions see Mueller, *The Swiss Banking Secret*, 18 INT'L & COMP. L.Q. 360 (1969).

20. Switzerland has entered into a number of mutual judicial assistance treaties with civil law nations. One such agreement is The Hague International Convention Concerning Civil Procedure, July 17, 1905, 50 L.N.T.S. 180. A more recent example is the Swiss ratification of the European Convention on Mutual Assistance in Criminal Matters, April 20, 1959, 472 U.N.T.S. 186. [1967] AS 831. Neither of these agreements allow disclosure of financial information from Swiss banks for any investigatory or other purpose.

21. Convention with the Swiss Confederation for the Avoidance of Double

of criminal fraud.[22] Recently there have been *ad hoc* disclosures in serious tax fraud cases,[23] but the exchange of information under the Convention by its nature is limited, infrequent, and usually requires extensive and prolonged litigation.[24] Moreover, tax information exchanged between the revenue services of the two countries usually contains informative rather than evidentiary or documentary material.[25] The social and political dangers of international organized crime and ineffective unilateral and bilateral coopera-

---

Taxation with Respect to Taxes on Income, May 24, 1951, [1951] 2 U.S.T. 1751, T.I.A.S. No. 2316 (effective Sept. 27, 1951) [hereinafter cited as Convention].

22. Articles XVI(1) and XVI(3) of the Convention provide:

"1. The competent authorities of the contracting States shall exchange such information (being information available under the respective taxation laws of the contracting States) as is necessary for carrying out the provisions of the present Convention or for the prevention of fraud or the like in relation to the taxes which are the subject of the present Convention. Any information so exchanged shall be treated as a secret and shall not be disclosed to any person other than those concerned with the assessment and collection of the taxes which are the subject of the present Convention. No information shall be exchanged which would disclose any trade, business, industrial, or professional secret or any trade process.

. . .

3. In no case shall the provisions of this Article be construed so as to impose upon either of the contracting States the obligation to carry out administrative measures at variances with the regulations and practice of either contracting State or which would be contrary to its sovereignty, security or public policy or to supply particulars which are not procurable under its own legislation or that of the State making application."

23. The leading case on *ad hoc* disclosure, which to a significant extent reversed 20 years of Swiss policy, is X v. The Federal Tax Administration, 71-1 U.S. Tax Cas. 86566 (Swiss Federal Supreme Court, Dec. 23, 1970) (unofficial CCH translation). In October 1969, the IRS requested from the Swiss Federal Tax Administration information from the books and records of a Swiss bank on allegedly questionable dealings between the bank and X, an American citizen residing in the United States. The IRS claimed it had reason to suspect that X had defrauded theAmerican tax authorities and requested the information pursuant to article XVI(1) of the Convention. *See* notes 21 & 22 *supra*. X argued unsuccessfully that there was no basis under internal Swiss law for the investigation, that no action for tax fraud was pending against X in the United States, that Swiss banking secrecy disallowed transmission of such information, and alternatively that the statute of limitations prohibited the transmission of such information. The Swiss Federal Supreme Court upheld the IRS contentions and ordered the bank to make available all pertinent books and records.

24. *See, e.g.*, note 23 *supra*.

25. *See* Meier, *supra* note 1, at 37.

tion between the United States and Switzerland has led to the accession by both countries to a Treaty on Mutual Assistance in Criminal Matters (Treaty). The Treaty establishes the diplomatic and procedural machinery necessary to effect the transfer of information pertaining to a specified criminal matter while carefully delimiting areas of non-applicability and discretionary assistance. *Treaty with the Swiss Confederation on Mutual Assistance In Criminal Matters*, in 12 INT'L LEGAL MATERIALS 916 (1973) (reproduced from text provided by the United States Department of State).

The Treaty provides for mutual assistance in investigations and proceedings for the enumerated offenses that are punishable within the jurisdiction of the requesting state.[26] It includes special provisions dealing with organized crime, rules relating to the use of documentary evidence, and proper methods of determination and review.[27] In addition to providing for the return to the requesting state of property and assets obtained by commission of enumerated offenses, the Treaty sets forth compensation for damages incurred by a person through unjustified detention or invasion of privacy resulting from actions taken pursuant to the Treaty.[28] The sole requisite for initiation of an information request is that the initiating state have probable cause to suspect an enumerated offense has been committed.[29] In considering a petition for disclosure of information, the requested state applies its applicable procedures to the particular investigation or proceeding and to the certification and transmission of documents, records and evidentiary articles.[30] The Swiss government expressly has retained the right

26. Treaty, art. 1(1).

27. A survey of the Treaty provisions includes: Ch. I. Applicability—General Obligations, Nonapplicability, Discretionary Assistance, Compulsory Measures, Limitations on Use of Information; Ch. II. Organized Crime; Ch. III. Obligations of the Requested State in Executing Requests; Ch. IV. Obligations of the Requesting State; Ch. V. Documents, Records and Articles of Evidence; Ch. VI. Service; Ch. VII. General Procedures; Ch. VIII. Notice and Review; Ch. IX. Final Provisions, Effect on Other Treaties, Consultation and Arbitration, Entry into Force and Termination; and Schedule of Included Offenses. Article 2 delimits nonapplicable proceedings or offenses including involuntary extradition or arrests, execution of criminal judgments, enforcement of cartel or antitrust laws, political offenses as defined by the requested state and violation of military obligation statutes.

28. Treaty, art. 1(1).

29. Treaty, art. 1(2).

30. Treaty, art. 9(2).

to refuse transfer of information that, in its judgment, is not closely connected to the alleged offense.[31] The United States, however, is allowed to establish an evidentiary connection between the information sought and the alleged offense, at which time the Swiss government may reconsider its original refusal.[32] Furthermore, the initiating state has several responsibilities with respect to the information received and the individuals under investigation. The requesting state may only use the disclosed information for the investigative or evidentiary purpose for which the information was originally granted.[33] No reprisals or sanctions may be imposed on a citizen who refuses to give noncompulsory testimony[34] and, if application is made and its importance so requires, all such information and evidence must be kept from public disclosure.[35] Articles 6 through 8, which comprise Chapter II of the Treaty, specifically deal with organized crime,[36] a focal topic of United States interest in the Treaty.[37] If one nation cannot investigate completely an individual suspected of involvement in an organized criminal activity, it may petition the other nation for disclosure of information pertinent to the investigation. The requesting state must have probable cause to believe the suspect is involved in the criminal activity and must demonstrate an inability to prosecute the sus-

31. Article 10(2) states: "The Swiss Central Authority shall, to the extent that a right to refuse to give testimony or produce evidence is not established, provide evidence or information which would disclose facts which a bank is required to keep secret or are manufacturing or business secrets, and which affect a person who, according to the request, appears not to be connected in any way with the offense which is the basis of the request, only under the following conditions: a. The request concerns the investigation or prosecution of a serious offense; b. The disclosure is of importance for obtaining or proving facts which are of substantial significance for investigation or proceedings; and c. Reasonable but unsuccessful efforts have been made in the United States to obtain the evidence or information in other ways." Treaty, art. 10(2).

32. Treaty, art. 10(3).

33. Treaty, art. 5.

34. Treaty, art. 14.

35. Treaty, art. 15.

36. Article 6 defines "organized criminal groups" as "an association or group of persons combined together for a substantial or indefinite period for the purpose of obtaining money or commercial gains or profits for itself or for others, wholly or in part by illegal means, and of protecting its illegal activities against criminal prosecution and in carrying out its purpose in a methodical manner . . . ." Treaty, art. 6(3).

37. *Cf. 1969 Hearings*, note 3 *supra*.

pect without the requested information. Absent a clear showing of these two requirements, the requested state may refuse disclosure of the desired information. This Chapter involves only those persons suspected of involvement in a criminal organization, and the requested state reserves the right to determine for itself whether an individual may be treated under Chapter II provisions. Thus, this Chapter attests to the fact that individual financial privacy is still an important consideration in any disclosure,[38] especially in the area of income tax violation under article I of the Convention for the Avoidance of Double Taxation with Respect to Taxes on Income.[39] Moreover, all investigations and proceedings under the organized crime provisions of the Treaty are to be treated as confidential by the Central Authority[40] of the requested state. The requested state retains the right to review the determination of the requesting state as to the applicability of Chapter II.[41] The Treaty handles the transfer of court and investigative reports and official documents with a modicum of formal procedure. The production of a business record,[42] however, is accorded a similar degree of procedural formality utilized in the transfer of individual financial records. This higher degree of formality is necessary to preserve the authenticity of transferred documents and monitor potential loss

38. Chapter II is limited to investigations and proceedings involving individuals who, according to the requesting state, are suspected of being involved in the activities of an organized criminal group as a member, a manager or a participant in any important functions of the group. Treaty, art. 6(2)(a). This article includes public officials who have knowingly violated official responsibilities to accommodate the needs of organized criminal groups. Treaty, art. 6(2)(b).

39. *See* note 21 *supra*. In these situations, information will be furnished by the requested state only if (1) the individual under investigation belongs or is reasonably suspected of belonging to an organized criminal group as a member or affiliate; (2) the requesting state believes that the available evidence is insufficient to link such an individual with crimes committed by the organized criminal group; and (3) the requesting state reasonably has concluded that the requested information will facilitate the prosecution of the suspect and should result in a significant adverse effect on the organized criminal group. Treaty, art. 7(2).

40. The Central Authority for the United States is the Attorney General or his designee. For Switzerland, the Central Authority is the Division of Police of the Federal Department of Justice and Police in Bern. Treaty, art. 28.

41. Treaty, art. 8(1)-(2).

42. The drafters intended that any business record, book, paper, statement, account or writing, or extract therefrom be considered a document. Treaty, art. 18. An official document, which is defined in article 19, is accorded different treatment.

of trade secrets. The refusal or inability of the requested state to comply with a petition for information may be based either on a limited interpretation of the petition by the requested state[43] or a good faith effort yielding a negative result.[44] The Treaty encourages representatives of the United States and Switzerland to consult in all determinations,[45] and if difficulties arise in reference to treaty interpretation, these representatives are to make any initial resolution. Further dispute is left to binding arbitration under the supervision of the President of the International Court of Justice or his designee.[46]

The Treaty marks the achievement of a major policy goal by the United States and the preservation of the traditional and fundamental right of financial privacy by Switzerland. The United States now has the diplomatic means to petition the Swiss government for information concerning the nature and amount of financial transactions between suspected members of American organized crime groups and Swiss banking facilities. The transfer of this information by the Swiss government should result in a greater number of convictions for tax, securities and other crimes that heretofore have been the subject of incomplete investigations or acquittals because the evidence necessary for conviction lay sealed in the records of a Swiss bank. In acceding to the Treaty, Switzerland also has demonstrated that it is dedicated to the elimination of international organized crime. Moreover, the general criminal assistance provisions evidence strong Swiss desire not to allow national boundaries to interfere with the administration of justice in areas outside of the special provisions for organized crime. The schedule of offenses for which judicial assistance is available is comprehensive and contains few exceptions[47] or discretionary as-

43. Treaty, art. 33(1)(a).

44. Treaty, art. 33(1)(b)-(c). The costs incurred are to be reimbursed by the requesting state. Treaty, art. 34.

45. Treaty, art. 39(1).

46. Treaty, art. 39(2).

47. The Treaty specifically excludes involuntary extradition (voluntary extradition is permitted under article 28), enforcement of criminal judgments rendered in the other state, political offenses as determined by the requested state, military service offenses, military offenses that would not constitute an offense if committed by nonmilitary personnel in the requested state, antitrust or cartel violations, and custom or tax violations that are not committed in the furtherance of organized criminal purposes. Treaty, art. 2.

sistance provisions.[48] There are, however, no disclosure requirements for those financial transactions and accounts not involving organized crime. Even within the carefully defined area of organized crime, the Swiss government expressly retains the right to refuse transfer of information.[49] To obtain information on the financial dealings of organized crime in Switzerland, the United States must show both probable cause and the absence of a reasonable possibility of conviction without the information. Thus, Switzerland has preserved its prudent and traditional requirement of secrecy with respect to transactions of those who utilize its financial institutions. Because the Treaty was drafted in two different legal environments, conflicts may rise under it. The limitation on use of any disclosed information to investigations or proceedings for which the information originally was granted[50] does not coincide with the United States rule of evidence that allows official written statements and certificates to be introduced in other proceedings.[51] Additionally, financial information concerning a suspect that is disclosed under the Treaty provisions pertaining to organized crime[52] may not be introduced in an investigation of another substantive crime allegedly committed by the suspect.[53] When considered in light of the historical preference of the Swiss for financial secrecy and the relatively incidental amount of criminal assistance that the United States will be called on to render to Switzerland, the Treaty is a further accomplishment in the fight against organized crime. The reconciliation in the Treaty of the policy objectives of the United States in tracing financial flows through Swiss financial institutions and the Swiss fundamental right to financial privacy indicates that a particularized solution was necessary and that the bilateral agreement was the most effi-

48. Article 3 provides that assistance may be refused if either (1) the requested state considers the granting of the request will compromise its sovereignty, national security or similar interests, or (2) the request is made for the purpose of prosecuting an individual other than one engaged in organized crime for offenses of which he has been acquitted or convicted by a final judgment of a court in the requested state for a substantially similar offense. Treaty, art. 3.

49. *See* note 31 *supra*.

50. Treaty, art. 5(1).

51. This is an exception to the hearsay rule. *See, e.g.*, C. McCORMICK, EVIDENCE §§ 315-20 (2d ed. 1972).

52. *See* note 36 *supra* and accompanying text.

53. Treaty, art. 2(1)(c)(5).

cacious and expeditious manner of achieving that solution. The Treaty has eliminated a source of friction between the two countries, and thus would seem to have strengthened the relations between the two countries, although the test of its actual ability to resolve problems in designated situations awaits its ratification and use.[54] Since there remain more than fifteen other nations that maintain financial secrecy vis-à-vis foreign investigations,[55] the Treaty is significant because it may stimulate other bilateral treaties with these countries.

James H. Bloem

54. The Treaty will become effective 180 days after ratification by each country and will apply retroactively. Treaty, art. 41.

55. While Swiss financial institutions receive particular attention because they are the most widely used by Americans who are evading the laws of the United States, they are not the only overseas depositories used for this purpose. For a statement of various transactional schemes between United States citizens and financial institutions of Panama, Liechtenstein, the Bahamas, Luxembourg and West Germany, see *1969 Hearings, supra* note 3, at 8. For a description of illicit and sophisticated securities transactions involving Americans and banks in Hong Kong, Panama and Curacoa see *1968 Hearings, supra* note 11, at 31.