

THE REGULATION OF FOREIGN BANKS IN SWITZERLAND (1956–1972)¹

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Abstract

The Swiss financial centre witnessed an important shift during the 1960s: the number of foreign banks and their importance in relation to the domestic banking sector significantly increased. Faced with this rapid development, Swiss bank representatives and political and monetary authorities reacted strongly. This paper investigates the evolution of the regulatory response by Swiss banking policy actors to the proliferation of foreign financial institutions. In 1969, those reactions led to the adoption of a discriminatory regime, setting higher entry barriers for foreign banks than for domestic institutions. After examining possible reasons for the attractiveness of Switzerland to foreign banks, this paper will analyse the concerns and fears of the domestic banking sector and its regulators. In this regard, it appears that issues such as mere competition, preservation of the international reputation of the Swiss banks and anti-inflationary monetary policy were central to the chosen regulatory regime. Moreover, this paper shows that foreign banks were used as scapegoats in the evolution of the Swiss system of banking supervision. They were more tightly regulated, yet the general framework remained very lax.

1 This article is based on research carried out as part of my ongoing doctoral thesis at the University of Lausanne under the supervision of Dr. Malik Mazbouri, dealing with banking supervision in Switzerland and Belgium (1935–1975).

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Introduction

‘An uncontrolled expansion of foreign influence on our banks represents a real threat to the country.’³ Those are the words used in November 1968 by the Swiss federal government to sum up the dangers related to the increasing foreign hold over the Swiss banking industry. The use of expressions such as *Überfremdung* or *surpopulation étrangère*, which can be partially translated to the English term: ‘excessive foreign control’, refers to a political leitmotif in the Swiss politics of the 1960s. It is noteworthy to mention from the outset that in the context of banking regulation, the federal government adopted the same vocabulary as used in various other political fields such as immigrant labour and corporate governance.⁴

This paper examines the setting up of special regulations for foreign banks in Switzerland in the 1960s. The process began at the end of the 1950s and led to the promulgation of the federal decree establishing the licensing system for foreign-controlled banks of 21 March 1969. A central thesis of this article is that the passing of discriminatory regulation constitutes an important victory for Swiss banking circles, which successfully managed to impose stronger requirements on threatening foreign competitors.

Most historians have neglected this episode in the history of the Swiss financial centre. Although a number of publications address the growing internationalisation of Swiss banks in the second half of the twentieth

3 ‘Message du Conseil fédéral à l’Assemblée fédérale à l’appui d’un projet d’arrêté fédéral urgent instituant le régime du permis pour les banques en mains étrangères (du 13 novembre 1968)’, *Feuille fédérale*, 1968, vol. 2, no 48, p. 787.

4 On the question of immigrants: M. Cerutti, ‘La politique migratoire de la Suisse 1945–1970’, in: H. Mahnig (ed.), *Histoire de la politique de migration, d’asile et d’intégration depuis 1948* (Zurich 2005), pp. 89–134. On the question of corporate governance: M. Lüpold, ‘Der Ausbau der “Festung Schweiz”: Aktienrecht und Corporate Governance in der Schweiz, 1881–1961’, unpublished PhD thesis (Zurich 2010).

century,⁵ the available literature on the development of foreign banks in Switzerland and the limitations imposed on them by the authorities, is remarkably scarce, consisting mainly of legal studies.⁶ Willi Loepfe's recent monograph provides the only historical analysis of the topic.⁷ The paucity of the historiography stands in strong contrast to the richness of the Swiss public archives, which contain an insightful collection of documents. The central core of this article is based on primary archival sources, mainly the archives of the Swiss Federal Banking Commission, the archives of the Swiss National Bank and the archives of the Swiss Bankers Association.

This paper will proceed as follows. The first section puts the regulatory intervention into the context of the extraordinary growth of the Swiss financial sector (1945–1975), and lays out the international criticism levelled against the Swiss banking haven. This is followed by a section

5 See for example: B.V. Christensen, 'Switzerland's Role as an International Financial Center', IMF Occasional Paper, no 45 (1986), pp. 1–40; P. Braillard, *La place financière suisse. Politique gouvernementale et compétitivité internationale* (Geneva 1987); J. Tanner, 'Der diskrete Charme der Gnomen: Entwicklungen und Perspektiven des Finanzplatzes Schweiz', in: C.M. Merki (ed.), *Europas Finanzzentren. Geschichte und Bedeutung im 20. Jahrhundert*, (Frankfurt/New York 2005), pp. 127–47; T. Straumann, 'Finanzplatz und Pfadabhängigkeit: Die Bundesrepublik, die Schweiz und die Vertreibung der Euromärkte (1955–1980)', in: C.M. Merki (ed.), *Europas Finanzzentren. Geschichte und Bedeutung im 20. Jahrhundert*, (Frankfurt/New York 2005), pp. 245–68; C. Baumann and W.E. Rutsch, *Swiss Banking – Wie weiter? Aufstieg und Wandel der Schweizer Finanzbranche* (Zurich 2008).

6 E.F. Burkhalter, *Die Bedeutung, das Wesen und die Struktur der von der Schweizerischen Nationalbank als 'Übrige Banken' bezeichneten Institute*, (Thun 1969); (thereafter: Burkhalter, *Übrige Banken*); M. Meyer, *Die Ausländischen Banken in der Schweiz. Studie im Auftrag des Verbandes der Auslandsbanken in der Schweiz* (St. Gallen 1975); (thereafter: Meyer, *Ausländischen Banken*); H. Schönle, 'Zur rechtlichen Stellung ausländischer und ausländisch-beherrschter Banken in Deutschland, den USA und der Schweiz', in: M. Lutter, H. Kollhoser and W. Trusen (ed.), *Recht und Wirtschaft in Geschichte und Gegenwart. Festschrift für Johannes Bärmann zum 70. Geburtstag*, (Munich, 1975), pp. 893–920; J.-P. Chapuis, 'Le statut des banques étrangères en Suisse', *Droit et pratique du commerce international*, vol. 1, no 1 (1976), pp. 119–38; A. Hirsch, 'Entry for Foreign Banks: The Principle of Reciprocity – The Example of Switzerland', *Issues in Bank Regulation*, vol. 8, no 1, (1984), pp. 63–6; H. P. Dietzi, 'Das Gegenrechtserfordernis als Bewilligungsvoraussetzung zum Geschäftsbetrieb einer ausländischen bzw. ausländisch beherrschten Bank', in: R. v. Graffenried (ed.), *Beiträge zum schweizerischen Bankenrecht* (Bern 1987), pp. 71–90; D. Poncet and C. Lombardini, 'La surveillance des banques étrangères et des groupes bancaires internationaux. La perspective suisse', in: C. Dominici, R. Patry and C. Reymond (ed.), *Etudes de droit international en l'honneur de Pierre Lalive* (Basel/Frankfurt 1993), pp. 322–33.

7 W. Loepfe, *Der Aufstieg des schweizerischen Finanzplatzes in der Nachkriegszeit. 1945 bis 1975*, (Weinfelden 2011), pp. 197–206; (thereafter: Loepfe, *Aufstieg des schweizerischen Finanzplatzes*).

describing the evolution, origins and motivations of the foreign banks that set up in Switzerland. The third section – the heart of this article – presents the reactions of the Swiss authorities and banking circles to the growing establishment of foreign financial institutions, and emphasises the motivating and restrictive forces in the decision-making process. The final section discusses the key findings and assesses the impact of the legislation.

I.

Post-World War II economic expansion was a period of remarkable growth for the Swiss financial centre. During this ‘Golden Age’ (1945–1972), the total assets of Swiss banks increased sixfold in real terms, while the Swiss real GDP increased by a multiple of 4.5.⁸ Although the trend of more dynamic growth in the financial services sector applied to most OECD countries,⁹ the expansion of Swiss finance was outstanding, since it led, at the end of the 1960s, to the establishment of Switzerland as the world’s third most important financial centre behind London and New York.¹⁰ The success of the Swiss financial centre relied on a combination of political and economic factors in the aftermath of World War II: a strong Swiss franc; free capital and currency circulation; political neutrality; infrastructure spared from the destruction of war; low public debt and comparatively low inflation; a lenient taxation system; and banking secrecy protected under criminal law.¹¹ Those competitive advantages were

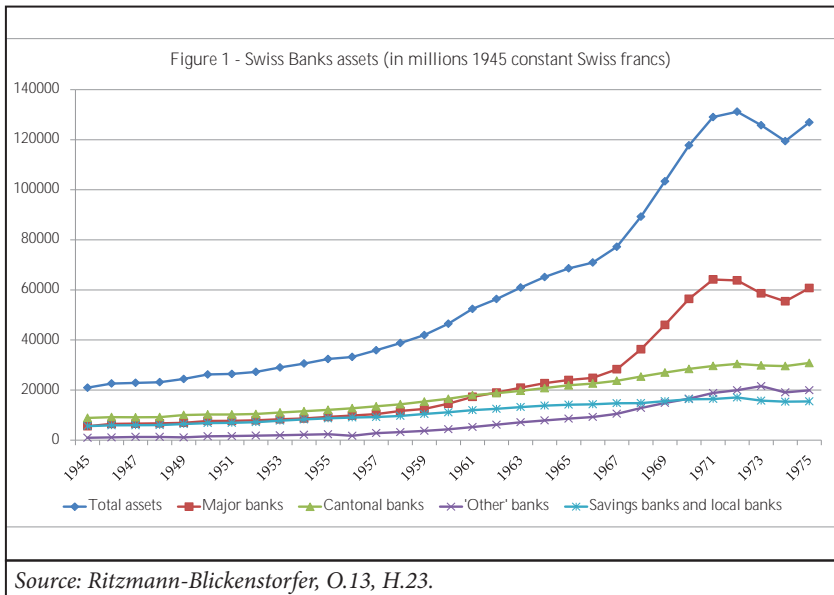
8 H. Ritzmann-Blickenstorfer (ed.), *Historical Statistics of Switzerland* (Zurich 1996), O.13, H.23.

9 C. R. Schenk, ‘Crisis and Opportunity: The Policy Environment of International Banking in the City of London, 1958–1980’, in: Y. Cassis and E. Bussière (ed.), *London and Paris as International Financial Centres in the Twentieth Century* (Oxford 2005), pp. 207–28, 207.

10 M. Iklé, *Switzerland: an International Banking and Finance Center* (Stroudsburg 1972), p. 155; Y. Cassis, *Capitals of Capital: the Rise and Fall of International Financial Centres, 1780–2009* (Cambridge 2010), p. 218; (thereafter: Cassis, *Capitals of capital*).

11 M. Mazbouri, S. Guex and R. Lopez, ‘Finanzplatz Schweiz’, in: P. Halbeisen, M. Müller and B. Veyrassat (ed.), *Wirtschaftsgeschichte der Schweiz im 20. Jahrhundert* (Basel 2012), pp. 467–518, 494; (thereafter: Mazbouri, Guex and Lopez, ‘Finanzplatz Schweiz’).

combined with a long tradition and reputation as a refuge for international funds. When coupled with the extraordinary growth of the world economy, they resulted in a significant inflow of foreign capital. Still, the immediate post-World War II period was a turning point for the Swiss economy, which attempted to return to the new world order. The Swiss diplomatic corps successfully managed to break the isolation and the depreciation inherited from the awkward position towards Germany during the war. The Washington Agreements (25 May 1946) were important steps in the integrative process of Switzerland, and can retrospectively be considered as a victory for Swiss authorities.¹² Following this normalisation of trade relations with the Allies, the Swiss financial centre strongly resumed its international activities. In 1958, the return of many European currencies to convertibility strengthened the surge of capital towards the Swiss financial centre.



12 M. Perrenoud, *Banquiers et diplomates suisses (1938–1946)* (Lausanne 2011), pp. 427–41.

As for the internal competition amongst Swiss banks, the major banks and the 'other banks' – a category that mostly consisted of foreign banks – were the main beneficiaries of the post-war evolution. Both categories showed higher growth rates, in terms of assets, than the cantonal banks as well as the savings and local banks. The major banks thus represented the spearheads of this 'golden age'. The growing internationalisation of banking transactions was the underlying strength of the development of Swiss finance during this period. The share of foreign assets and liabilities in Swiss banks' balance sheets more than doubled between 1962 and 1972.¹³ It is worthwhile to keep in mind that international activity had a long tradition in Swiss banking. As early as the 1920s, Switzerland had occupied a specific position amongst international financial centres: Swiss banks attracted flows of international assets from abroad, which were in turn lent abroad again. This role as a 'turntable' for international capital grew extensively during the 1960s. However, it is only partially reflected in the statistical records of the Swiss National Bank. Indeed, a large part of the transactions took place in off-balance-sheet custody accounts. Cross-border wealth management – as a result of the considerable inflows of foreign capital – became a prime niche-market for Swiss banks. While the amount of capital under management already represented 86 per cent of Swiss GDP in 1948, this share amounted to 237 per cent in 1970.¹⁴

During those booming years, the inflows of foreign capital were so excessive that they incited the Swiss central bankers to take preventive measures. Indeed, the monetary authorities dreaded the inflationary effects related to the inflows of capital and tried to prevent the international use of the Swiss franc as a reserve currency. At first, the Swiss National Bank attempted to settle the problem by signing several gentlemen's agreements with commercial banks. Those agreements included measures such

13 K. Speck, *Strukturwandlungen und Entwicklungstendenzen im Auslandgeschäft der schweizer Banken* (Zurich 1974), p. 35.

14 Mazbouri, Guex and Lopez, 'Finanzplatz Schweiz', p. 477.

as negative interest rates on foreign deposits and the setting of minimal balances and lending limits. Yet these actions proved ineffective, thus the central bankers decided to take another step and prepared a draft of an amendment to the Swiss National Bank law. The bankers opposed this plan and in 1969 the parliament rejected the entire proposal.¹⁵

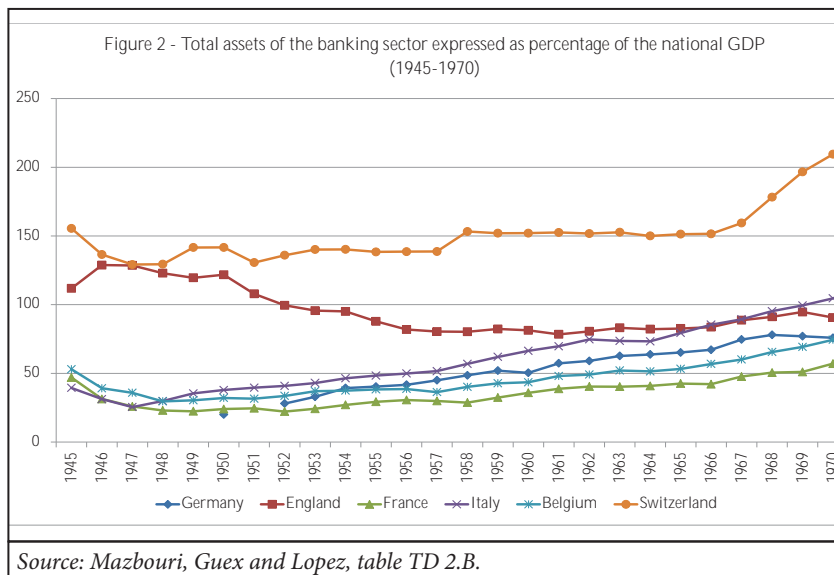
When compared internationally, the growth of the Swiss financial sector is also outstanding. Not only was the power and size of the financial sector disproportionate to the country's surface and real economy, but the development of an oversized banking industry also increased during the post-war period. According to Mazbouri, Guex and Lopez, who compare the size of the major Swiss banks with their European counterparts, the major Swiss banks had much higher growth rates than the German *Grossbanken*, the largest French deposit banks or the British 'Big Five'. In 1970, the assets of Swiss banks reached 60 per cent of British banks, 64 per cent of French banks and 92 per cent of German banks.¹⁶ This trend is evident when the assets of the banking sector are expressed as a share of national GDP. The following figure (Figure 2) clearly shows the specific position of Switzerland compared to other European economies.

In parallel with this formidable growth, the Swiss banking industry coped with increasing international criticism directed against it during the post-war period. Some of the features and practices of the Swiss banks, such as banking secrecy, numbered accounts and related tax evasion, were at the heart of international denunciation. Admittedly, international tensions related to Swiss banking secrecy already existed during the interwar period,¹⁷ but grew extensively in the 1960s. In 1956, the English labour MP and later Prime Minister, Harold Wilson, accused the 'Gnomes

15 P. Bernholz, 'From 1945 to 1982: the transition from inward exchange controls to money supply management under floating exchange rates', in: W. Abegg (ed.), *The Swiss National Bank 1907–2007* (Zurich 2007), pp. 109–99, 194–5; R. Äppli, et al. (ed.), *75e anniversaire. Banque nationale suisse: les années 1957 à 1982* (Zurich 1982), p. 131.

16 Mazbouri, Guex and Lopez, 'Finanzplatz Schweiz', pp. 474–6.

17 C. Farquet, 'The Swiss Tax Haven in the Interwar Period: An International Comparison', paper for the conference 'The Sub-prime Crisis and how it Changed the Past' (Geneva 2011).



of Zurich' of speculating against the pound sterling. At the time of the creation of the Zurich gold pool by the major Swiss banks in 1968, tensions with the City revived. The Zurich gold market soon exceeded the London market in the sale of South African gold.¹⁸ Preceding this event, the American journalist T.R. Fehrenbach published a successful book highlighting some of the affairs related to Swiss banking.¹⁹ Many world-famous newspapers such as the *New York Times* and the *Financial Times* became interested in Swiss banks and the reasons for their success, thus making a broader audience pay attention to those questions. The frequent presence of Swiss landscapes as backgrounds in James Bond movies – which were systematically linked to financial transactions – was a cultural reflection of this evolution and played a part in the popularisation of a stereotypical

18 S. Bott, 'La Suisse et l'Afrique du Sud. 1945–1990. Commerce, finance et achats d'or durant l'apartheid', unpublished PhD thesis (Lausanne 2008); Loepfe, *Aufstieg des schweizerischen Finanzplatzes*, pp. 206–28.

19 T.R. Fehrenbach, *The Swiss Banks* (New York/London/Toronto 1966).

image of the Swiss banker.²⁰ The Swiss Bankers Association soon realised the potential damage of the international critical campaign to the Swiss banking reputation: in 1967, it was decided to counter-attack and set up a special committee in charge of improving the advertising activity of banks abroad.²¹ This public relations operation was carried out in collaboration with the *Département politique fédéral* – i.e. the Foreign Affairs Ministry – which sent a circular to Swiss diplomatic representations in order to contribute to ‘a better understanding of our banking practice.’²² This international context, marked by a cyclical resurgence of strong criticism of Swiss banks, should be taken into account when analysing the reactions of the Swiss banking industry to the growing establishment of foreign banks in Switzerland.

II.

The competitive advantages of the Swiss financial centre already mentioned, as well as very liberal regulation of banking operations, enticed many foreign financial institutions into opening a branch or a subsidiary bank in Switzerland. Before proceeding, four different kinds of foreign establishments should be distinguished. Firstly, a foreign bank could simply open a representative office, which did not involve the incorporation of a company. A representative office was not subject to the banking law and thus was not allowed to perform banking operations. Secondly, a foreign bank could open a branch, that is, a foreign affiliate that was legally part of the company. This kind of foreign establishment had already been under

20 S. Guex and G. Haver, ‘James Bond contre – ou pour ? – les gnomes de Zurich: L’image de la place financière suisse dans la série 007’, in: F. Hache-Bissette, F. Bouilly and V. Chenille (ed.), *James Bond (2)007: Anatomie d’un mythe populaire* (Paris 2007), pp. 330–8.

21 *Archives of the Swiss Bankers Association* (thereafter: ASBA), Minutes of the Board of Directors, preliminary report, 21 Jun. 1967.

22 Circular from Pierre André Nussbaumer (DPF) to the diplomatic representations, 16 May 1967, Documents Diplomatiques Suisses, vol. 24 (1967–1969) (Zurich 2012), doc. 23, dodis.ch/33015.

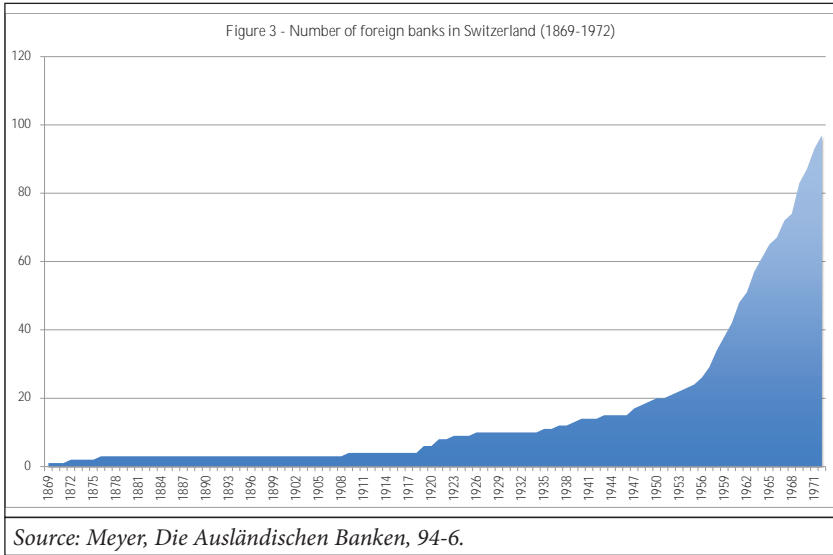
special regulation since 1936: the reciprocity requirement was the main condition to be met in order to establish a foreign branch.²³ The third type of establishment was the incorporation of a subsidiary company. These were banks with their own legal personality, but whose share capital was owned by a single parent company. Lastly, there were also so-called foreign-controlled banks, which were legally the same as subsidiaries. The difference lay in their corporate name, which did not clearly express their foreign nature, and the fact that they were not linked to a single specific parent company but could be owned by one or several financial groups. Until 1969, both subsidiaries and foreign-controlled banks were legally considered Swiss banks, with free entry to the banking sector. Based on this, a foreign investor seeking to open a financial company in Switzerland had a wide range of choice when it came to these different types of establishments. There was a form of 'regulatory arbitrage', in which foreign investors could choose the form of incorporation best suited to their needs. As an example: the French Banque de Paris et des Pays-Bas, active in Geneva since 1872 in the form of a branch, decided in 1968 to change to a subsidiary.²⁴

As shown in figure 3, the first foreign banks in Switzerland date back to the end of the nineteenth century. French banks, such as Banque de Paris et des Pays-Bas or Crédit Lyonnais, were part of that movement. Their presence in Geneva mainly allowed them to play an active role in the export of capital to Switzerland.²⁵ During the inter-war period, a dozen foreign banks opened their doors, such as the Geneva branch of Lloyds Europe. But the real take-off of foreign banks in Switzerland took place after the Second World War: 82 out of 96 foreign banks active in

23 Decree from the Swiss Federal Banking Commission concerning foreign banks that are active in Switzerland, 15 Feb. 1936.

24 E. Bussière (ed.), *Paribas 1872–1992: l'Europe et le monde* (Antwerp 1992), p. 163.

25 F. Walter, 'Finance et politique à la belle époque: la France et les emprunts de la Confédération helvétique (1890–1914)', *Revue suisse d'histoire*, vol. 32, no 3, (1982), pp. 421–50, 432; Y. Cassis, 'Le Crédit Lyonnais à Genève, 1876–2001', in : B. Desjardins, et al. (ed.), *Le Crédit Lyonnais (1863–1986): études historiques* (Geneva 2003), pp. 617–29.



Switzerland in 1972 were set up after 1945; 68 of them were founded after 1958. Indeed, there was a sharp increase after 1958. One of the key factors in this evolution was the restoration of currency convertibility in 1958. In terms of numbers: the share of foreign banks relative to the total number of institutions rose from four per cent in 1945 to eight per cent in 1958 and finally to 20 per cent in 1972.²⁶ In terms of balance sheets: the share of foreign institutions in the total assets of Swiss banks grew from approximately three per cent in 1958 to ten per cent in 1968, and ultimately to 11 per cent in 1972.²⁷ The official records confirm this trend: the assets of the category in which the foreign banks were listed (*übrige Banken*) increased tenfold in real terms, between 1956 and 1971.²⁸

²⁶ Meyer, *Ausländischen Banken*, pp. 94–6.

²⁷ 1958 and 1972: author's calculations based on: *Federal Archives* (thereafter: FA), E6520(A), 1983/50, vol. 1, file 'Ausl. Banken 1959–1974'; 1968: 'Message du Conseil fédéral à l'Assemblée fédérale à l'appui d'un projet d'arrêté fédéral urgent instituant le régime du permis pour les banques en mains étrangères, du 13 novembre 1968', in: *Feuille fédérale*, 1968, vol. 2, no 48, 784.

²⁸ According to Burkhalter, 60 per cent of the assets of this heterogeneous category came from foreign-controlled institutions. See Burkhalter, *Übrige Banken*, p. 59.

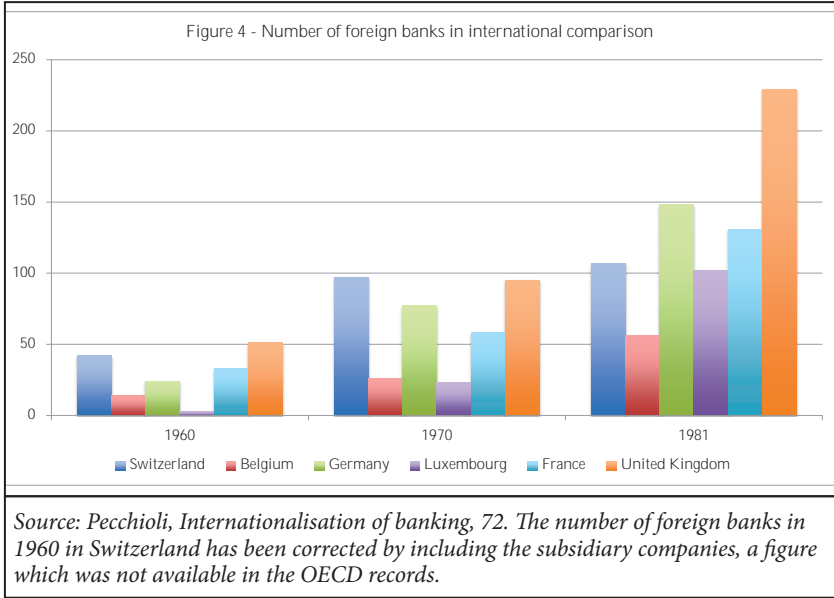
In other words, the Swiss banking sector experienced a massive wave of foreign bank establishments from the 1960s onwards. On a global level, this growth was part of the 'second wave of multinational corporate banking', as opposed to the first wave that took place in the nineteenth century with the expansion of British overseas banks.²⁹ American commercial banks were the main driving force of the second wave, which was related to the birth of the Eurodollar market and the rise of offshore centres.³⁰ The expansion of foreign banks in Switzerland during the 1960s remained outstanding when compared internationally. According to an OECD study, the internationalisation of the Swiss financial centre rapidly increased during the 1960s. In 1970, Switzerland was a safe haven for 97 foreign banks, a number equivalent to the British total (95), but much higher than in Germany (77), France (58) and Belgium (26).³¹

Throughout the twentieth century, there also was a clear evolution with regard to the national origin of the banks established in Switzerland. Until the Second World War, foreign financial institutions for the most part came from neighbouring countries. French banks in Geneva and Italian banks in the Italian-speaking region of Ticino accounted for the bulk of foreign banks. During the 1950s, Switzerland faced a strong increase in Middle Eastern banks (Israeli, Lebanese and Egyptian). This development, speeding up from 1956–1959, is partly linked to the Suez-Crisis, and its destabilising effect on the whole region. Finally, during the 1960s, the large American commercial banks were the most important newcomers to Switzerland. The massive number of American institutions established during the period can be explained by various reasons. Some argued that providing services to American holding companies in Europe was the

29 G. Jones (ed.), *Banks as multinationals*, (London/New York 1990), p. 5. See also K. E. Born, *Geld und Banken im 19. und 20. Jahrhundert* (Stuttgart 1977), p. 572.

30 According to Richard Dale, Switzerland hosted in 1970 eleven foreign branches of US banks out of a total of 93 European US branches. R. Dale, *The Regulation of International Banking*, (Cambridge 1984), p. 7.

31 R.M. Pecchioli (ed.), *The Internationalisation of Banking: the Policy Issues* (Paris 1983), p. 72.



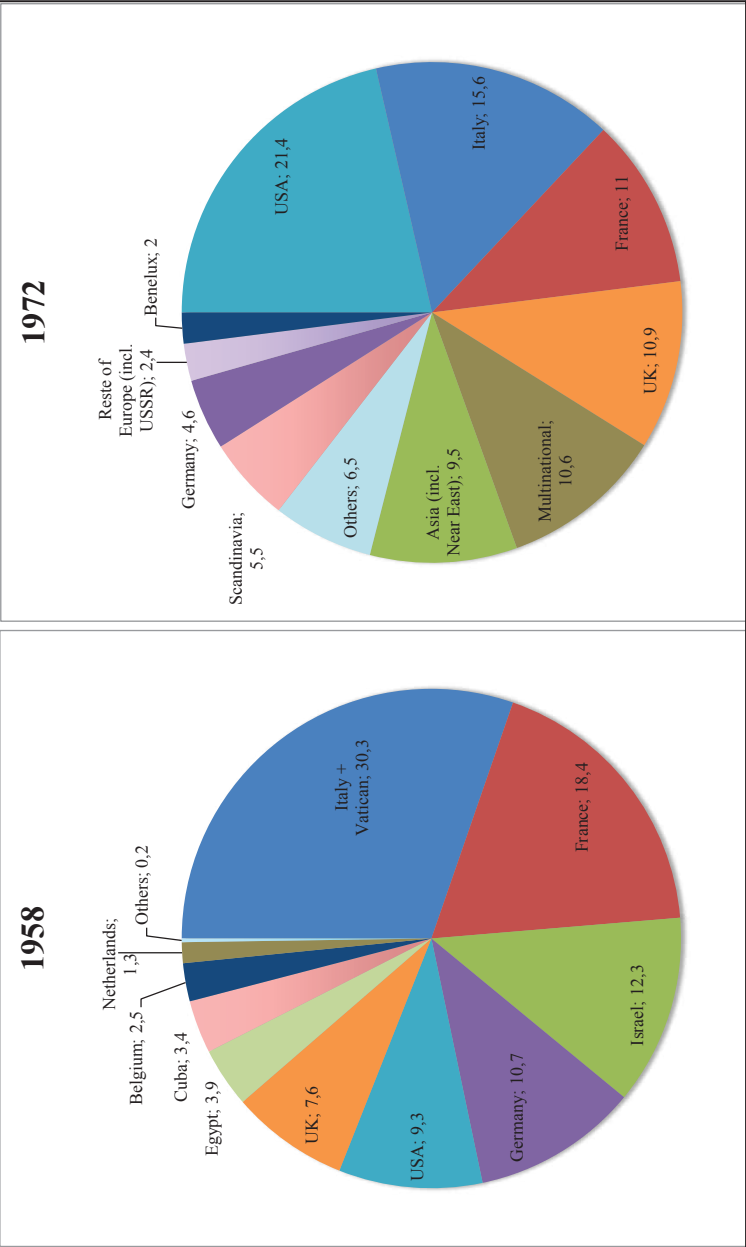
main factor;³² others claimed that Eurodollar investments were the cause of it.³³ This trend is evident in figure 5, which shows that the share of American banks in the total assets of foreign banks in Switzerland grew from nine per cent in 1958 to 21 per cent in 1972. Four American banks ranked amongst the 15 largest banks in Switzerland in 1969. More surprisingly, three out of the five largest banks came from the Near East and at that time had been established less than 20 years.

Another approach to considering the international integration of a financial centre consists in comparing the growth of foreign financial firms to the international expansion of banks from the host country. In this respect, it should be noted that there was, at least up to the 1970s, a certain discrepancy between the dynamic growth of foreign banks in Switzerland

³² Iklé, *Switzerland Finance Center*, p. 89.

³³ A. Matter, 'Die Auslandsbanken im Schweizerischen Bankensystem', (Conference Paper, 1975), p. 4.

Figure 5 – National origin of foreign banks in Switzerland (as share of total assets of foreign banks)



Sources: 1958: Author's calculations based on: FA, E6520(A), 1983/50, vol. 1, file 'Ausl. Banken 1959-1974'; 1972: Meyer, Die Ausländischen Banken, 24.

Rank	Name	Origin	Assets in millions CHF	Foundation Year
1	Lloyds Bank Europe Limited, London*	GBR	1360	1919
2	Banque pour le Commerce Suisse-Israélien	ISR	1219	1950
3	Banco di Roma per la Svizzera	VAT-ITA	1030	1947
4	Discount Bank (Overseas) Ltd	ISR	1026	1952
5	Banque pour le Développement commercial	LBN	905	1960
6	Banque de Paris et des Pays-Bas (Suisse)	FRA	877	1872
7	Dow Banking Corporation	USA	811	1965
8	First National City Bank, New York*	USA	733	1963
9	The American Express International Banking Corporation, New York*	USA	597	1921
10	Lavoro-Bank AG	ITA	553	1959
11	Internationale Genossenschaftsbank AG	DEU	551	1957
12	Banca del Gottardo	ITA	525	1957
13	Arab Bank (Overseas) Ltd	JOR	458	1962
14	Overseas Development Bank	USA/PAN	449	1961
15	Crédit Lyonnais, Lyon*	FRA	435	1876
* : branches of foreign banks				
Sources: FA, E6520(A), 1983/50, vol. 1, <i>Ausländische Banken</i> . Origin: ASBA, J.4 (1967–1969). Foundation Year: SNB, <i>Das schweizerische Bankwesen im Jahre 1971 + Meyer, Die Ausländischen Banken</i> , pp. 94-6.				

and the rather slow expansion of Swiss banks – in terms of branches and subsidiaries – at the global level.³⁴ In 1960, there were already 48 foreign banks active in Switzerland, while major Swiss banks only had twelve international representations. By 1969, those figures had risen to 87 and

34 See also E.F. Paltzer, 'Internationalization of Banking by Foreign Bases and Addresses', in: J.E. Wadsworth, J.S.G. Wilson and H. Fournier (ed.), *The Development of Financial Institutions in Europe, 1956–1976* (Leyden 1977), pp. 167–74, 168.

45.³⁵ This gap is related to some of the specificities of the Swiss financial centre during the first part of the twentieth century, which had become a major actor in international banking, despite, or thanks to, the absence of a network of international branches.³⁶ Interestingly, one of the reasons that can explain the relatively small international expansion lies in the fact that Swiss bankers feared that their presence abroad could be seen as a disadvantage in attracting flight capital. Indeed, foreign customers sometimes considered Swiss banks that did not have foreign representations as safer institutions.³⁷ Yet, it is noteworthy that the internationalisation of the Swiss banks took place with a slight delay. The expansion of the network of international agencies that started at the end of the 1960s – as shown on Map 1 – eventually allowed them to close the gap during the 1970s.

Why did foreign banks decide to settle in Switzerland? A major part of the answer to that question lies in the very liberal banking regulations.³⁸ Firstly, the 1934 banking law set extremely low barriers to entry: a minimum capital requirement, and statutes that specified the sphere of activity. As mentioned earlier, the law also included a provision requiring that branches of foreign banks could only open if the home country granted reciprocity to Swiss banks. However, this restriction only applied to branches of foreign banks, and not to subsidiaries. Under these conditions, the federal supervisory authority had only very limited powers to prevent a bank – Swiss or foreign – from opening.³⁹ Secondly, banking regulations in

35 Author's calculations based on Meyer, *Ausländischen Banken*, pp. 94–6, and the major Swiss banks' annual reports.

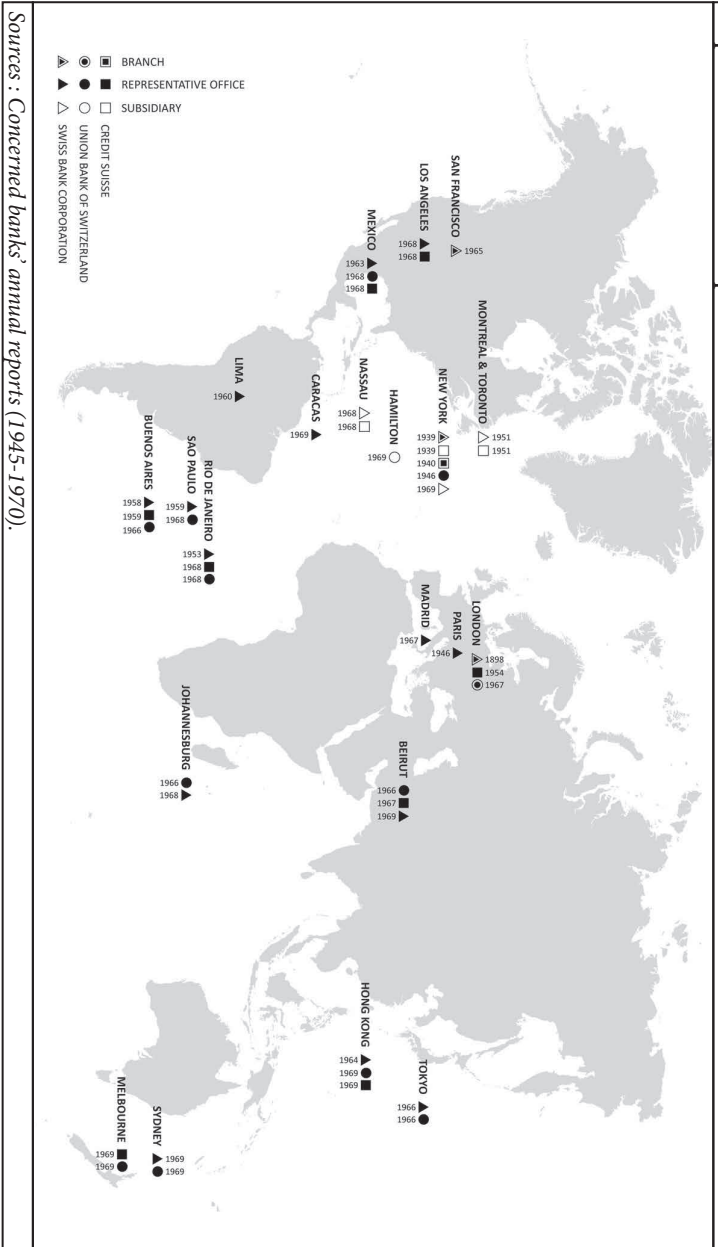
36 See Y. Cassis, 'Swiss international banking, 1890–1950', in : G. Jones (ed.), *Banks as Multinationals* (London/New York 1990), pp. 160–172; M. Mazbouri and M. Perrenoud, 'Banques suisses et guerres mondiales', in : V. Groebner, S. Guex and J. Tanner (ed.), *Kriegswirtschaft und Wirtschaftskriege* (Zurich 2008), pp. 233–53.

37 Mazbouri, Guex and Lopez, 'Finanzplatz Schweiz', p. 511.

38 On the Swiss supervision system in international perspective : P. Cooke, 'Some reflections arising from comparisons between the Swiss and other banking supervisory systems', in : U. Zulauf (ed.), *50 ans de surveillance fédérale des banques* (Zurich 1985), pp. 139–50.

39 T. Giddey, 'Gendarme ou médecin des banques? Les premières années d'activité de la Commission fédérale des banques (1935–1943)', *Traverse. Revue suisse d'histoire*, no 3 (2012), pp. 145–63.

Map 1: The international expansion of Swiss banks in 1969



Sources : Concerned banks' annual reports (1945-1970).

Switzerland did not impose any separation of commercial and investment banking activities. The ability to practice any type of financial activity in a safe and discreet environment was certainly an important incentive in the choice of Switzerland. Of course, banking secrecy, which was considerably strengthened in the 1934 banking law,⁴⁰ formed a key component in this regulatory framework. In addition to these flexible regulations, Switzerland also offered a number of generally attractive features: its political stability and neutrality; its geographical location; a strong and freely convertible currency; low tax regimes; and qualified multilingual staff. Unsurprisingly, in a 1972 survey of foreign bank executives, which investigated the reasons for the site selection of Switzerland, wealth management business appeared as the second most mentioned answer.⁴¹ Banking secrecy, the tax environment, international trade as well as political and monetary stability were also among the given reasons.

Two specific examples illustrate the questions regarding the motivations of foreign banks in opening an agency in Switzerland. In 1957, a group of investors from Arab circles were trying to set up a Banque Arabo-Suisse in Geneva. When discussing this new opening, the governors of the Swiss National Bank pointed out that:

‘According to the founders, the planned institution aims to promote trade between Switzerland and the Arab states. However, in our view, there can be little doubt that the new institution will also be designed, in fact probably even primarily, to absorb flight capital from countries in the Middle East. Given the restless situation in the East and the associated risk of international conflict, there is a tendency in the

40 See S. Guex, ‘The Origins of the Swiss Banking Secrecy Law and Its Repercussions for Swiss Federal Policy’, *Harvard Business History Review*, vol. 74, (2000), pp. 237–66.

41 Meyer, *Ausländischen Banken*, pp. 12–7. The first reason being the obvious fact the Switzerland developed into an international financial centre.

Arab world to reduce pound and dollar assets and to take refuge in the Swiss franc.⁴²

In this case, Swiss authorities were aware of the hidden purposes concerning the establishment of this institution, which finally opened in Geneva under the company name Banque commerciale Arabe in 1958. The second example is the Compagnie de Gestion et de Banque, which was a subsidiary of the large Belgian bank, Société Générale. In 1956, this bank specialising in private wealth management set up in Geneva. More precisely, the directors of the Belgian parent company chose to open a subsidiary to resume the activities that had taken place until then in Tangier. In 1956, the international and free zone of Tangier was returned to the then newly independent Morocco and thereby lost its fiscal and customs privileges. With this new situation, the Belgian bank decided to relocate its private wealth management business to Geneva.⁴³ Other banks, such as the French Banque de l'Indochine, followed the same path. These two examples show that there was often a certain discrepancy between the publicly touted reasons and the real, hidden motivations. This difference is also related to the great diversity of banking operations that foreign institutions could perform in Switzerland. The foreign institutions often used their Swiss agency to practice the type of business they could not perform in their country of origin, or that was less profitable there (e.g. wealth management, participation in bond issuance, international trade financing, transactions on custody accounts). Daniel Bodmer, chief secretary of the Federal Banking Commission – Switzerland's banking supervision authority, shared this point of view in 1968:

42 FA, E6100(B), 1972/96, vol. 32, letter from Walter Schwegler and Hans Huber (SNB) to the Federal Banking Commission (thereafter FBC), 3 Sep. 1957. All quotations are translated from German by the author.

43 G. Vanthemsche, 'La Banque de 1934 à nos jours', in: H. van der Wee (ed.), *La Générale de Banque. 1822–1997* (Brussels 1997), pp. 287–526, 365; see also *Archives of the Swiss National Bank* (thereafter: ASNB), Minutes of the Governing Board, 23 Aug. 1956, no 907, p. 1228.

'Sometimes [the foreign bankers] quite openly declare that they wish to conduct from Switzerland the kind of business which is prohibited by the legislation of their mother country. This is also powered by capital flight from countries like Italy, the USA and France. [...] There are probably more frequently extra-economic motives which make Switzerland appear to foreign bank founders as a paradise.'⁴⁴

As this quotation already suggests, Swiss authorities did not remain impassive to the considerable wave of foreign bank establishments. The political and regulatory response of Swiss banking circles and authorities will be presented in the following section.

III.

In a broad outline, three phases can be distinguished in the attitude of Swiss authorities towards the increase of foreign financial institutions. At first, between 1956 and 1965, both the Swiss banking representatives and the monetary authorities became aware of the potential 'threat' represented by foreign banks. They initially adopted a set of indirect obstacles that were supposed to act as a deterrent. Thus, from the late 1950s onwards, when the number of authorisation requests gradually increased, the main actors in Swiss banking politics reacted negatively.

Already in 1956, the Swiss Bankers Association – the powerful bank interest group – frowned upon the establishment of the French Banque de l'Indochine in Lausanne. The bankers put forward four arguments against foreign institutions.⁴⁵ Firstly, they reckoned that the reputation of the Swiss financial centre was at stake. It was 'undesirable and embarrassing for Switzerland' to be considered on the same level as Tangier. Secondly, the

44 FA, E6520(A), 1983/50, vol. 1, Letter from Daniel Bodmer (FBC) to Martin Ungerer, 11 Nov. 1968.

45 ASBA, 713, Eidg. Bankenkommission Bankengesetz, Letter from Max Oetterli (SBA) to FBC, 9 Aug. 1956.

foundation of a wealth management company represented a 'sensitive and direct impairment of the domestic banking sector'. Switzerland was already over-banked and an additional competitor was not welcome. Thirdly, they remembered the experience of the Second World War, which had shown that the presence of foreign banks in Switzerland could increase international restrictions on the entire bank industry. Lastly, they stigmatised the risk of a domino effect, meaning that each new foreign establishment attracted more opening requests. It should be noted that, from the beginning, competition issues were central to the animosity towards the setting up of foreign banks.

The central bank governing board largely shared those concerns, yet pointed to the fact that the Federal Banking Commission, which was in charge of granting the authorisations, had no legal means to prevent the unwanted foundation of a bank. Moreover, central bankers had another cause of concern. Their reaction to the opening of the Banca del Ceresio in Lugano in 1958 was eloquent as they 'expected that the bank would primarily deal with the collection and investment of Italian flight capital'.⁴⁶ Yet their condemnation of Italian tax evasion was not caused by moral scruples, but rather by the monetary consequences related to it. More precisely, the central bank feared that the proliferation of foreign banks, which were considered to be using Switzerland as 'a storage station and marshalling yard for foreign flight capital',⁴⁷ would massively increase the inflows of foreign funds, thus generating adverse inflationary effects.

As for the Federal Banking Commission, it also worried about the substantial increase of requests. The banking supervisors regretted that the law did not impose stricter entry requirements for foreign banks. In the absence of a sufficient legal basis, they were all but powerless. However, in an internal report on the issue, the chief secretary of the Commission, Daniel Bodmer, emphasised that the question was very complex. In some cases,

⁴⁶ ASNB, Minutes of the Governing Board, 5 Jun. 1958, no 604, pp. 888–93.

⁴⁷ ASNB, Minutes of the Governing Board, 21 Aug. 1958, no 908, p. 1366.

he said, there is a tendency to 'dramatise things'. He added: 'Unfortunately, one cannot get rid of the suspicion that the opposition to foreign new foundations also often conceals unacknowledged enviousness'.⁴⁸

Yet in the late 1950s, Swiss authorities seemed to generally agree that the development of foreign institutions posed a threat. On the other hand, the question of the measures that should be taken to curb this development was unsettled. The banking industry was torn between two conflicting objectives. On the one hand, the Swiss Bankers Association intended to limit entry by tightening the requirements for foreign banks in order to hamper their expansion. On the other hand, they wanted to maintain, above all, a very liberal regulatory framework and very limited state interventionism. The secretary of the association, Max Oetterli, was well aware of the dangers related to a revision of the banking law:

'In any case, we must not publicly bring up for discussion demands that would ultimately lead to a revision of the banking law or the corporate law. Both laws have stood the test of time up to this day. If we wanted to revise them only because of a few shortcomings, we would run the risk of losing control of such a revision process very quickly. We should be aware that the demands that we could at best realise in a revision of the banking or company law are meaningless compared with the requests that would in all likelihood be made known by other parties in any such revision.'⁴⁹

In other words, launching a regulatory change amounted to a 'tightrope walk' for the bankers,⁵⁰ because they would take the risk of opening a Pandora's box that could induce unwanted reforms. Some legal modifications were nevertheless considered: the introduction of registered shares with restricted transferability, which would make the buyout of a bank by

48 FA, E6520(A), 1983/50, vol. 1, file 'Ausl. Banken 1959–1975', Report 'Zur Frage der Ueberfremdung des schweizerischen Bankgewerbes', Daniel Bodmer, undated [1959].

49 ASBA, Minutes of the Board of Directors, 23 Jun. 1965, p. 20.

50 ASBA, Minutes of Expert Committee, 28 Jan. 1966, Max Oetterli, p. 4.

foreigners more difficult or the setting up of a bank charter system with the necessity of acquiring a certificate of good conduct. But each of the proposed legal solutions appeared to have more disadvantages than advantages for the Swiss financial centre.

Therefore, in the first phase (1956–1965), Swiss authorities confined themselves to fighting the establishment of foreign banks by devious means. This deterrent strategy took different forms; three examples are particularly striking. The central bank refused to open so-called sight deposit accounts, which were bank accounts at the Swiss National Bank used for interbank payment and settlement traffic, for ‘undesirable’ foreign banks.⁵¹ As another example: the central bankers attempted to hinder the establishment of foreign newcomers by suggesting to the federal police for foreigners that they adopt a restrictive policy in granting or extending the residence permits of certain foreign nationals.⁵² The third example of indirect action is found in the constant foot-dragging tactics that were used by the Federal Banking Commission with regard to the authorisations given to foreign founders.

During this first phase, the manner in which the Swiss authorities dealt with the American First National City Bank – at that time, the third largest bank worldwide – which wanted to open a branch in Geneva, proves to be very enlightening.⁵³ In the discussion within Swiss banking circles, two new and problematic dimensions surfaced. Firstly, the Bankers’ Association stressed the fact that the establishment of the colossal commercial bank in Geneva would give rise to labour poaching, thus increasing the loss of qualified staff, and eventually leading to wage inflation.⁵⁴ Secondly – and more importantly – the setting up of an American bank involved the

51 ASNB, Minutes of the Governing Board, 5 Jun. 1958, no 604, pp. 888–93.

52 ASNB, Minutes of the Governing Board, 6 Sep. 1956, no 942, pp. 1314–1316. The FBC adopted the same tactic in their answer to American investors, letter to Franco Cattaneo, 11 Jul. 1966 (FA, E6520(A), 1983/50, vol. 2).

53 Cassis, *Capitals of capital*, p. 208.

54 FA, E6520(A), 1983/50, vol. 1, letter from the SBA to the FBC, 1 Aug. 1962.

risk that American bank inspectors would examine the Geneva branch. Indeed, American regulations allowed the Office of the Comptroller of the Currency to examine overseas branches of national banks.⁵⁵ Such inspections represented a threat to Swiss banking secrecy and conflicted with Swiss law. Following long negotiations, the branch eventually opened in March 1963.⁵⁶ The same issue resurfaced soon after. In 1965, when the Office of the Comptroller of the Currency set up a new regulation of overseas branches that involved the transmission of records to the parent company, Swiss diplomats in the USA took action to explain that those provisions were incompatible with Swiss law. Internally, the Swiss Bankers Association also intervened and sent a circular to American banks in Switzerland reminding them that the violation of banking secrecy was a criminal offence.⁵⁷ In 1967, when the Bank of America requested an authorisation to establish a branch, the strategy of Swiss bankers proved successful. With the help of Swiss diplomats in the USA, they succeeded in obtaining a capitulation from the Comptroller of the Currency, stating that they waived their right to demand reports from the Swiss branch of the Bank of America.⁵⁸ The bank association welcomed this success and hoped that a precedent had been set so that such a waiver should be required systematically. Faced with a potential threat to banking secrecy, Swiss authorities and bankers effectively managed to limit entry conditions for American banks, especially by mobilising the diplomatic corps.

During a second phase, between 1965 and 1967, the attitude of Swiss authorities towards the establishment of foreign banks changed considerably. Two important events brought about a turning point.

55 R.M. Robertson, *The Comptroller and Bank Supervision. A Historical Appraisal* (Washington 1968), p. 181.

56 See also Loepfe, *Aufstieg des schweizerischen Finanzplatzes*, p. 199.

57 FA, E6520(A), 1983/50, vol. 1, SBA circular n° 3414, 13 Feb. 1966.

58 FA, E6520(A), 1983/50, vol. 1, letter from the DPF to the other departments, 25 Jan. 1967.

The first significant event was the so-called ‘Muñoz Scandal’.⁵⁹ As a brief explanation, this financial scandal featured a Spanish businessman, Julio Muñoz Ramonet, son-in-law of the president of a large Spanish bank, who built a financial empire throughout Europe. From 1962 on, the Spanish financier was able to take over two middle-sized regional Swiss banks, the Banque Genevoise de Crédit et de Commerce and the Spar- und Kreditbank, in St. Gallen. Muñoz, who was also known as the wealth manager of former Dominican dictator Rafael Trujillo, had managed to ruin both banks, particularly by financing his own real estate business. The banks closed their doors in April 1965. Further investigations showed that the President of the Federal Banking Commission was seriously involved in the scandal since he had accepted a lucrative position as Muñoz’ financial advisor. The case, which had some repercussions in the international press,⁶⁰ seriously damaged the reputation of Swiss banks and political institutions. It was clear that banking supervision had not worked. Worse, the highest representative of the bank supervision authority was also directly associated with fraudulent acts.

The Muñoz case revived the question of a revision of the banking law. It also strengthened the position of those who considered the proliferation of foreign banks in Switzerland as a threat to the stability of the whole banking industry. In this instance, the discrete takeover of Swiss banks by a foreign group had resulted in losses for Swiss creditors.

A few months later, another piece of news came as a shock for the Swiss financial centre. In March 1966, the Swiss government authorised the Wozchod Handelsbank AG to open in Zurich. This institution was a company incorporated under Swiss law – i.e. not a branch of a foreign bank

59 On the Muñoz Scandal: Loeffe, *Aufstieg des schweizerischen Finanzplatzes*, pp. 183–8; D. Froidevaux (ed.), *La Suisse dans la constellation des paradis fiscaux* (Lausanne/Geneva 2002), pp. 107–8; T. R. Fehrenbach, *The Swiss Banks* (New York/London/Toronto 1966), pp. 104–11; N. Faith, *Safety in Numbers: The Mysterious World of Swiss Banking* (London 1982), pp. 190–8.

60 For example: *Time Magazine*, 11 Jun. 1965; *New York Times*, 3 Jun. 1965; *Frankfurter Allgemeine Zeitung*, 9 Jun. 1965; *Die Zeit*, 18 Jun. 1965.

– whose stock capital was owned by two Soviet banks, the Gosbank (55 per cent) and the Vneshtorgbank (40 per cent).⁶¹ Although Swiss banking circles had known for some months of Soviet intentions to establish a bank in Switzerland,⁶² the foundation of the so-called Russenbank still caused some anxiety. Yet, since the founders had chosen to open a subsidiary instead of a branch – as they had first planned – the Federal Banking Commission had no legal basis to refuse the authorisation. After delaying its decision for several months, the Federal Council could not evade the question any longer and finally granted the authorisation. The secretary of the Swiss Bankers Association summarised the considerations of the Ministry of Foreign Affairs: ‘the Russians cannot be denied what we have to concede to Arabs and other exotic foreigners.’⁶³ The case of the Soviet bank amplified the concerns of Swiss bankers for at least two reasons: on the one hand it drew international attention to Switzerland and strengthened American critics, who believed that Switzerland served as a transfer hub for Soviet trade; on the other hand, Swiss bankers feared that Moscow would use the Zurich-based company for economic espionage or to obtain confidential information. In actual fact, the Wozchod Handelsbank, established on the pretext of financing trade between Switzerland and the Eastern bloc, was mainly active in the gold market.⁶⁴

The Muñoz scandal and, to a lesser extent, the Zurich Soviet bank, led to a change in attitude on the part of Swiss authorities. Firstly, it resulted in the questioning of the role of the banking supervision authority. After several parliamentary motions, the Federal Banking Commission drew up a preliminary draft revision of the banking law in July 1966. However, the Finance Department initiated the legislative process of revision four

61 R. Husbands, ‘Soviet Banks Abroad: Legal and Economic Perspectives: 1917 to 1990’, unpublished PhD thesis (Geneva 1996), 264; (thereafter: Husbands, ‘Soviet banks’).

62 ASNB, Minutes of the Governing Board, 13 May 1965, no 612, 981–2.

63 ASBA, Minutes of the Board of Directors, 8 Dec. 1965, p. 30.

64 Husbands, ‘Soviet banks’, pp. 265–9; Loepfe, *Aufstieg des schweizerischen Finanzplatzes*, pp. 201–3.

years later, with different objectives from those originally proposed by the Federal Banking Commission. Secondly, the Swiss Bankers Association also reassessed the threats associated with foreign banks. In January 1966, leading Swiss bankers defined three major drawbacks: the increase of competition that could lead to a bad risk distribution; the advertisement abroad of the benefits of banking secrecy, which had a negative impact on the international standing of Swiss banks; and the inflow of foreign funds, which ran counter to monetary policy.⁶⁵ As a revision of the banking law seemed more and more inevitable, Swiss bankers moved towards a more cooperative attitude and decided to collaborate on the process, as long as it included some of their priorities. The head of the Basel cantonal bank, Ludwig Butscher, expressed this view as follows: 'I support any measure to prevent foreign banks from setting up, unless further state intervention is involved. Since this seems obviously impossible, we have to choose here between two evils'.⁶⁶

The third phase of the reaction of Swiss authorities extended from 1968 until 1969. In March 1969 it led to the promulgation by parliament of a federal decree 'establishing the system of licenses for foreign-controlled banks'. Choosing the lesser of two evils, the Swiss Bankers Association triggered the legislative impetus. At first, it carried out a comparative survey on the regulation of foreign banks in West Germany, Austria and the state of New York.⁶⁷ This study was meant to show what kind of measures could be taken in Switzerland, which appeared to have at that time the most liberal regulation for foreign banks.⁶⁸ Secondly, the association tried to assess the 'foreign influence' over the Swiss banking industry. Several well-informed bankers were asked to provide a list of banks that

65 ASBA, Minutes of the Expert Committee, 28 Jan. 1966, p. 2.

66 ASBA, Minutes of the Expert Committee, 28 Jan. 1966, p. 7.

67 ASBA, J.4.1, Ausländische Bankengesetze Dez. 1960 – 76, Internal report, 10 Jan. 1966.

68 For a more complete view on foreign banks regulations in Europe, see also J. Welch (ed.), *The Regulation of Banks in the Member States of the EEC* (The Hague/Boston/London 1981), section 15 and 16.

were under foreign control or presumed as such. Based on these investigations, a conference was held in May 1968 with representatives of the Swiss Bankers Association, the Swiss National Bank, the Finance Department and the Federal Banking Commission. The representative of the Federal Banking Commission had to admit – quite bitterly – that representatives of the banking industry, with the support of the central bank and the finance administration, had managed to fundamentally change the agenda of a revision of the banking law. Indeed, the shift of priority was obvious. Whereas the 1966 draft provided for a general strengthening of supervisory powers concerning all Swiss banks, in 1968 the discussions were only about the best way to slow down the establishment of foreign banks.⁶⁹ In October 1968, the small committee favoured the legal option of an urgent federal decree. This type of legal order was more flexible and quicker to pass than a proper law or law amendment. Furthermore, the number of authorisation requests kept increasing. After having to grant six authorisations in 1967, the banking commission had to concede to seven new bank establishments in 1968, while twelve requests were still on hold.⁷⁰ The supervisory authority was in an uncomfortable position, because it could not delay its decision-making long enough for an ordinary legislative process.

The following parliamentary debates were rather hasty; opposition was very weak and the few issues were settled within four months. Media attention was also insignificant. In March 1969, the federal decree was adopted.⁷¹ It set up a two-tier regulation system, meaning that entry requirements were higher for foreign-controlled than for Swiss banks. Foreign-controlled banks were defined as banks in which the direct or indirect foreign participation amounted to more than half of the share

69 FA, E6520(A), 1983/50, vol. 2, internal note from Hans Manz to Daniel Bodmer (both FBC), 10 May 1968.

70 'Message du Conseil fédéral à l'Assemblée fédérale à l'appui d'un projet d'arrêté fédéral urgent instituant le régime du permis pour les banques en mains étrangères, du 13 novembre 1968', in : *Feuille fédérale*, 1968, vol. 2, no 48, p. 783.

71 'Arrêté fédéral instituant le régime du permis pour les banques en mains étrangères, du 21 mars 1969', *Feuille fédérale*, 1969, vol. 1, no 12, pp. 625–8.

capital or voting rights. In order to obtain a license, a foreign-controlled bank had to meet four additional conditions:

1. The home country should grant reciprocity to Swiss banks.
2. The company name should not suggest any Swiss origin.
3. Inopportune advertisement with the Swiss head office should be avoided.
4. The bank had to certify that it would respect Swiss monetary policy.

It is noteworthy to point out that the second requirement was directly aimed at foreign banks who used their Swiss branch as an international advertising claim, praising the virtues of Swiss banking secrecy and numbered accounts. Interestingly, Swiss banks sometimes used this kind of advertisement themselves, and the Swiss Bankers Association had to issue several recommendations to its member banks in order to limit international advertisement of banking secrecy.⁷²

During the parliamentary debates, few of these provisions gave rise to a debate. In short, mainly three aspects were discussed.

Firstly, the definition of 'foreign influence' over a bank was not as simple as it might seem at first glance. It was a thorny issue for two reasons. On the one hand, the bankers wanted to avoid the introduction of registered shares with restricted transferability, because this kind of share system could hinder stock market operations. On the other hand, setting a broad definition of 'foreign influence' entailed a risk of revealing the foreign character of certain Swiss banks whose capital was scattered.⁷³ A solution was found to circumvent this problem: banks were supposed to voluntarily disclose to the authorities the presence of foreign domination.

72 For example in 1957 (*Circular* no. 107, 12 Jul. 1957) and 1967 (*Circular* no. 3580, 9 Mar. 1967). ASBA, Minutes of the Governing Board.

73 FA, E6520(A), 1983/50, vol. 5, Minutes of the Federal Banking Commission, 23 Oct. 1968, p. 169.

Secondly, the requirement to explicitly mention the foreign character in company names raised fears in some sectors of the Swiss economy. Representatives of the chemical sector argued that this provision would lead to international retaliatory measures against Swiss industries, or even worse, that it would inspire foreign legislators and eventually force Swiss industries to disclose their foreign interests. This measure was considered highly discriminatory and was even compared to a 'star of David' that 'acts as a deterrent'.⁷⁴ Finally, the provision was mitigated to a certain extent in so far as a company name should not explicitly reveal its foreign character but only refrain from any suggestion of Swiss origin.

Lastly, the constitutionality of the decree was discussed. Some bank representatives feared that the constitutional basis, which the decree relied upon, would allow the state and the central bank to intervene more deeply in the banking sector on another issue that was debated at the same time. Indeed, as mentioned above, the issue of the tools of monetary policy to curb inflation was discussed in parallel with the decree. In the end, the bankers obtained an informal promise from members of parliament, who agreed that their approval of the constitutional basis of the foreign banks' decree would not influence the legislative debate concerning the constitutionality of the monetary policy.⁷⁵

The federal decree on foreign banks was later integrated into ordinary law during the 1971 amendment of the banking law. Its short-term impact was fairly small. According to the Federal Banking Commission, its effect on the number of requests from foreign founders was very limited. Between 1969 and 1971, the Commission granted 19 new authorisations to foreign banks and could refuse only three requests.⁷⁶ Those three refusals were justified by the fact that the country of origin did not grant reciprocity to

74 ASNB, 1.3/1229, 131.25, letter from Etienne Junod, chairman of the Swiss Society of Chemical Industries, to the Swiss National Bank, 10 Dec. 1968.

75 ASNB, Minutes of the Bank Committee, 17 Jan. 1969, 4; FA, E6520(A), 1983/50, vol. 5, Minutes of the Federal Banking Commission, 4 Feb. 1969, p. 3.

76 FA, E6520(A), 1983/50, vol. 1, letter from the FBC to the Finance Department, 8 Jun. 1972.

Swiss banks. In fact, the issue of reciprocity turned out to be the only active obstacle to the opening of foreign banks. Yet its impact was mitigated by the fact that it was interpreted by the Ministry of Foreign Affairs as a means of expansive action, to promote access to new markets for the major Swiss banks.⁷⁷ In the case of Japanese banks, for instance, the three major Swiss banks agreed on a common schedule regarding their expansion in Tokyo. Negotiations with Japanese representatives were conducted in order to obtain an authorisation for all three banks, in exchange for the opening of the Bank of Tokyo and Fuji Bank branches in Zurich.⁷⁸ Another consequence of the foreign banks' decree was the foundation in 1972 in Zurich of the Association of Foreign Banks in Switzerland, which aimed to defend the specific interests of these institutions and improve their public visibility and political influence.

IV.

For the purpose of synthesising, it is noteworthy to recapitulate the various reasons that encouraged the Swiss ruling circles to intervene against the expansion of foreign banks.

The factors in favour of stronger regulation can be divided into four categories. Firstly, Swiss authorities considered that the expansion of foreign banks threatened the good reputation of Swiss banking. Swiss authorities interpreted events such as the Muñoz scandal as an expression of the disrespect of some foreign bankers for the traditions of Swiss banking. Therefore, strengthening the regulation of foreign banks was presented as an improvement of Swiss depositors' safety. More importantly, Swiss bankers had concerns about international advertisements, which praised

⁷⁷ FA, E6520(A), 1983/50, vol. 1, Memorandum of the discussion on reciprocity, 13 Jul. 1970.

⁷⁸ Loepfe, *Aufstieg des schweizerischen Finanzplatzes*, pp. 281–3. See also, FA, E 2001 E–01, 1982/58, vol. 151, letter from Daniel Bodmer (FBC) to the general direction of UBS, 4 Feb. 1972.

the virtues of Swiss banking secrecy and numbered accounts. Although Swiss banks sometimes used this kind of advertisement themselves, they feared that a worldwide exposure of those advantages would incite more international criticism. In that sense, they favoured regulatory intervention that could be seen internationally as a positive step towards the more cooperative attitude of Switzerland. Regardless of the suspicious transactions linked to organised crime or dictators' funds per se, Swiss authorities mostly worried about the deterioration of Switzerland's image as a financial centre.

Secondly, Swiss bankers were well aware of the fact that foreign banks increased competition within the Swiss financial market. As an example: some foreign banks participated in the issuance of bonds outside of the so-called 'major banks' cartel.⁷⁹ A few also offered higher interest rates and did not always respect the cartel agreements issued by the Swiss Bankers Association. Moreover, in the context of staff shortage, foreign banks were accused of labour poaching, resulting in a general wage increase.

Thirdly, the Swiss National Bank felt that an expansion of foreign banks reinforced the increasing inflow of foreign capital and the international use of the Swiss franc, and therefore contributed to an inflationary trend.

Lastly, the Swiss supervisory authorities and banking representatives feared that the establishment of a growing number of foreign institutions could become a threat to banking secrecy. Indeed, foreign supervisory authorities would increasingly enquire about the activities of their fellow citizens in Switzerland, and even try to conduct supervisory operations, thus creating a potential loophole in the unassailable banking secrecy.

By and large, the 1969 federal decree on foreign banks was the outcome of those concerns. As mentioned above, it turned out to be rather ineffective. The reciprocity clause was the only hindrance in preventing a foreign

79 This group formed by the biggest commercial banks and the cantonal banks (the public institutions controlled by the various Swiss cantons) in 1911 agreed on a monopolistic collaboration on the issuance of loans.

institution from opening a bank in Switzerland. In conclusion, the passing of the 1969 decree met the needs of Swiss banking interests in four ways:

First of all, it was an attempt to quickly limit the expansion of new competitors – a competition that was particularly fierce in the area of wealth management – without necessarily questioning the very liberal regulatory framework. Moreover, by focusing on the issue of foreign banks, between 1966 and 1971, the Swiss Bankers Association managed to change the agenda concerning the amendment of the banking law. The question of the limitation of foreign banks played an important role in the delay in the revision process of the law. In this regard, foreign financial institutions played the role of scapegoat, and were accused of practices that were also common for Swiss banks. Furthermore, at the international level, the decree can be considered as an effort to silence international criticism directed against the Swiss banking haven, by imposing slightly higher entry conditions for foreign banks. The requirement that limited advertising for foreign banks is very eloquent in this respect. Finally, the reciprocity clause included in the decree was used simultaneously as a protectionist measure to prevent the establishment of new competitors and as a diplomatic tool for the expansion of major Swiss banks. In fact, the expansion of the international network of Swiss banks took place mainly in the 1970s.

Some scholars have argued that regulated industries can have two possible interests: either they might favour strict supervision to create barriers for entry, or they might use their political influence to press for a lax supervisory system.⁸⁰ The 1969 regulation of foreign banks in Switzerland has shown that a domestic industry can have its cake and eat it too: Swiss bankers managed to set higher entry requirements for foreign competitors and at the same time maintained a very liberal and lax regulatory framework.

80 F. Heinemann and M. Schüler, 'A Stiglerian view on banking supervision', *Public Choice*, vol. 121, (2004), pp. 99–130.

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