



## EMBASSY OF SWITZERLAND

MEMORANDUM

1. Banking activity in Switzerland is governed by the rule according to which the bankers are obliged to keep professional secrecy. This means that the banks' officials and employees are bound to maintain silence about what they learn in the course of their professional activity. They are prohibited from giving any information regarding the affairs of the banks' clients to third parties and this also applies in relation to the branches of the Government. Violations are subject to penalties according to the Swiss Banking Law and are also illegal under the general provisions of Swiss Civil Law.

2. Swiss banking secrecy is, however, restricted in several ways.

Under conditions defined by Swiss (federal and cantonal) law, the banks may be subject to the obligation to supply information. The decision whether and when these conditions apply is not left, however, to the banker's discretion. He is freed from the professional secrecy only by a Law Court when the relevant legal provisions call for exemption. Thus in criminal or civil cases in Switzerland the banker may be called to give information or to testify before the Court.

3. In criminal cases the obligation to give information may apply also to third countries within the framework of judiciary assistance. When no agreement regarding judiciary assistance is in force between Switzerland and the country concerned, the question as to whether judiciary assistance can be granted is decided, since Swiss federal law does not provide any legal basis in this respect, under the law of the Canton from which

an assistance is requested, by the competent Court of said Canton. As a rule, the assistance is not granted in respect of offences which are not considered criminal in Switzerland or when it would run counter to basic Swiss constitutional concepts; in addition, judiciary assistance is refused for political, military, currency and tax offences. Subject to these restrictions as recognized by international law, judiciary assistance in most Swiss cantons is lent only on the basis of reciprocity. It must be pointed out, however, that even when this requirement is met there is no obligation for the Canton concerned to grant judiciary assistance.

4. As regards the Swiss administrative authorities, including the Federal Political Department (Foreign Ministry), they are not, legally, in a position to intervene in such matters. They may, however, lend their good offices, for instance in transmitting communications to the banks concerned or to the Swiss Bankers' Association. The Swiss Federal Council, in particular, has no competence whatsoever to make orders for the freezing, the sequestration or the forfeiture of assets or any part thereof deposited with Swiss banks.

Addis Ababa, October 1st, 1974