

Secret credits and Switzerland



Credits: El Pais

Which country is Switzerland?

Let me start with a few words about Switzerland. The country lies in the middle of Europe and is very small, both in area and population. It has 8.6 million inhabitants (three and a half times less than Mozambique). In terms of area, it has 5% of the surface of Mozambique. Switzerland, therefore,

fits into Mozambique 20 times!

Despite its small size, Switzerland is home to some powerful and large multinational companies both in terms of number of employees (at home and abroad) and in terms of annual turnover. Here are some examples:

MULTINATIONAL COMPANIES BASED IN SWITZERLAND	EMPLOYEES	ANNUAL TURNOVER
Nestlé [food]	323.000	89.8 billion CHF - 2017
Glencore [oil trade and natural resources; mining]	156.000	202.3 billion CHF - 2017
ABB [machinery, automation]	134.800	28.0 billion US\$
Novartis [pharmaceuticals]	126.457	48.7 billion. US\$
SGS [certifications]	95.000	5.6 billion CHF - 2020
Roche [pharmaceuticals]	93.734	58.3 billion CHF
Lafarge-Holcim [cement]	81.960	54.4 billion CHF
Kühne + Nagel [transport, logistics]	78.249	23.8 billion CHF - 2017
Syngenta [agrotechnology] - (In 2015, Syngenta was acquired by ChemChina)	49.000 [5.000 scientists]	13.58 billion US\$ - 2019
Trafigura [commerce with natural resources]	1.900	180.7 billion US\$ - 2017
BANKS	EMPLOYEES	BALANCE SHEET TOTAL
UBS (Union Bancaire Suisse)	66.888	958.489 billion CHF - 2018
CS (Credit Suisse)	47.000	787,295 billion CHF - 2019

Source: Compilation of Thomas Kesselring

Multinational companies and non-governmental organisations

Some of the biggest companies were founded by foreigners or have moved their headquarters from abroad to Switzerland. Small Switzerland attracts companies because taxes are relatively low and the country is famous for its beautiful landscapes.

In the history of most companies, there is no shortage of scandals - scandals of different kinds. In order to understand how Swiss citizens think about the drama of secret credits, it is worth discussing how Swiss politics and people position themselves on corporate scandals in general.

In Switzerland we also have a number of large NGO (Non-Governmental Organizations) and a high number of small NGO. Some of them aim to observe the business conduct of companies based in our country and to make public any problems caused by them (particularly human rights violations and major environmental damage). The vast majority of companies in Switzerland do good work, practice corporate governance, and many show some social engagement. There are few companies that create problems, and Credit Suisse (= CS) is one of them. The role of NGO also matters in the context of the

World Economic Forum, which for decades has usually taken place in Switzerland (in the Alpine city of Davos) and to which Brazil responded with the creation of the quasi-annual *World Social Forum* from 2001 onwards.

All the companies listed on the previous page are active in much of the world, and many have come to the attention of NGO. Most NGO specialise in certain types of companies. The most controversial in recent times are mining companies and/or natural resource traders.

Some NGO focus, even if not exclusively, on banks, but none of them have dedicated themselves to the CS dealings with Mozambique. That is why I have taken on the role of documenting the events and proceedings in this case myself. Since December 2016 I have regularly written articles on the consequences of the scandal and the news in this context. To date I have published around 30 articles (in German). Most of them appeared on the website of an *online newspaper*, "*Infosperber*" ["Information Hawk"]. I am neither a journalist, nor an economist nor a lawyer, but rather a philosopher, specialising in Ethics. What interests me is the fight against injustice.

Capital flight, Swiss banks' dubious reputation and political intervention

Before I go into the details of how in Switzerland, the hidden loans are being treated and considered, I would like to clarify three things.

First, in Africa and Latin America, the reputation of Swiss banks is terrible. It is not good in Switzerland either and has become very bad recently due to the banks' role in the 2008 financial crisis. Since the seventies, the practices of the Swiss banks have been criticised by various NGO¹, and this criticism leads to a learning process in both the people and the government. Since 1986, the

Swiss parliament has gradually developed a set of instruments to deal with illegal money transferred by the Mobutus of this world. Switzerland promises the aggrieved countries the reimbursement of the withheld funds on condition that the countries concerned prove in court proceedings the illegality of these funds. However, in several aggrieved countries the judicial system is weak and inefficient. In the past this has made the conditions for reimbursement more difficult. Switzerland has therefore improved legal assistance to affected populations and extended the time al-

lowed for proving the illegal origin of the resources. To mention a current case, a Geneva bank recently froze \$900 million belonging to an Angolan businessman (Carlos Manuel de

São Vicente) on suspicion that his fortune is illicit. If the suspicion is not confirmed within a specified period, the frozen sum must be returned to its legal holder.

An initiative to hold companies accountable for the damage they cause

Secondly, Switzerland has a democratic tradition of over 170 years and an old institution called the *people's initiative*: the population can propose changes or additions to the law (and the constitution) to the government. If an initiative is delivered with at least 100.000 valid signatures, the government must submit it to a popular vote at the ballot box. This is how we voted last November on the so-called *corporate responsibility initiative*. The initiative demanded that companies based in Switzerland should take responsibility for human rights violations and major environmental damage caused by them. A company's Swiss headquarters should also assume responsibility for violations and damage committed by its subsidiaries abroad and by subcontractors and companies controlled by them, unless the Swiss company can prove that it has taken serious measures to prevent such violations or damage. The initiative provided that the cases in question must be brought before Swiss courts, even if the incriminated acts were committed abroad.

At moment, Germany and the European Union are preparing a similar law. In Switzerland, although a narrow majority (50.7%) voted in favour of the *corporate responsibility initiative*, in most cantons (provinces), and particularly in small and rural cantons, it was rejected by the majority of the people. Consequently, this legal amendment did not materialise. This is remarkable, because a hundred civil organisations, part of the urban population, parts of the church and even some companies favoured this ini-

tiative and fought for it for more than two years. But the more ponderous conglomerates, some small companies, the executive politicians and a parliamentary majority had fought the initiative with intense lobbying.

In the months leading up to the vote, the discussions and debates sensitised a large part of the Swiss people to the harmful consequences that the practices of certain companies can have abroad. But as the initiative did not apply to banks, the population did not care about the drama surrounding the secret credits. Banks do not have subcontractors, and the initiative did not require banks to be liable for loans with illicit use and/or unconstitutional credits, as was the case with those in Mozambique.

Thirdly, and this is the conclusion of what I have just explained: In Switzerland a paradox presents itself: Although a good part of the people are sensitized to the damaging activities of some companies, the hidden credit plot has received very little attention in Switzerland. Our media (press, radio, TV) gave very little coverage to it. Some readers of my reports have been surprised by this indifference on the part of the official media. It should be noted that some people showed, two or three years ago, that they were deeply shocked by the story of these credits, but a few months later they did not care anymore. Apparently, there are so many glaring scandals in the globalised neoliberal world that one cannot focus on them all. Better to work for a change in the underlying conditions of globalised trade.

Credit Suisse, the Swiss Financial Market Authority and the Swiss Federal Prosecutor's Office

Next, I will talk about the way the CS is dealing with secret credits. Then I will talk about the role of the Swiss Financial Market Authority (Finma) and thirdly about that of the Attorney General of the Swiss Federation (*Schweizerische Bundesanwaltschaft*).

What I have to say boils down to noting that both CS and the judicial institutions maintain silence wherever they can. I have repeatedly put questions to the CS leadership about their role in the hidden claims story. The first time I did so in December 2016 in an open letter, published as an advertisement in a print newspaper. The questions were co-signed by 50 personalities of some renown. Even then, they were never answered. After that, I asked questions at four general meetings of CS shareholders: twice in 2017 (there were two general meetings this year), once in 2018 and the last time in 2019. That time Adriano Nuvunga, Paula Monjane and Denise Namburete from FMO were also present. After me, Denise Namburete spoke on behalf of the Mozambican people in a moving speech. She made it clear to the shareholders that Mozambique is an economically poor country. In Switzerland, few people know about Mozambique, and most do not even know that it is a very big country in South East Africa. By the way, Denise mentioned that at the precise moment she was speaking, Cyclone Kenneth swept over Cabo Delgado and devastated large areas. (In parenthesis: I had the impression that very few of those present understood what Denise was saying).

The 2019 general meeting took place four months after the indictment of eight people by a New York court (among others 3 bankers from the CS London branch) became public. Notably, the Chairman of the Board of Directors of CS, Mr Urs Rohner, as well as the Chief Counsel, Mr Romeo Cerutti, said that they learned about the events at the London branch only through this indictment. They explained their previous ignorance by the fact that the three accused bankers' team (the "deal team") had used private computers

and email addresses.

This response surprised me, because the irregular circumstances of the CS's loans to Mozambique had been clear since early April 2016, and I had raised my questions about the bank's role several times at general meetings. In 2019, the CS management gave me the impression that it had never conducted an internal investigation into the events at the London branch. Of course, I could be wrong about that. It is entirely possible that the bank is just not talking about it. But the mere assumption that the CS head office has made no effort to shed light on the machinations at its branch is disturbing.

There is much to be said about how the CS deals with senior officials who claim, after the revelation of a scandal, to have known nothing about the events in their context. In February 2020, following the media's disclosure of an espionage case under the responsibility of the CS board, the bank's chief executive officer (CEO), Tidjane Tiam, had to step down from the institute. Tiam had repeatedly claimed to have known nothing of this espionage. But Tiam is African and not Swiss, like the supreme boss of the bank.

The spying was embarrassing and damaged the reputation of CS. But it did not throw an entire country into an economic abyss. Yet those gentlemen in white shirts who claimed not to have known about the machinations at the London branch of the CS, until the New York court filed criminal charges, were unchallenged.

The bank's supreme boss, Urs Rohner, chairman of the CS board of directors, has announced his resignation for the end of April 2021. At the next general meeting (to be held online) he will step down from his post. His successor, by the way, is a Portuguese banker. His name is António Horta-Osório.

I now turn to the Financial Market Authority (Finma). This body does not normally answer questions, and the law does not oblige it to pronounce on ongoing proceedings, or even communicate their results, unless

the incidents in question have the profile of damaging Switzerland's reputation as an international focus of finance. However, CS's participation in the secret loans have this profile. Even so, Finma maintains secrecy on the matter, and the Federal Council (the executive branch) of Switzerland stressed more than once that Finma is independent and that there is no need to intervene.

Finma does not always keep quiet about embarrassing cases. In September 2018, it severely reprimanded Credit Suisse after finding it seriously deficient in preventing money laundering. The bank had expressed several serious shortcomings, such as, among others, negligence in the necessary clarification on high-risk business relationships. The cases referred to did not touch Mozambican loans. Finma ordered the bank to implement by the end of 2019, measures to improve transparency and make control of its business more effective. An independent agent was appointed to monitor the implementation of the imposed measures. The bank has failed to meet this deadline and is still working on remedying the deficiencies. It is unlikely that CS could fall in another similar case with that of the hidden credits.

In the past weeks (March 2021), however, Credit Suisse has suffered, in quick succes-

sion, other kinds of disasters: first with the English company *Greensill* which financed supply chains and went bankrupt overnight, and second with a New York hedge fund, *Archegos*, which became insolvent overnight as well. The bank praised itself for making a CHF 3.5 billion profit in 2020. But the two recent disasters cause losses of at least an estimated \$5 billion. At the beginning of the week I am writing this account, Credit Suisse plummeted on the Zurich stock exchange 20%. Finma announced it will take back control of the bank's trading habits.

The Swiss Attorney General's Office, finally, is also silent on the secret credits. In April 2019, the NGO *PublicEye* filed a criminal complaint with the Swiss Attorney General's Office against the CS over its involvement in the hidden credits. The legal institution announced in February 2020 of having opened an investigation "against unknown actors". After that it never made any further pronouncements on the matter. In fact the Attorney General's Office itself is in a crisis. A few months ago parliament removed its head, Mr Michael Lauber, from his post for breaking the law with his way of checking allegations of illicit payments by senior FIFA officials. So the Attorney General's office itself is also in the headlines and it doesn't even have a new chief.

London Court and Geneva Court of Arbitration

About the next steps in the history of the secret credits, the proceedings in the London Court and in the Geneva and Paris arbitration courts, I can only formulate hypotheses. The legal disputes concern two types of contracts. First, the contracts of the *credits between Credit Suisse or VTB Bank and the Mozambican state*. On these, the London court must rule. Here the central question will probably be, whether these contracts are valid and binding, despite the unconstitutional signature of the then finance minister for the state guarantee. Second, the contracts between Privinvest and Mozambique's semi-state

companies (ProIndicus, MAM and Ematum). As the responsibility for these companies was at least partially with the state (through the secret service and the Ministry of National Defence), I think that, instead of the leadership of the three companies, the state will be a party to this dispute. Apparently, in these contracts there was a clause, according to which an arbitration court (in Geneva and/or Paris) will be called to settle any disputes. Therefore, Iskandar Safa claimed to negotiate these contracts in a court of arbitration, and this is happening now. This process is not understood in Switzerland.

Courts of this kind usually operate in secrecy, and do not always publish the result. But who represents the Mozambican state in the arbitration court? The attorney general's of-

fice of Mozambique? Which advisors are at its side? -In all this I only have questions and I don't know the answers.

Other Swiss-based companies involved in the hidden credit story

Although this text is already quite long, I must add another brief chapter. In addition to CS, two other companies in Switzerland were or still are involved in the secret credit plot. One of them is Palomar Capital Advisors, based from 2013 until 2016 in Zurich and headed by Andrew Pearse after his departure from CS London. Palomar was part of Iskandar Safa's Lebanese business empire Privinvest. I think that the role of Palomar Zurich in the genesis of the scandal is well known in Mozambique, and I do not need to say more about it. The company was liquidated in November 2016 - seven months after the Wall Street Journal made public the true extent of the secret credits. Another Swiss-based company is also part of the Privinvest empire. It is the company AMT (Advanced Maritime Transports), in the city of Nyon, near Geneva.

AMT originally belonged to the French conglomerate Necotrans (oil and gas logistics) and in August 2017 was bought, at a low price, by Privinvest. It seems strange that the purchase succeeded smoothly just after the publication of the Kroll audit report on hidden credits (in June 2017) that cast dark clouds over Iskandar Safa's company.

AMT specialises in oil and gas logistics. Its president, the Frenchman Arnaud Lelouvier, was mentioned several times in the New York trial: Jean Boustani called him a friend and reported that Lelouvier is the person who

sparked Boustani's interest in going to Mozambique, the eldorado of large gas deposits discovered in 2010. Boustani then convinced Iskandar Safa that it was worth doing business in Mozambique. Another credit to Arnaud Lelouvier was that he put Boustani in touch with VTB Bank. For this, he received a million dollars. Since 2020 AMT has been dealing with logistics in the gas region in Cabo Delgado.

Boustani himself served on the AMT board for some time, from October 2 to December 10, 2017. Najib Allam was on the same board from October 2, 2017 to July 2, 2019, which is seven months after his indictment by the New York court. Akram Safa, Iskandar's brother, was also and still is on the board of directors. Another member is Johannes Valentijn, a prominent witness in Boustani's trial (as far as I can tell, Valentijn is a serious and honest person). In Switzerland, AMT is unknown, and it is not even the only company active in the field of logistics with oil and gas and based in the city of Nyon. So far, I have not been able to arouse interest in this company - not even in people who live in that city. Nor have I been able to arouse the interest of former neighbours of Palomar in Zurich in the history of this company. I researched both companies extensively, but it seems that this research was simply a private hobby of mine, without any impact.

1 Already in the 1970s, a Swiss author, Jean Ziegler, published several books about the fatal role of our banks. His books have been translated into many languages. Another author, Rudolf Strahm, became world-renowned with his criticism, also since the 1970s, of the world market that favours the rich and harms the poor. Several of his books have also been translated into many languages.

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