

分断國調查研究

奧地利中立化過程

관용
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國土統一院

I. 이 책자는 國土統一院의 政策調查研究計劃에 依拠한 自体研究報告書임.

II. 収録된 內容은 統一問題에 關聯된 研究에 參考資料로 提供되는 것임.

分断國調查研究

奧地利 中立化 過程

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1 . 要 約 報 告 書

1. 沿革

가. 發詳

- 801年 "프랑크" 王國 時代に 東邦의 果이 設置
- 919年 "삭센" 朝 까지 "프랑크" 王朝의 一部로 存屬
- 919-1918年까지 神聖 로마帝國의 마지막王國으로 君臨
- "비엔나" 會議 (1814.9) 後 獨逸聯邦의 一國으로 編入
- 1866年 奧地利 (大獨逸論提唱) 와 프로이센 (小獨逸論) 間 戰爭結果로 獨逸聯邦에서의 主導權 喪失

第1次 大戰

- 獨·奧·露 同盟國의 降伏으로 終結
- 1918.11. 奧地利는 "칼" 1世가 退位하고 共和國으로 새出發 (中央政府下에 9個의 州政府가 自治權 保有)
- 1919.9. 聯合國과 "산. 게르망" 條約의 締結로 領土가 1/4로 縮小

나. 國家消滅

1) 히틀러의 奧地利 合併計劃 推進

- 1933.1. "히틀러"가 獨逸 掌握, 奧地利內에도 나치스가 急增하여 獨·奧 合邦 主張
- 獨·奧 合邦을 反對하던 "뉘르스" 首相이 暗殺
- 1936.2.12. 新任 "슈스니크" 首相은 히틀러의 나치黨員 釈放等 6個項의 要求條件을 拒絕

2) 奧地利合併

- 1936.2.15. "히틀러"의 最後 通牒으로 3名의 나치系 人士가 入閣, 獨逸 및 나치스 誹謗 禁止 法律 制定
- 1936.3.11. "히틀러" 1時間 時限付 第1通牒 (通牒要旨: "잉크마르트"를 首相에 任命, 內閣의 2/3를 나치스黨員으로 充員)
- "슈스니크"는 英·仏·伊에의 調停 依賴가 失敗하자 最後 通牒 10分前 辭職
- 3.11 獨逸軍 侵入, 3.12 "히틀러"는 奧地利 併合 宣布
- 1938.4. 國民投票 結果 奧地利는 獨逸에 併合

2. 主權回復過程

가. 聯合國의 役割

- 1) 1943.11.1 美·英·蘇 3 國外相 모스크바會議
(獨逸의 奧地利 併合 無効 및 獨立奧地利 再建 宣言)
- 2) 1945.5.7 獨逸 降伏後 美·英·蘇·仏 4 個國이 奧地利 管掌
- 4) 4 個國은 暫定的 措置로 第 1 次 및 2 次 占領管理 協定 締結
- 4) 1945.7 4 個國 協定에 依拠 分割占領 및 占領軍 配置

臨時政府樹立

- 1945.4.13 蘇聯의 "위인" 陷落 直後 社會黨 黨首 "레너" 를 首班으로 奧地利 臨政 樹立
- 美·英軍의 "위인" 入城後 奧地利 諸州會議가 開催 (1945.9) 되어 聯邦國 構成을 決議
- "레너" 政府가 部分的으로 改造되어 4 個國이 集團的으로 承認

3. 主 權 回 復

가. 國家條約 締結

1) 奧地利 狀況

- 占領下에서 自立經濟 達成
- 2大 政党的 聯立政府 統治下에 民主力量 誇示

2) 國家條約 締結過程

- 1954年初 國家條約 締結위한 4個國 伯林會議에서 最初로 論議
- 1955.4.15 奧地利, 蘇聯 代表間의 모스크바 覺書 調印으로 妥結
- 1955.5.1-13 "워인"에서 開催된 4個國 大使級會議에서 條約案 內容 調整
- 1955.5.15 奧地利와 4個國間 國家條約 締結

3) 條約內容

- 獨立 및 領土 保全
- 強迫에의 併合禁止

- 1955.7.27 條約發効로 占領解除 및 完全 獨立 獲得
- 國家條約에 永世中立에 대해서는 言及 없음.

나. 聯合국의 管理

1) 第1次 管理 協定


- 1945.7 奧地利가 当事者가 되어 4 個国間 締結
- 聯合國 理事會를 主軸으로 하는 奧地利 管理委 創設
- 獨逸로부터 奧地利的 分離實現, 中央政府 樹立前까지 政府機能 遂行
- 奧地利 臨時政府를 承認, 法律制定權을 賦与하고 早速한 自由選舉實施 促求

2) 第2次 管理 協定

- 1946.6 第1次 管理協定 14 條에 依拠 締結
- 聯合國 理事會의 構成은 軍事使節대신 高等辯務官으로 代置
- 總選에 의한 政府 (1945.12) 가 認定되었으나 各 國家機關은 聯合國 管理委의 指示에 服從을 規定
- 形式上 軍政에서 民政管理로의 移讓, 占領管理基礎 不變

3) 管理委員會의 權限과 任務

- 武裝解除와 軍國化 防止, 戰犯者 搜查
- 獨逸財産의 処分 및 나치 이데올로기 抹殺
- 1937.12.31 當時의 國境線 確保 및 出入國 管理
- 奧地利 政府의 立法과 行政에 대한 規制

- 
- 戰勝國의 敗戰國에 대한 占領管理 協定의 性格
 - 主眼點은 獨逸로부터 奧地利的 分離獨立 維持

나. 永世 中立化

1) 中立의 成立

- 1955.6.7 奧地利 國民會議은 永世 中立 決議
- 1955.10.26 "奧地利 中立에 관한 聯邦 憲法" 規定에 의해 法律上 成立
- 1956.4.4 大國 및 隣接 6 個國을 包含한 51 個國이 中立承認

2) 中立과 國際聯合

- 스위스의 未加入에 反하여 55.11.14 加入
- 安保理常任 理事國은 中立을 違反하게 될지도 모르는 措置에 奧地利의 參與를 결코 要請치 않을 것을 公約

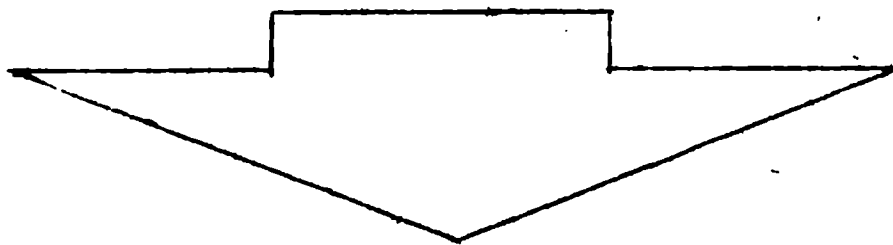
3) 中立外交

- 美·蘇와 共히 協調關係 維持
- 西獨과 懸案問題 解決, 善隣關係 維持
- 西歐와 緊密한 關係, 東國諸國과 關係 正常化努力 傾注
- 韓國과는 1963.9 國交樹立, 北傀와 1974.12 外交關係 設定

(韓國은 1966 常駐大使館 設置)

4 . 結 論

<p>奧地利의 中立</p>	<ul style="list-style-type: none"> ○ 奧地利의 獨特한 內外的 与件에서 可能 ○ 普遍的 適応이 不可한 特殊한 類型
<p>中立成立要件</p>	<p>(主觀的 要件)</p> <ul style="list-style-type: none"> ○ 傳統的으로 中立政策維持, 中立에 대한 經驗保有 및 國民의 大多數가 中立 熱望 ○ 中立과 獨立 守護의 強力한 의지와 鞏固한 結束力 保有 <p>(客觀的 要件)</p> <ul style="list-style-type: none"> ○ 外勢 侵略이 難解한 地理的 條件 具備 ○ 強大國에 대해 經濟, 戰略的 價値가 稀少 ○ 中立에 대한 關係諸國의 利害가 一致
<p>中立維持條件</p>	<ul style="list-style-type: none"> ○ 單獨으로 獨立을 지킬수 있는 防衛力 保有 ○ 關係諸國에 의한 中立 保障



<ul style="list-style-type: none"> ○ 國內外의 主客觀的 与件造成 必要 ○ 韓半島는 條件이 不利 ○ 北傀의 中立化 提議는 戰略的 策謀
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2. 中立化過程分析

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1. 中立의 背景

가. 奧地利의 沿革

1) 奧地利의 發祥

- 가) "프랑크" 王國 時代인 801 年에 찰스大帝가 斯拉브族의 侵入을 意識하여 東邦의 境 (Ostmark, 지금의 奧地利, 체코 地方) 을 樹立
- 나) 奧地利는 919 年 "콘라드" 1世가 "작센" 의 "하인리히" 에게 王冠을 넘겨줄 때까지 "프랑크" 王朝의 一部로 存続
- 다) "작센" 朝 (919-1024) 의 "하인리히" 以後 여러 王朝를 거치는 동안 1438 年까지 神聖 로마帝國의 大公國으로 治냄.
- 라) 1438 年에 "합스부르크" 王朝 (1282 年에 發祥) 가 神聖 로마帝國의 王冠을 繼承함으로써 奧地利大公國을 支配
- 마) 이 합스부르크 王朝는 1918 年까지 繼承되어 神聖 로마帝國 (1438-1806) 의 마지막 王國으로서 當時에는 獨逸帝國의 支配者로 歐洲諸國 및 世界政治를 左右
- 바) 1618 年 덴마크, 스웨덴의 攻擄으로 因한 30 年 戰爭에서 奧地利는 慘敗하여 웨스트 파리아條約 締結.

* 웨스트 파리아 條約內容 (1648)

가. 神聖 로마帝國은 프랑스에게 알사스, 로렌, 프리프스 부르크 에 要塞를 建設케 하고, 라인江의 航海權 認定

나. 神聖로마帝國은 스웨덴에게 부레멘, 베르멘, 투겐, 위스마
地方을 割讓

다. 스웨덴과 홀랜드는 神聖로마帝國에서 離脫 獨立

마. 343個 諸侯에게 神聖로마帝國은 主權과 獨立을 認定

바. 諸侯는 官庭, 法律, 軍隊, 貨幣의 保有로 합스부르크家は

事實上 奧地利만의 主權者로 縮小

2) 웨스트 파리아 條約以後의 神聖로마帝國

가) 奧地利的 成長

○ 러시아, 프로이센, 프랑스 등의 強大國이 出現함으로 해
서 奧地利와 프로이센은 獨逸 聯邦內의 兩 競爭者가
됨.

○ 奧地利는 // 바르츠 // 戰爭 (1688-1697) 으로 歐羅巴의 強
國으로 國勢가 擴張되어, 東歐, 南歐로 進出

○ 奧地利는 // 카르도비치 // 講和 條約으로 (1699) 全 헝가리
確保, 스페인 繼承 戰爭後 // 라슈타트 // 條約 (1714) 으로
벨지움, 미라노 나폴리를 確保

나) 프로이센의 成長

○ 웨스트 파리아 條約으로 東 톤메톤, 막네브르프를 獲得하
고 1657年 폴란드의 干涉에서 벗어나 獨立國이 됨.

○ 프레드리크 大王 (1740)이 即位하여 합스부르크家の 相
統問題가 일어났을 때 슈레젠을 占領하여 // 후베르토스브르크 //
(1763) 條約으로 이 地域 占領을 公式 認定받은후 奧地利

와 對決

- 프로이센은 한때 奧地利와 聯合, 對仏戰爭(1792)을 치르다 나폴레옹의 威勢로 프로이센이 背信함으로써 奧地利는 부득이 降伏, 奧地利는 “감보, 후로르미오” 條約(1797)으로 벨지움, 롬바르디아를 빼기했고, 라인江 左岸을 프랑스에 割讓

다) 나폴레옹과 神聖로마帝國

- 나폴레옹은 奧地利와 프로이센의 勢力均衡을 懲激하여 共通的인 民族意識의 發展을 沮害하는 한편, 로마帝國內에 바이에른, 부르덴베르크, 바덴등을 懲懲 奧地利와 프로이센에 挑戰하게 함.
- 나폴레옹은 帝國代表會議(1803)를 召集케하여 帝國的 政治指導 變革을 招來케함. 즉 마인츠를 除外한 敎會 諸侯를 世俗化하여 이들을 프로이센, 바이에른 베르덴베르크, 바덴, 헤센, 나소등에 分割시킴. 300余個의 領域單이 40余個國의 國家 또는 小公國으로 縮小시키므로써 프랑스의 反獨政策을 成功시킴.
- 反撥한 奧地利는 對仏戰爭을 일으켰으나 아우스벨리쯔(1805)에서 慘敗, 西南獨逸 諸聯邦이 나폴레옹의 保護下에 라인同盟을 形成하여 神聖로마帝國에서 脫皮.
- 1806年8月6日 프란츠 2世가 退位함으로써 神聖로마帝國은 消滅되고 奧地利皇帝로 格下.

- 나폴레옹을 "엘바" 島에 流配시킨 "파리" 講和條約 (1814.3) 의 結果로 열린 "비엔나" 會議 (1814.9) 에서 英國, 프로이센, 奧地利, 터키, 프랑스 등 5 個國이 中心이 되어 유럽을 再編成하고 獨逸 聯邦 組織問題 取扱.

* 獨逸 聯邦 組織問題

가. 獨逸 聯邦 組織委員會 構成 : 奧地利, 프로이센, 바이에른, 하노바, 웨트렌 베르헤에서 各 代表로 構成

나. 獨逸 聯邦 共和國의 誕生

奧地利, 프로이센 등 5 王國, 헤센 등 大公國 7, 公國 10, 侯國 10, 自由都市 4 個 등 都合 38 個 主權國으로 構成

다. 新生 獨逸 聯邦의 主導權 다툼을 奧地利, 프로이센이 벌였으나 奧地利的 優勢로 落着되고 奧地利的 메테르니히는 獨逸 聯邦內에 메테르니히시스템을 形成하여 당시 自由主義 傾向을 強壓하는데 奧地利的 地位를 잘 活用

나. 第 1 次大戰과 奧地利

1) 獨, 奧 帝國의 盛衰

가) 보, 오戰爭 (1866.6)

- 奧地利는 프로이센의 成長을 막고 "합스부르크" 家의 復活을 꾀하기 위해 獨逸 統一方案으로 大獨逸論을 提唱 비스마르크가 登場한 "프로이센"은 프로이센을 中心으로 獨逸을 統一하려는 小獨逸을 主張.

- 비스마르크는 對奧戰爭을 覺悟하고 獨逸聯邦의 諸國에 보낸 通牒(1866.6.7)에서 奧地利를 排除하고 新聯邦案을 提示.
- 보, 오 戰爭에서 프로이센의 勝利로 獨逸聯邦의 主權이 "프로이센"에 歸아가고 獨逸聯邦에서 奧地利는 追放되고 프로이센은 22 他國으로 構成된 北獨逸 聯邦에서 盟主가 되어 外交, 軍事權을 掌握.
- 北獨逸 聯邦은 南獨逸 聯邦과 攻守同盟 條約을 締結, 南獨逸 聯邦도 프로이센의 覇權下에 附屬
- 奧地利는 1867年 헝가리까지 獨立시켜 오, 匈 代表로 하여금 議決케 하는 奧, 匈帝國 形成

나) 獨, 奧 同盟 (1879.10)

- 協定締結 背景 : 奧地利는 北獨逸과 프랑스등 兩面으로 부터 壓力을 받아 새로운 國際的 進路의 摸索이 不可避
- 協定內容 : 프랑스가 獨逸을 攻擊한다면 奧, 匈帝國은 中立을 지키면 되나 러시아가 奧, 匈을 侵略할 境遇 獨逸은 이를 막도록 하는 同盟條約
- 奧, 匈帝國은 獨, 奧 同盟條約을 발판으로 많은 同盟과 協定을 締結하여 歐洲의 大國으로 突出
 - 奧, 獨, 伊 3國同盟 (1882.5) : 프랑스가 튀니지를 占領하자 伊太利가 獨, 奧와 同盟條約을 締結

- 奧地利, 루마니아 同盟 (1883.10.30) : 루마니아는 로, 로 戰爭에 터키를 支援했으나 터키의 背反에 不滿 하여 奧地利와 同盟, 여기에 獨逸과 伊太리가 後에 加担하여 4國同盟으로 發展

- 奧, 세 同盟 (1881.6) : 세 르비아는 러시아의 背反에 反撓, 奧地利에 親近感을 가지므로써 成立

- 奧, 英, 伊 地中海 協定 (1887.2)

발칸半島에 의 러시아의 南下에 對하는 奧, 英의 理解 關係와 地中海에서 의 프랑스의 活動에 對한 伊太리의 理解關係가 合致되어 英, 伊 地中海 協定이 成立되고 奧地利가 이에 加担,

다) 3國協商 : 獨, 奧를 中心한 同盟組織의 發展에 不安을 느끼던 로국과 프랑스는 外交協定 (1891.8) 軍事協定 (1894.1) 을 締結하고 1904.4.8 英, 仏 協商 (1907.8.31) 에 英, 로 協商이 締結됨. 이結果 歐洲世界는 3國同盟과 3國協商으로 對峙

라) 奧, 세 同盟이 발칸問題를 中心한 利害關係의 衝突로 破棄되자 奧地利 支援의 獨逸과 세 르비아 支援의 러시아가 共同對決하는 게르만族과 슬라브族의 對決로 發展

2) 1次大戰의 勃發

가) 1914.6.28 세 르비아 靑年이 奧, 皇軍의 檢閱차운 皇太子 페르디난드를 暗殺, 奧, 皇軍은 獨逸로 부터 백지 위임장을 받아 세 르비아 (1914.7.28), 러시아 (8.1), 프랑스에

(8.3) 各各 宣戰布告로 獨, 土의 同盟國과 英, 仏, 美, 日 等の 聯合國의 戰爭으로 發展

나) 1次大戰은 4年間 繼續된 끝에 獨, 獨, 土 同盟國의 降伏으로 끝남.

다) 獨地利는 1918.11 칼 1世가 退位하고, 社會民主黨이 執權하여 共和國으로 新出發

3) 戰後 獨地利 發展

가) 獨地利는 聯合國과 "산, 제르망" 條約(1919.9)을 締結하여 領土가 縮少 됨.

○ 체코, 슬로바키아, 유고슬라비아, 폴란드, 헝가리의 獨立을 承認

○ 폴란드에 東部 카르시아를 割讓, 伊太利에 프렌치노, 南部라블, 트리에스테, 이스트리아를 割讓, 伊太利에 트랜시노, 南部라블, 루마니아에 트란실 마니아를 할양, 부코비나를 폴란드와 루마니아에 할양

○ 다뉴브江은 國際河川으로 하고 獨地利는 아프리카로 나가는 航海權만 保有

나) 獨地利는 領土의 3/4을 잃고 위인, 다뉴브 溪谷, 알프스 의 여러住民으로 還元, 軍隊도 3萬의 支援兵으로 構成된 陸軍에 국한하고 海空軍은 廢止

다) 社會黨의 成長

○ 獨地利 共和國의 成立으로 카톨릭黨과 聯政으로 執權

- 大戰後 平和主義, 獨, 埃合邦 및 社會의 全面的 改革을 主張하여 9 個州의 政府가 偉인 中央政府를 掌握
- 獨, 埃合邦 決議案을 1919.2 國民大會에서 滿場一致로 可決시킬수 있었음.
- 獨逸의 旧支配層은 獨逸 兩邦에 社會主義的 要因이 增大하는 것을 싫어하고 獨, 埃合邦으로 平和條約에 대한 負擔의 增加를 꺼렸으며 聯合國 側도 獨, 埃合邦을 꺼려. 이 決議案을 死文化 시킴.
- 社會黨은 1920年까지의 執權 期間동안 社會改革을 試圖했으나 工業의 失敗와 潛在的 불세비즘이라고 攻擊받게 되어 勢力을 잃게되고 카톨릭黨이 대신 執權

라) 카톨릭黨의 成長

- 카톨릭黨首 "이그나스 짜이베르" 神父는 執權期間 (1921-29) 에 政治運動을 宗教運動으로 看做하고 資本主義社會에서만이 카톨릭이 存在할 수 있다고 믿고, 國際聯盟에 呼訴하여 外國公債를 募集하여 1922年에는 通貨整理를 단행했으나 全階層의 支持를 받는데 失敗.
- 同盟能業이 爆發, 急進的인 파시스트 運動이 展開되어 이들의 壓力으로 짜이베르는 退任.
- 새首相 "세베르"는 獨, 埃關稅 同盟을 締結하였으나 프랑스가 1918年의 講和條約을 들고나와 獨, 埃의 接近妨害, 內閣의 反目이 惹起되어 "세베르"는 辭任하고

- “칼알, 바우고인”이 首相이 됨.
- 經濟的 難關으로 “바우고인” 대신 “짜이베르”가 再登場하고 이어서 “엔젤르 베르트 돌푸스”가 首相이 되었으나 社会党과의 반목增大, 國庫의 枯渴, 政党各派의 対立 高潮, 히틀러의 独逸掌握(1933.1) 등으로 奧地利 内에도 나치스가 急増.
 - “돌푸스”는 独裁政治를 確立하여 나치스를 彈压, 그 首領을 拘禁, 이에 独逸은 “돌푸스”政權에 對한 報復 措置로 알프스에 기관총과 탱크 部隊를 增派, 國境警備 強化
 - 나치스가 “힐렌베르그”武器事件(1933.3)을 일으켜 独, 奧合邦을 主張, 奧地利는 伊太利와 匈牙利와의 國交를 惡化시킴.
 - “돌푸스”는 独, 奧合邦을 反對, 旧教会 實力者를 包摂 하려했으나 社会党은 勞働者를 教会에서 離脱시켜 놓고, 나치스는 地方을 掌握
 - 独逸 나치스의 支援을 받은 奧地利 나치스와 카톨릭党과의 반목은 点火되어 1934年7月25日 나치스는 돌푸스 首相을 暗殺시킴. 돌푸스를 이어 카톨릭党的 슈슈니크가 首相이 되어 3年間 執權.

다. 國家消滅과 獨立運動

1) 國家消滅

가) 獨, 奧 條約締結

- 伊太利는 獨逸 나치스를 支持하면서 獨, 奧條約의 締結을 慫慂, 締結 實現
- 條約의 內容 : 獨逸이 奧地利의 獨立을 確認, 相互內政 不干涉, 獨立의 基盤에서 兩國關係 展開規定.

나) 히틀러의 奧地利 合併計劃

- 1936.2.12 히틀러는 奧地利에게 나치黨員의 釈放, "자이스 잉크마르트"를 內相에 任命할 것등 6個項의 要求條件을 提示했으나 "잉크마르트"를 法相에 任命하는 데 그침
- 1936.2.15 히틀러의 最後通牒으로 "잉크마르트"는 內相에, 그리고 나치스系 3人이 入閣하게 되어 獨逸 및 나치스의 誹謗을 禁止하는 法律制定
- '슈슈니크'는 奧地利의 國民投票로 (1936.3.13) 나치스黨의 排除를 試圖, 도처에서 選舉反對 나치스運動展開. "잉크마르트" 內相은 이를 傍觀
- 히틀러의 第1通牒 (36.3.11) : 首相 '슈슈니크'의 辭任 '잉크마르트'를 首相에 任命, 內閣의 2/3를 나치스黨員으로 할것. 獨逸에 亡命중인 奧地利의 나치스黨員의 軍隊를 歸國토록할것 등을 要求하면서 '히틀러'는 '슈슈니크'

에게 國民投票을 中止할 것과 1時間內에 이通牒에 대한 回答을 要求.

- "슈슈니크"는 英國 伊太利, 프랑스의 斡旋을 依賴했으나 失敗 "슈슈니크"는 最後通牒 10分을 남겨놓고 全國民에게 "奧地利人 同胞여! 히틀러 總統은 지금 나를 脅迫하여 國民投票의 포기와 나의 辭職을 要求하여 왔다. 만약 10分 이내에 내가 이를 承諾하지 않는다면 獨逸軍은 奧地利에 侵略해 올 것이다. 流血과 破壞를 免하기 위하여 나는 辭職을 受諾하였다. 神이여 奧地利를 救護하소서"라고 마지막 演說을 남긴채 나치스에게 監禁되고 그날밤 獨逸軍은 奧地利 侵入

다) 奧地利의 併合 (1936.3.12)

- 히틀러는 빈시에 나타나 奧地利 併合을 宣布하고 1936.3.13 法令으로 奧地利 併合規定.
- 1938.4.10 國民投票로 獨逸人 99%, 奧地利人 90%의 贊成으로 奧地利는 獨逸에 併合 完了
- 奧地利는 東邦의 縣이라는 名稱이 주어지고 도나우 및 알페 行政區域이라고 改稱됨. 獨逸이 直接派遣한 獨逸人이 行政을 担当.
- 獨逸의 合併政策에 反撥, 奧地利의 獨立運動으로 發展

2) 獨立運動

가) 共產黨의 活動

- 獨立運動의 主導權은 共產黨이 掌握, 나치스는 1,400 余名의 共產黨員을 處刑
- 共產指導者 요한 포블레니히 등은 蘇聯에서 亡命活動 展開
- 1944年 6月 “프란츠 폰너”를 비롯한 共產黨員들은 유고슬라비아에서 두개의 奧地利 自由隊隊를 組織, 티토의 게릴라와 協力하면서 獨逸軍의 후방을 攪亂

나) 非共產黨의 活動: 臨時 奧地利 國民會議와 05라고 불리는 軍事組織의 活動도 다대.

다) 獨立後 共產黨은 指導權을 喪失

- 極烈路線을 指向하던 左派 社會主義者들의 路線變質
- 巨물이 죽거나 老衰로 人物이 貧困

라) 獨立運動中 亡命政府들 갖지 못했음.

- “슈슈니크” 마지막 “首相도 亡命을 拒否
- 英國에 있던 指導者들의 分裂
- 奧地利의 指導者나 聯合國側이 그의 將來에 대해 確固한 方向을 모름
- 歸國한 指導者들의 個人主義

2. 主權回復過程

가. 聯合國의 役割

1) 1943.11.1 美, 英, 蘇 3 國의 모스크바 宣言: 나치獨逸의 奧地利 併合은 無効 (Null and Void), 自由롭고 獨立적인 (Free and Independent) 奧地利的 再建을 約束

2) 終戰과 모스크바 協定

가) 1945.3. 蘇聯軍 司令官은 모스크바 宣言의 履行을 約束

나) 戰後 4 個國의 奧地利 占領管理는 暫定的인 措置로 認定되
었고 第 1 次, 第 2 次의 占領管理 協定도 모스크바 宣言을
再確認.

다) 聯合國은 奧地利와의 條約을 平和條約이 아니라 國家條約으
로 締結

3) 臨時政府樹立

가) 1945.4.13 蘇聯軍이 위인을 占領하자 "카알렌너"가 거느
리는 社會黨, 人民黨 및 共產黨의 奧地利 臨時政府樹立 및
獨立宣言 (4.27)

나) 臨時政府는 1920.10.1 制定된 憲法의 効力回復을 宣言
蘇聯은 이를 承認 (4.29) 美, 英, 仏은 이에 따르지 않음.

다) 1945.5.1 奧地利 臨時政府는 共產黨의 反對에도 不拘하고
20 年의 憲法대신 1927. 10.7 에 修正된 憲法을 復活決議

4) 聯合國의 管理

가) 獨逸의 降伏(45.5.7)으로 英, 美, 蘇, 仏 4個國의 統帥權이 奧地利를 管掌

나) 奧地利의 占領管理에 對해서는 1945.7.4 第1次 協定으로 奧地利는 獨逸에서 分離 獨立됨.

다) 聯合國 占領軍의 配置는 1945.7.9의 4個國 協定에 依拠

○ "워인"市를 除外하고는 4個國에 의해 分割占領

○ "워인"市는 5個區로 分割되어 그중 4個區는 分割

占領 第5區인 市內 中心部는 共同 占領

○ 聯合國 理事會의 指令을 奧地利가 遂行하지 않을때는

각자의 占領 區域에서 獨自적으로 執行.

나. 第1次 占領 協定下의 地位

1) 第1次 占領管理 協定(1945.7.4)은 獨逸의 降伏으로 獨逸과는 별도로 奧地利에 對해 協定을 締結

2) 이 協定에 의해 聯合國 奧地利 管理委員會(Allied Commission for Austria) 創設

3) 奧地利 管理委員會 組織

가) 聯合國 理事會(Allied Council) : 美, 英, 仏, 蘇 등 4個國

政府가 任命하는 軍司令官으로 構成되며 奧地利管理의 最高

機關.

- 每10日마다 또는 委員중 1人의 要請에 따라 개최되며
決議는 全員 一致制, 社는 순번제
- 理事會는 各委員이 그들의 政府로부터 받은 指令에
따라 가장 重要한 軍事, 政治, 經濟的 計劃과 其他 全
體로서 奧地利에 주는 問題에 대해 活動하며 그에 대
한 決定, 占領地域에 대한 行動統一에 대한 措置를 保
障.

나) 執行委員會 (Executive Committee)

- 各軍 司令官의 代表로 構成
- 聯合國 理事會의 決定事項의 執行을 保障하고 聯合國
奧地利 委員會의 各 部門의 活動을 調整하며 또한 聯
合國 理事會에서 移送된 모든 問題를 檢討

다) 參謀部 (the staffs)

- 美, 英, 仏, 蘇 4個국이 各各 指名하는 人員으로 構成
- 諮問的 資格으로 活動하며 聯合國 理事會에서 移送되어
은 決定을 執行함.

4) 聯合國 奧地利 委員會의 任務

가) 1945.6.5 獨逸의 敗北에 관한 宣言의 各條項에 있는
奧地利에 대한 部分을 保障하는것.

나) 獨逸로부터 奧地利의 分離를 實現하는것.

다) 可能한限 早速히 奧地利 中央政府를 樹立하는 것.

라) 自由로히 選出된 奧地利 政府의 樹立을 위해 準備하는 것.

마) 奧地利의 行政을 完全히 確保키 爲기 適當한 모든 措置를 취하는 것 .

바) 奧地利 中央政府가 創設되기 前까지의 政府機能을 遂行하는 것 .

사) 特別한 利害關係를 갖는 聯合國 政府와의 必要한 連絡은 이들 聯合國 政府와 聯合國 理事會가 共同으로 設立한 軍事使節이 担当함 .

5) 奧地利 臨時政府樹立

가) 奧地利 臨時政府는 " 위인 " 陷落 (45.4.13) 直後 蘇聯의 保護下에 社會黨 黨首 카알 레너博士를 首班으로 하여 社會黨, 人民黨, 共產黨이 提携하여 樹立.

나) 蘇聯은 奧地利 臨時政府의 權限 擴大를 提議

다) 이에 美, 英軍은 1945.8 " 위인 " 에 入城하여 1945.9.11 最初의 聯合國 理事會 開催

라) 奧地利 諸洲會議가 開催되어 1945.9.24-9.26 새로운 聯邦國家 構成을 決議했으나 中央政府는 未樹立

마) 이 會議結果 " 레너 " 政府는 部分的 改造後 奧地利 臨時政府로 4 國의 集團的 承認을 얻음. (1945.10.20)

6) 奧地利 臨時政府의 權限 擴大

가) 奧地利 臨時政府는 奧地利 最高機關 - 聯合國 理事會 - 의 指導와 統制下에서 그 權能을 行使, 各部處에 對한 統制는 聯合國 奧地利 委員會의 機構를 통해 行使, 一정한 政府

機能은 聯合國理事會에 留保될 것이며 이에 대해서는 首相이 通知를 받음.

나) 奧地利 臨時政府는 1945.12.31.이내에 可能한限 早速히 自由選舉의 實施을保障 받음.

다) 奧地利 臨時政府는 奧地利 全域에 適用될 法을 制定할 權限을 갖임. 다만 同法은 어떤 다른 法律에 의해 奧地利 全域에 適用되는 것이 아닐때에는 먼저 聯合國 理事會의 承認을 받아야 하며 蘇聯 地域에서 施行되는 다른 法을 制限하는 것이 아니어야 함.

라) 蘇聯은 蘇聯軍司令官과 奧地利 首相과의 書翰交換 形式 (1945.10.20, 10.24) 으로 奧地利와의 外交關係樹立

마) 奧地利 總選舉(45.11.25) 結果 人民黨의 “레오폴드 피글” 博士를 首班으로 하는 聯立內閣(12.18) 樹立. 카알 테너는 大統領에 就任(12.20)

바) 新政府는 聯合國 全體의 承認을 받았으나 (1946.1.5) 聯合國의 占領管理는 그 體質上 큰 變化가 없었음.

다. 第2次 占領管理 協定下의 地位

1) 第2次 協定 締結 背景

가) 聯合國은 第1次 占領管理 協定의 第14條의 規定에 따라 別개 協定인 第2次 占領管理 協定을 締結

나) 同協定은 奧地利 聯邦 憲法機關의 存在를 전제로 하고

있지만 奧地利 國家機關은 原則적으로 聯合國 奧地利委員會의 指示에 服從토록 規定

- 協定 第1條1項: 奧地利政府 및 傘下機關은 聯合國 奧地利委員會로 부터 받는 指示를 實施할것. 所定の 軍事事項에 대해서는 奧地利政府가 그 下部 機關이나 聯合國 奧地利 委員會의 書面에 의한 事前 同意를 要함.

2) 聯合國 奧地利 委員會의 構成

- 가) 4 個國이 各各 任命하는 4 名의 高等 辦務官과
- 나) 4 名의 高等 辦務官을 各各 代表하는 한사람씩으로 構成되는 執行委員會 및
- 다) 4 個國이 各各 任命하는 參謀部로 構成

3) 聯合國 奧地利 委員會의 特性

- 가) 이들의 決定은 全員一致, 社會는 順番制, 聯合國 理事會는 既存 4 個國 軍事使節이 高等 辦務官으로 代擡되어 構成
- 나) 形式上으로는 軍政에서 民政으로 移讓되었으나 軍司令官이 高等 辦務官으로 任命될수 있었으므로 占領管理의 基礎가 變換한것은 아님.
- 다) 4 個國 高等 辦務官의 代表에 의해 執行委員會가 構成되고 參謀部를 配置했다는 것등은 第1次 占領管理下에서의 地位와 同一함.

4) 聯合國 埃地利 委員會의 機能

- 가) 埃地利 全体에 관한 問題는 聯合國 理事會 執行委員會 또
는 參謀部에 의해 聯合國 埃地利 委員會의 權能을 行使함.
- 나) 各 高等 辦務官은 自國의 管理地域內에서 聯合國 埃地利 委
員會의 決定, 埃地利 中央政府에 대한 指令의 實施를 確保
해야 하며 埃地利 地方政權의 自治機能이 聯合國 埃地利
委員會의 政策에 違背되지 않도록 確保해야 함. (第 2 條 2
項)
- 다) 聯合國 埃地利 委員會는 原則적으로 埃地利政府 또는 其他
適當한 埃地利 當局을 통해 活動하는데 다음의 例外가 있음.

* 例外

1. 埃地利 當局이 法과 秩序를 維持하지 못할때는 그것을
維持함.
2. 埃地利 當局이 聯合國 埃地利 委員會의 指令을 遂行하
지 않을때는 自身이 이것을 執行함.
3. 聯合國 埃地利 委員會는 直接的인 措置를 통해 다음과
같은 目的을 達成 함.
 - 가. 軍國化 防止와 武裝解除 (軍事, 經濟, 產業 技術 및
科學的 武裝解除)
 - 나. 埃地利 駐在 聯合國 軍隊의 保護와 安全保障, 그들의
軍事的 必要를 遂行하는 것.
 - 다. 聯合國의 財產에 대한 保護, 管理 狀況의 確保

라. 獨逸 財産의 処分

마. 奧地利 自身の 旅行統制 節次가 制定될 때까지 奧地利에의 出入國 管理

바. 聯合國이 搜索하는 戰犯者의 搜查, 逮捕, 引導 (第 2 条, 第 5 条)

5) 聯合國 奧地利 委員會의 任務

가) 獨逸의 敗戰宣言 (獨逸의 敗戰 및 最高權能 掌握에 관한 4 個國 政府宣言, 베르린協定, 1945.6.5)의 各條項 內容의 實施를 確保하는 것.

나) 獨逸로 부터의 奧地利의 分離를 完成시키고 奧地利의 獨立的 存在와 保全을 維持하며 그 國境의 最終的인 確定時까지 1937.12.31 當時의 國境線을 遵重토록 確保하는 것.

다) 奧地利 政府로 하여금 能率的인 行政, 堅固한 經濟 및 財政的 狀態, 法과 秩序에 基礎를 둔 健全하고 民主的인 國民生活을 再創造토록 援助하는 것.

라) 自由로히 選出된 奧地利 政府를 援助하며 可能한限 早速히 奧地利의 國事를 管理 担当하도록 하는 것.

마) 나치 이데올로기의 자취를 抹殺하기 위해 教育, 施設上의 漸進的, 長期的 計劃의 導入을 確保하려, 奧地利의 青年에 대해 民主 原則을 鼓吹하는 것 (以上 3 條)

바) 奧地利 政府의 權限確保를 위해 聯合國 奧地利 委員會는 國內의 個人, 商品, 貨物의 移動에 관한 既存制限의 撤廢를

確保하는것.

- 사) 奧地利 政府는 關稅, 國境에 관한 行政機關을 組織할 수 있으며 聯合國 奧地利 委員會는 奧地利的 關稅, 旅行 團東에 관해 奧地利 機關에 移轉하기 위해 可能한限 早速히 措置를 취 하는것 (第4号)
- 아) 奧地利的 中央, 地方의 立法措置 또는 行政行為에 대해서 는 언제든지 不承認을 通告하고 取消하며 修正의 지시를 할수 있음.
- 자) 奧地利 政府가 國際聯合 會員國이 아닌 나라와 外交關係 및 領事關係를 맺을때는 聯合國 理事會의 事前 承認 獲得이 必要 (第7条)
- 차) 民政事項은 "위인"시 自治政府機關에 移管될때까지 聯合軍 軍司令部가 聯合國 奧地利 委員會의 資格으로 繼續取扱

6) 第2次 占領管理 協定の 法的評價

- 가) 第3 國에 制限을 가하는 單純한 國際條約이라기 보다는 戰勝國이 敗戰國에 대한 占領管理協定の 性格.
- 나) 奧地利 側으로부터 抗議를 받지 않고 感謝를 받았다는 점 에서 國際法의 破壞가 아니라는 하나의 證據를 提示
- 다) 節次에 있어서는, 비록 奧地利에 制限을 가하는 것이나 全體的으로는 獨逸을 奧地利로 부터 分離시켜 奧地利國의 獨立的 存在와 保全을 維持하려는 性格.

3. 主 權 回 復

가. 國家條約의 締結

1) 奧地利의 狀況

- 가) 7年間の 戰爭과 9年間の 占領으로 인한 莫大한 費用과 損失에도 不拘하고 美國의 直接的인 經濟援助 없이도 獨逸 國 經濟를 復興
- 나) 獨逸에 의한 占領管理下에 있었음에도 不拘하고 2大政黨의 聯立政府에 의한 統治를 통해 民主主義 精神에 透徹하고 完全한 自治能力을 世界에 誇示
- 다) 約 4萬名에 달하는 蘇聯 占領軍이 駐屯하면서도 共産黨을 實質적으로 갖지 않았음.

2) 伯林 會議

- 가) 美國, 英國, 프랑스, 蘇聯이 參加하여 1954年初에 開催
- 나) 獨逸에 의한 奧地利 併合을 無効化하고 自由롭고 独立的인 奧地利 再建을 위한 國家條約 締結을 위한 會議.
- 다) 蘇聯의 主張과 奧地利의 反應

○ 蘇聯의 主張 內容

- 奧地利問題는 獨逸問題와 分離하여 생각할 수 없고 獨, 奧 併合의 可能性이 封鎖되기만 한다면 獨逸과 의 講和條約없이 4個國의 軍隊가 奧地利로 부터

撤収할 수 있음.

- 奧地利는 "히틀러" 獨逸과 싸워 奧地利를 解放한 諸國을 대상으로 하는 軍事的 結盟이나 同盟의 不締結을 約束해야 함.
- 美, 英, 仏, 蘇 4 個國도 똑같이 이條件을 實施할것.
- 奧地利問題의 早急한 解決을 위해 지체없이 4 個國會議을 開催하여 獨逸問題, 奧地利國家條約問題를 審議할것.

- o 蘇聯의 獨逸과의 併合論에 대하여 "레오폴트 피글" 奧地利外相은 冷笑를 했으나 最後의 양보를 하여 1955. 6.30.까지 4 個國 軍隊는 奧地利에 殘留해도 좋다는 案을 提示.
- o "레오폴트 피글"의 提案에 대하여 몰로토프는 反對

3) "모스크바" 覺書 調印

가) "베를린"會議에서는 國家條約에 관한 아무런 實効도 얻지 못하게 되자 "올티우스 리아프" 首相은 國家條約 締結을 위한 活潑한 努力傾注

나) 1955.4.12-15.間에 모스크바에서 兩國 代表間에 協商을 推進하여 4.15. "모스크바" 覺書가 調印.

다) 覺書 內容

- o 第1部는 奧地利에서 蘇聯에 대한 約束이고 第2部는 蘇聯側에서 奧地利에 대한 約束의 形態를 取하고 있음.

○ 第 1 部

- 스위스에서 維持되고 있는 形態의 中立을 永久히 奉行
- 奧地利國家가 採択한 宣言에 대한 國家的 承認을 얻기 위해 必要한 모든 措置를 講究
- 國家條約의 締結後 即時 이 宣言을 聯邦憲法에 따라 批准 .
- 奧地利國 領土의 不可侵 및 保全에 대한 4 大國의 保障을 歡迎할 것 .
- 그러한 保障을 4 大國에 要請할 것 .

○ 第 2 部

- 奧地利의 中立에 관한 宣言이 이루어졌을 때 이것을 承認할 것임 .
- 奧地利國 領土의 不可侵과 保全에 대한 4 大國의 保障 (스위스를 모델로 하는)에 參加할 것임 .

4) 國家條約

가) 1955.5.1-13. "위인" 市에서 大使級會議가 開催되어 國家條約案의 內容을 調整한後 奧地利를 一方으로 하고

占領 4 個國을 他方으로 하여 獨立 및 民主的 奧地利의 再建에 관한 國家條約이 5월 15일 締結

나) 國家條約에 의하여 奧地利 占領 管理에 관한 第 2 次 協定은 効力を 喪失 . 聯合國에 의한 占領管理가 10 年만에 解除 .

헝가리는 主權的 獨立 民主國으로 再樹立.

다) 國家條約 自体에는 헝가리의 永世中立에 관한 規定이 없고
“모스크바” 覺書와 關聯있는 것으로는 聯合國의 헝가리
再建承認(第1條)과 獨立 및 領土 保全에 대한 尊重
(第2條) 및 獨, 併 併合의 禁止 程度임.

* 國家條約 要旨(前文 및 9章 38條로 構成)

- 獨逸과의 併合禁止(第4條)
- 헝가리는 人權의 保障, 民主政治의 保障 그리고 少數民
族의 權利保護의 義務를 負擔 (第6,7,8條)
- 헝가리는 1945.5.1. 이래 制定된 나치스의 殘滓掃蕩을
目的으로 하는 自國 法律의 維持存続에 관한 1949.
4.3의 헝가리 法律을 繼續支持 해야 함(10條)
- 獨逸製, 獨逸起源, 獨逸設計의 戰爭物資의 製造禁止
(第13條, 14條)
- 獨逸 또는 日本 設計의 民間航空機의 構築, 製造를 禁
止(第16條)
- 軍事에 관한 각 條項은 헝가리와 同盟 및 聯合國間의
合議에 의해 全面的 또는 部分的인 修正이 있을 때까
지 혹은 헝가리의 國際聯合加入後 헝가리와 安全保障
理事會의 合議가 있을 때 까지 有效함(第17條)
- 헝가리 戰爭 捕虜의 早速한 送還에 대해 規定(第18條)
- 헝가리 領域에서 獨逸과 싸운 軍隊의 武勳에 대한 記

念物과 더불어 埃地利內에 있는 聯合國의 戰爭 墓地를
埃地利가 尊重하고 保存 維持할 義務의 規定 (第 19 條)

- 條約의 發効와 함께 1945.6.28.의 埃地利 占領管理에
관한 第 2 次 協定은 効力을 喪失하고 聯合國 共同
司令部는 "워인"市 管理機能을 終了함. 그리고 占領
軍의 撤収完了와 더불어 占領區域에 관한 協定은 消滅
하고 占領軍은 條約 發効後 90 日內에 撤収하며 "늦
어도 1955.12.31.以內에" 撤収를 完了해야 한다

(第 20 條)

- 埃地利는 國際航空 路線과 關聯하여 如何한 國家에 대
해서라도 獨立權 또는 優先權을 賦與해서는 안됨.

(第 626 條)

- "다뉴브"江 航行은 모든國家의 船舶 및 貨物에 自由
로히 開放 (第 31 條)

- 共同으로 活動하는 "使節團 代表"는 條約發効後 8 個
月까지 "條約의 執行 및 解釈에 관한 모든 問題에
대해 埃地利政府와 交涉함에 있어 同盟國 및 聯合國을
代表"하고 指導와 技術的인 助言 및 解釈을 賦與함

(第 34 條)

- 直接的인 外交交涉에 의해 解決되지 못한 條約의 執行
또는 解釈에 관한 紛爭은 使節團 代表에 委託

(第 35 條)

○ 発効時期는 5個国에 의한 批准이 終了한 1955.7.27.
에 됨. (第38条1項)

나. 永世 中立化

1) 永世中立의 發議

가) 1955.6.7. 奧地利 國民會議는 永世中立決議

나) 1955.10.26. "奧地利的 中立에 관한 聯邦憲法規定"에 의
해 永世中立이 法律上 成立.

* 奧地利中立에 관한 聯邦憲法 規定의 內容(第1条1項)
外部에 대해 그 獨立을 永久히 維持하고 또 그 領土를
不可侵한 것으로 하기 위하여 奧地利는 自由意思에 依拠
하여 永世中立을 宣稱한다. 奧地利는 그 中立을 自國이
할수있는 바 일체의 手段으로써 維持하며 또한 防衛할
것이다.

2) 永世中立의 獲得

가) 永世中立을 標榜하는 것은 國內法上的의 問題이고 一般的으로
永世中立은 그것을 標榜하는 國家와 其他 國家의 合議에
의해서만 可能

나) 奧地利는 自國과 外交關係에 있는 모든 外國에 駐在하는
自國의 外交機關에 命令하여 憲法規定 內容을 通告함과 同
시에 永世中立의 承認을 要請케 하여 1956.4.末까지 4個
占領國및 國境을 接한 6個國등 51個國의 承認을 獲得하여
永世中立이 確立되었음.

4. 塙地利 中立의 特性

가. 塙地利中立의 内容

- 1) 스위스와 마찬가지로 앞으로 發生할지도 모를 일체의 戰爭에서 中立狀態에 머물 것을 明示.
- 2) 모든 手段을 다하여 그의 永世中立을 維持 및 守護할 것을 宣言. 그 외에도 塙地利는 그의 中立을 軍隊의 힘으로 守護해야 할 처지, 이는 永世中立國뿐만 아니라 어떤 特定한 戰爭에 있어 自体의 中立을 宣言한 모든 國家의 義務이기도 함.
- 3) 平時에도 어떠한 軍事同盟에도 加盟치 않을뿐만 아니라 그 領土위에 外國의 軍事基地를 許容하지 않을 것을 規定.
- 4) 그러나 이러한 中立은 國家를 拘束하나 個個 市民은 拘束치 않음. 個人의 知的, 政治的 自由 特히 言論과 出版의 自由는 國家의 永世中立에 의해서도 결코 影響을 받지 않음. 永世中立은 理念的 領域까지는 內포하지 않는다.

나. 塙地利 中立의 特性

- 1) 原則적으로 永世中立國은 그 自体가 그 中立을 保護해내기 위하여 어떤 措置를 취해야 할지를 決定해야 함. 예컨대 스위스가 第2次 大戦當時 言論의 一方的인 態度로 戰爭에

말려드는 절 막기 위해 言論에 恣의의 制約을 가한 것과 같은 것임.

- 2) 永世中立國의 國際聯合 加入問題가 있음. 스위스의 境遇에는 西方民主國家에 의해서만 둘러싸여 있는만큼 國際聯合 會員國이 되지 않고도 中立維持가 充分함. 奧地利는 外部에 훨씬 더 露出되어 있는만큼 國際聯合에 加入하는 것이 그의 自由와 獨立을 위한 鬪爭을 強化하는데 도움이 되리라는 見解를 所持.
- 3) 現在까지 奧地利 領土에 대하여 保障을 준 나라는 하나도 없는 데다 安全保障理事會도 效果的인 機能을 發揮하지 못하고 있으므로 4 大國에 의한 奧地利 領土의 保全과 不可侵性의 保障이 그밖의 西方諸國에 의해서도 承認될 것이 所望됨.

다. 國際機構와의 關係

1) 國際聯合과의 關係

가) 오늘날에 와서는 모든 國家가 온갖 手段을 다하여 侵略받은 者를 支援해야만 平和가 維持된다고 하여 集團的 安全保障의 觀念은 中立의 觀念과 兩立하지 못하게 되어있음.

나) 中立은 國際聯合 憲章의 內容과 兩立되지 않는다는 것이 第1委員會 報告書에 表明되었고 또한 모든 會員國은 國際

聯合의 모든 行動을 支援하여 國際聯合이 制限措置를 取하고 있는 相對國에 援助를 참가할 義務를 과하고 있음 (第 2 條 第 5 項)

다) 그러나 嚴正中立은 國際聯合 憲章內容과 兩立됨.

○ 安全保障 理事會의 必要한 票數를 確保하지 못하여 決定을 내리지 못한 境遇 (第 27 條, 第 39 條)와 攻擊받은 國家에 對해 援助의 勸告를 받은 境遇 (第 10 條, 第 11 條)에도 中立에 머물수 있음: 왜냐하면 모든 勸告가 法的拘束力이 없기 때문임.

○ 安全保障 理事會가 모든 會員國을 動員하는 것은 아니기 때문에 動員에서 除外된 國家는 中立을 宣言할 수도 있음.

라) 奧地利는 1947.이래 國際聯合加入 申請을 提起해오다 1955.

12.14. 會員國이 되었고 安全保障 理事會의 4大 常任理事國(美, 蘇, 英, 仏)은 永世中立과 國際聯合 會員國의 地位는 兩立될수 있다고 確信했고 또 奧地利가 中立을 違反하게 될지도 모르는 措置에 奧地利의 參與를 결코 要請치 않을 것임을 公約하였음.

마) 奧地利가 國際聯合加入을 努力한 理由

○ 戰後 解放되어 國際政治舞臺에 再登場 하였음을 國際聯合 會員國이 됨으로써 誇示하는 것이 適當하며 또한 自國의 獨立守護에 도움이 될것으로 期待.

○ 奧地利 政府는 國際的 討論場에서의 모든 討論에 있어

嚴格히 客觀的인 態度를 維持하고 東西間의 緊張을 緩和하려 試圖하는 中立國家로서의 映像과 政策을 提示할 義務가 있으며 훨씬 더 큰 役割을 國際舞臺에서 할 수 있으리라고 看做

- 奧地利와 같은 少國으로서는 모든 新生諸國에 外交 및 領事關係 代表를 常駐시킬 理由가 없는데 國際聯合은 보다 嚴密한 關係를 開拓하기 위하여 이를 新生諸國에 接近할 理想的 通路가 된다는 것임.

2) 歐洲 共同體와의 關係

- 가) 1948.4.16. 다른 15個國과 함께 奧地利는 歐洲經濟協力 機構의 實際的 基礎인 歐洲經濟協力에 관한 協定에 調印
- 나) 1956.4.16. 歐洲審議會에 加入
- 다) 1961.10.19. 歐洲 自由通商聯合의 3個中立會員國인 奧地利, 스웨덴, 스위스의 3個國間의 關係會議가 開催되는데 同會議는 3個國이 歐洲經濟 共同體에 加入申請할 것을 可決.
- 라) 奧地利의 歐洲共同體 加入 交渉은 歐洲經濟共同體 自体의 內部問題와 歐洲 全般 情勢의 影響도 있고하여 아직 未決

라. 中立宣言後의 對外政策

1) 中立政策宣言

- 가) 奧地利가 喪失한 主權을 完全回復한 것은 國家條約이 發効한 1955.7.27.이었으나 永世中立이 自發的이라는 點을 聯

邦憲法(1955.10.26.)에 明示

나) 國家條約 締結後 奧地利는 國家條約에 調印한 前 占領國과
의 關係를 대등한 友好 國家間의 正常的 關係로 끌어올림
으로써 그의 外交政策을 自國의 永世中立의 地位에 適應시
키려는 諸般 努力을 競走.

2) 美國과의 關係

가) 1956.6.30. 原子力의 平和的 利用에 관한 情報의 交換에
관한 協定 締結

나) 1957.11.23. 美國이 奧地利의 "마아살" 援助 計劃下의 負債
를 31億 "살링"으로 부터 1億9,000萬 "실링"으로
減縮하였음을 發表

다) 1958.5. "리아프" 首相이 美國을 訪問하여 압류되었던
奧地利 財産의 返還 및 美國의 對奧支援 繼續等을 論議

라) 1958.7. 中東危機에 즈음하여 美軍飛機가 事前許可가 없
이 奧地利 領空을 飛行한데 대해 美國에 抗議하고 美國은
유감을 表示함과 同時에 奧地利 領空을 尊重하겠다고 保障.

마) 1959.7. 原子力의 平和的 利用을 위한 相互協助에 관한
1956年의 協定을 更新하는 新協定이 10年期間으로 締結

3) 西歐 諸國과의 關係

가) 1960.2. 奧地利의 "크라이스끼" 外相이 파리와 런던을 公
式訪問, 그 답례로 英國의 "로이드" 外相이 60年6月에,
프랑스의 "블발" 外相이 61年6-7月에 "워인" 訪問

나) 1961.7. 英國의 "히스"氏가 埃地利를 訪問하여 兩國의 원만한 關係發展에 對해 만족표명.

다) 1962 "골박하" 埃地利外相은 3월에 "런던", 5월에는 "워싱턴", 6월에는 "파리"를 訪問하여 友誼를 加一層 鞏固化

4) 埃地利와 蘇聯의 關係

가) 1957.4. "미코얀" 蘇聯 副首相은 埃地利를 訪問하여 埃地利가 國家條約을 誠實히 履行하고 있다는 點과 埃地利의 中立이 平和維持에 重要한 要素가 되며 어떤 侵略戰爭이 勃發하더라도 埃地利는 戰禍를 면할수 있도록 保障할 意思表明

나) 1958.7. "라아프" 首相을 團長으로 하는 埃地利 政府代表團이 訪蘇하였을때 蘇聯은 蘇聯에 對한 埃地利의 石油 送油義務量을 半減할 용의가 있다고 宣言

다) 1959.10. "세르프" 埃地利 大統領이 訪蘇하여 發表한 共同 커뮤니케는 兩國間의 友誼關係가 鞏固히 進展됨과 中立 埃地利가 歐洲平和에 寄與함을 強調

라) 1959.12.19. 埃, 蘇領事關係 協定 (1958.8締結)에 對한 批准書交換

5) 다른 中立國家와의 關係

가) 스위스와는 특히 親近한 關係를 維持하고 스위스의 永世中

立政策의 經驗을 模範으로 삼아 왔음.

나) "스칸디나비아" 3국과는 다같이 歐洲自由通商聯合會
會員국이란 點에서 緊密한 關係維持

6) 西獨과의 關係

가) 西獨과는 戰爭중 및 戰後의 重要한 問題를 解決함과 아울러
善隣關係 樹立에 注力했음.

나) 1955.11. "브렌타노" 西獨外相은 "위인" 市를 訪問하여
奧地利의 獨立과 自律性을 認定 및 尊重하며 自由主權國家
로서 決定한 奧地利의 中立을 受諾한다고 했고 同年 10.

"라아프" 奧地利 首相이 "본" 市를 訪問했을때 "아메나워"
西獨首相이 같은 點을 確認

다) 1968.4.22. 奧地利 併合 (1938) 以後 獨逸市民이된 奧地利
人의 地位에 관한 問題는 奧地利를 併合시킨 1938 年의
나치스法을 無効化하는 法律이 西獨議會를 通過함으로써 解
決.

라) 1957.6.15. "위인" 市에서 調印된 奧地利-西獨間의 財産權
에 관한 協定에서 奧地利內의 前 獨逸人 財産을 返還하는
問題도 解決

7) 伊太利와의 關係는 經濟 文化面에서는 緊密하나 政治面에서는
南部 "티롤" 問題를 놓고 緊張狀態 持續

- 8) 東歐 諸國과의 關係는 奧地利가 이들과 接하고 있는 國境線 길이가 西邦自由諸國의 그것과 거의 같다는 點에서 重要하며 따라서 이들과의 關係를 正常化 하는데 부단한 努力傾注
- 9) 韓國과는 1963.9. 國交樹立에 合議하고 1966.12.1. 奧地利에 常駐大使館을 設置하여 兩國間에 友好關係 持統.

5. 結 論

가. 塙地利 中立의 歴史的 事例은 어디까지나 塙地利의 독특한 內外的 狀況 条件下에서 可能하였던 것이지 다른 나라의 境遇에도 一般的으로 適應될 수 있는 普遍的 類型은 될수 없다는 것을 보여줌.

나. 中立에 必要한 狀況

- 1) 어느 一國이 中立政策을 願한다고 해서 可能한 것이 아니고 中立이 維持 保障되려면 國內外的 主觀的 客觀的 要件의 具備가 必要
- 2) 본래, 國際政治上 中立이란 列強間의 勢力均衡이 維持되는 곳에서만 可能

다. 中立의 前提 條件

- 1) 그 國民의 大多數가 中立을 熱望하고 單獨으로라도 中立과 獨立을 守護할 수 있는 強力한 決心과 鞏固한 團結力 및 防衛力을 保有하고 있어야 함.
- 2) 그 나라가 傳統的으로 中立政策을 維持해 왔거나 그 나라의 地理的 條件이 外勢의 侵略을 困難하게 만들고 또는 그 나라의 經濟的, 戰略的, 價值가 적어 中立을 侵害해서 일

는 利益보다도 保障해서 얻는 利益이 더 커야만 함.

- 3) 그 나라의 中立 尊重에 관하여 關係諸國의 利害關係가 一致 되고 그 나라의 中立化가 關係諸國을 刺戟하지 않고 또한 關係諸國의 中立保障을 信賴할 수 있어야 함.

라. 따라서 이러한 條件이 具備되어 있지 않을 뿐만 아니라 美, 中, 日이라는 周辺 強大國間에 韓國 全體의 中立化에 관해 理解가 一致하지 못할 것임에도 不拘하고 中立을 부르짖는 것은 空虛한 感想 내지는 冒險主義며 또는 다른 目的을 위한 戰略的 策謀라 하겠고 北韓 共產傀儡 集團의 中立化 統一 宣傳도 實은 偽裝 戰術의 하나로 使用되는 것임을 알수 있음.

3 . 附 錄

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APPENDIX DOCUMENTS

State Treaty for the Re-Establishment of
an Independent and Democratic Austria,
May 15, 1955¹

Preamble

The Union of soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, the United States of America, and France, hereinafter referred to as "the Allied and Associated Powers", of the one part and Austria, of the other part; whereas on 13th March, Hitlerite Germany annexed Austria by force and incorporated its territory in the German Reich; whereas in the Moscow Declaration published on 1st November, 1943, the Government of the Union of Soviet Socialist Republics, the United Kingdom and the United States of America Declared that they regarded the annexation of Austria by Germany on 13th March, 1938,

¹ Signed at Vienna, May 15, 1955; Instruments of ratification deposited with the Union of Soviet Socialist Republics by the United States, July 9, 1955; the United Kingdom, July 19, 1955; France, July 27, 1955; the Soviet Union, July 5, 1955; and Austria, June 14, 1955; Entered into force, July 27, 1955. Reprinted from Treaties and Other International Acts Series (TIAS) 3228, pp.40-74, 149, 150, 155-158.

as null and void affirmed their wish to see Austria reestablished as a free and independent State,² and the French Committee of National Liberation made a similar declaration on 16th November, 1943;³ whereas as a result of the Allied victory Austria was liberated from the domination of Hitlerite Germany; whereas the Allied and Associated Powers, and Austria, taking into account the importance of the efforts which the Austrian people themselves have made and will have to continue to make for the restoration and democratic reconstruction of their country, desire to conclude a treaty re-establishing Austria as a free, independent and democratic State, thus contributing to the restoration of peace in Europe; whereas the Allied and Associated Powers desire by means of the present Treaty to settle in accordance with the principles of justice all questions which are still outstanding in connection with the events referred to above, including the annexation of Austria by Hitlerite Germany and participation of Austria in the war

² Text in Department of State Bulletin, Nov. 6, 1943, p. 310.

³ Text in Recueil de textes à l'usage des conférences de la paix (Paris, 1946), p. 123.

as an integral part of Germany; and whereas the Allied and Associated Powers and Austria are desirous for these purposes of concluding the present Treaty to serve as the basis of friendly relations between them, thereby enabling the Allied and Associated Powers to support Austria's application for admission to the United Nations Organization; have therefore appointed the undersigned Plenipotentiaries who, after presentation of their full powers, found in good and due form, have agreed on the following provisions:

Part I: Political and Territorial Clauses

Art. 1: Re-Establishment of Austria as a Free and Independent State: The Allied and Associated Powers recognize that Austria is re-established as a sovereign, independent and democratic State.

Art. 2: Maintenance of Austria's Independence: The Allied and Associated Powers declare that they will respect the independence and territorial integrity of Austria as established under the present Treaty.

Art. 3: Recognition by Germany of Austrian Independence: The Allied and Associated Powers will incorporate in the German Peace Treaty provisions for securing from Germany the recognition of Austria's sovereignty and independence and the renunciation by Germany of all territorial and political claims in respect of Austria and Austrian territory.

Art. 4: Prohibition of Anschluss: 1. The Allied and Associated Powers declare that political or economic union between Austria and Germany is prohibited. Austria fully recognizes its responsibilities in this matter and shall not enter into political or economic union with Germany in any form whatsoever, 2. In order to prevent such union Austria shall not conclude any agreement with Germany, nor do any act, nor take any measures likely, directly or indirectly, to promote political or economic union with Germany, or to impair its territorial integrity or political or economic independence. Austria further undertakes to prevent within its territory any act likely, directly or indirectly, to promote such union and shall prevent the existence, resurgence and activities or any organizations having as their aim political or economic union with Germany, and pan-German propaganda in favor of union with Germany.

Art. 5: Frontiers of Austria: The frontiers of Austria shall be those existing on 1st January, 1938.

Art. 6: Human Rights: 1. Austria shall take all measure necessary to secure to all persons under Austrian jurisdiction, without distinction as to race, sex, language or religion, the enjoyment of human rights and of the fundamental freedoms, including of expression, of press and publication, of religious worship, of political opinion and of public meeting. 2. Austria further undertakes that the laws in force in Austria shall not, either in their application, discriminate or entail any discrimination between persons of Austrian nationality on the ground of their race, sex, language or religion, whether in reference to their persons, property, business, professional or financial interests, status, political or civil rights or any other matter.

Art. 7: Rights of the Slovene and Croat Minorities:

1. Austrian nationals of the Slovene and Croat minorities in Carinthia, Burgenland and Styria shall enjoy the same rights on equal terms as all other Austrian nationals, including the right to their own organizations, meetings and press in their

own language. 2. They are entitled to elementary instruction in the Slovene or Croat language and to a proportional number of their own secondary schools; in this connection school curricula shall be reviewed and a section of the Inspectorate of Education shall be established for Slovene and Croat schools.

3. In the administrative and judicial districts of Carinthia, Burgenland and Styria, where there are Slovene, Croat or mixed populations, the Slovene or Croat language shall be accepted as an official language in addition to German. In such districts topographical terminology and inscriptions shall be in the Slovene or Croat language as well as in German.

4. Austrian nationals of the Slovene and Croat minorities in Carinthia, Burgenland and Styria shall participate in the cultural, administrative and judicial systems in these territories on equal terms with other Austrian nationals.

5. The activity of organizations whose aim is to deprive the Croat or Slovene population of their minority character or rights shall be prohibited.

Art. 8: Democratic Institutions: Austria shall have a democratic government based on elections by secret ballot and shall guarantee to all citizens free, equal and universal

suffrage as well as the right to be elected to public office without discrimination as to race, sex, language, religion or political opinion.

Art. 9: Dissolution of Nazi Organizations:

1. Austria shall complete the measures, already begun by the enactment of appropriate legislation approved by the Allied Commission for Austria, to destroy the National Socialist Party and its affiliated and supervised organizations, including political, military and para-military organizations, on Austrian territory. Austria shall also continue the efforts to eliminate from Austrian political, economic and cultural life all traces of Nazism, to ensure that the above-mentioned organizations are not revived in any form, and to prevent all Nazi and militarist activity and propaganda in Austria. 2. Austria undertakes to dissolve all Fascist-type organizations existing on its territory, political, military and para-military, and likewise any other organizations carrying on activities hostile to any United Nation or which intend to deprive the people of their democratic rights. 3. Austria undertakes not to permit, under threat of penal punishment which shall be immediately determined in

accordance with procedures established by Austrian Law, the existence and the activity on Austrian territory of the abovementioned organizations.

Art. 10: Special Clauses on Legislation: 1. Austria undertakes to maintain and continue to implement the principles contained in the laws and legal measures adopted by the Austrian Government and Parliament since 1st May, 1945, and approved by the Allied Commission for Austria, aimed at liquidation of the remnants of the Nazi regime and at the re-establishment of the democratic system, and to complete the legislative and administrative measures already taken or begun since 1st May, 1945, to codify and give effect to the principles set out in Articles 6, 8 and 9 of the present Treaty, and insofar as she has not yet done so to repeal or amend all legislative and administrative measures adopted between 5th March, 1933, and 30th April, 1945, which conflict with the principles set forth in Articles 6, 8 and 9. 2. Austria further undertakes to maintain the law of 3rd April, 1919, concerning the House of Habsburg-Lorraine.

Art. 11: Recognition of Peace Treaties: Austria undertakes to recognize the full force of the Treaties of Peace with Italy, Rumania, Bulgaria, Hungary⁴ and Finland⁵ and other agreements or arrangements which have been or will be reached by the Allied and Associated Powers in respect of Germany and Japan for the restoration of peace.

Part II: Military and Air Clauses

Art. 12: Prohibition of Service in the Austrian Armed Forces of Former Members of Nazi Organizations, and Certain Other Categories of Persons: The following shall in no case be permitted to serve in the Austrian Armed Forces: 1. Persons not of Austrian nationality; 2. Austrian nationals who had been German nationals at any time before 13th March, 1938. 3. Austrian nationals who served in the rank of Colonel or in

⁴ Treaties and Other International Acts Series (TIAS) 1648, 1649, 1650, and 1651, respectively (61 Sta. (2) 1245, 1757, 1915, 2065).

⁵ The United States is not a party to the Treaty of Peace with Finland. See Treaties of Peace With Italy, Bulgaria, Hungary, Roumania and Finland (Washington, Government Printing Office, 1947; Department of State publication 2743).

any higher rank in the German Forces during the period from 13th March, 1938, to 8th May, 1945; 4. With the exception of any persons who shall have been exonerated by the appropriate body in accordance with Austrian law, Austrian nationals falling within any of the following categories: (a) Persons who at any time belonged to the National Socialist Party ("N.S.D.A.P.") or the "S.S.", "S.A.", or "D."⁶ organizations; the Secret State Police "Gestapo", or the National Socialist Soldiers' Association ("N.S. Soldatenring"); or the National Socialist Officers' Association ("N.S. Offiziersvereinigung"). (b) Officers in the National Socialist Fliers' Corps ("N.S.F.K.") or the National Socialist Motor Corps ("N.S.K.K.") of rank not lower than "Untersturmfuehrer" or its equivalent; (c) Functionaries in any supervised or affiliated organizations of the N.S.D.A.P. of rank not lower than that equivalent to "Ortsgruppenleiter"; (d) Authors of printed works or scenarios placed by the competent commissions set up by the Government of Austria in the category of

⁶ The National Socialist Elite Guard, the National Socialist Storm Troops, and the Security Service of the National Socialist Elite Guard, respectively.

prohibited works because of their Nazi character; (e) Leaders of industrial, commercial and financial undertakings who according to the official and authenticated reports of existing industrial, commercial and financial associations, trade unions and party organizations are found by the competent commission to have cooperated actively in the achievement of the aims of the N.S.D.A.P. or of any of its affiliated organizations, supported the principles of National Socialism or financed or spread propaganda for National Socialist organizations or their activities, any by any of the foregoing to have damaged the interests of an independent and democratic Austria.

Art. 13: Prohibition of Special Weapons: 1. Austria shall not possess, construct or experiment with - a) Any atomic weapon, b) any other major weapon adaptable now or in the future to mass destruction and defined as such by the appropriate organ of the United Nations, c) any self-propelled or guided missile or torpedoes, or apparatus connected with their discharge or control, d) sea mines, e) torpedoes capable of being manned, f) submarines or other submersible craft, g) motor torpedo boats, h) specialized types

of assault craft, i) guns with a range of more than 30 kilometers, j) asphyxiating, vesicant or poisonous materials or biological substances in quantities greater than, or of types other than, are required for legitimate civil purposes, or any apparatus designed to produce, project or spread such materials or substances for war purposes. 2. The Allied and Associated Powers reserve the right to add to this Article prohibitions of any weapons which may be evolved as a result of scientific development.

Art. 14: Disposal of War Materiel of Allied and German

Origin: 1. All war materiel of Allied origin in Austria shall be placed at the disposal of the Allied or Associated Power Concerned according to the instructions given by that Power. Austria shall renounce all rights to the above-mentioned war materiel. 2. Within one year from the coming into force of the present Treaty Austria shall render unusable for any military purpose or destroy: all excess war materiel of German or other non-Allied origin; in so far as they relate to modern war materiel, all German and Japanese drawings, including existing blueprints, prototypes experimental models and plans; all war materiel prohibited by Article 13 of the

present Treaty; all specialized installations, including research and production equipment, prohibited by Article 13 which are not convertible for authorized research, development or construction. 3. Within six months from the coming into force of the present Treaty Austria shall provide the Governments of the Soviet Union, of the United Kingdom, of the United States of America, and of France with a list of the materiel and installations enumerated in paragraph 2.

4. Austria shall not manufacture any war materiel of German design. Austria shall not acquire or possess, either publicly or privately, or by any other means, any war materiel of German manufacture, origin or design except that the Austrian Government may utilize, for the creation of the Austrian armed forces, restricted quantities of war materiel of German manufacture, origin or design remaining in Austria after the Second World War. 5. A definition and list of war materiel for the purposes of the present Treaty are contained in Annex I.

Art. 15: Prevention of German Rearmament: 1. Austria shall co-operate fully with the Allied and Associated Powers in order to ensure that Germany is unable to take steps outside German territory towards rearmament. 2. Austria shall not employ or

train in military or civil aviation or in the experimentation, design, production or maintenance of war materiel: persons who are, or were at any time previous to 13th March, 1938, nationals of Germany; or Austrian nationals precluded from serving in the Armed Forces under Article 12; or persons who are not Austrian nationals.

Art. 16: Prohibition Relating to Civil Aircraft of German and Japanese Design. Austria shall not acquire or manufacture civil aircraft which are of German or Japanese design or which embody major assemblies of German or Japanese manufacture or design.

Art. 17: Duration of Limitations. Each of the military and air clauses of the present Treaty shall remain in force until modified in whole or in part by agreement between the Allied and Associated Powers and Austria or, after Austria becomes a member of the United Nations, by agreement between the Security Council and Austria.

Art. 18: Prisoners of War: 1. Austrians who are now prisoners of war shall be repatriated as soon as possible, in accordance with arrangements to be agreed upon by the individual Powers

detaining them and Austria. 2. All costs, including maintenance costs, incurred in moving Austrians who are now prisoners of war from their respective assembly points, as chosen by the Government of the Allied or Associated Power concerned, to the point of their entry into Austrian territory, shall be borne by the Government of Austria.

Art. 19: War Graves and Memorials: 1. Austria undertakes to respect, preserve and maintain the graves on Austrian territory of the soldiers, prisoners of war and nationals forcibly brought to Austria of the Allied Powers as well as of the other United Nations which were at war with Germany, the memorials and emblems on these graves, and the memorials to the military glory of the armies which fought on Austrian territory against Hitlerite Germany. 2. The Government of Austria shall recognize any commission, delegation or other organization authorized by the State concerned to indentify, list, maintain or regulate the graves and edifices referred to in paragraph 1; shall facilitate the work of such organizations; and shall conclude in respect of the above-mentioned graves and edifices such agreements as may prove necessary with the State concerned or with any commission or delegation or other organization authorized

by it. It likewise agrees to render, in conformity with reasonable sanitary requirements, every facility for the disinterment and despatch to their own country of the remains buried in the said graves, whether at the request of the official organizations of the State concerned or at the request of the relatives of the persons interred.

Part III

Art. 20: Withdrawal of Allied Forces: 1. The Agreement on the Machinery of Control in Austria of 28th June, 1946⁷ shall terminate on the coming into force of the present Treaty.

2. On the coming into force of the present Treaty, the Inter-Allied Command established under paragraph 4 of the Agreement on Zones of Occupation in Austria and the Administration of the City of Vienna of 9th July, 1945,⁸ shall cease to exercise any functions with respect to the administration of the City of Vienna. The Agreement on Zones of Occupation of Austria

⁷ Treaties and Other International Acts Series (TIAS) 2097 (62 Stat. (3) 4036).

⁸ Treaties and Other International Acts Series (TIAS) 1600 (61 Stat. (3) 2680).

shall terminate upon completion of the withdrawal from Austria of the forces of the Allied and Associated Powers in accordance with paragraph 3 of the present Article. 3. The forces of the Allied and Associated Powers and members of the Allied Commission for Austria shall be withdrawn from Austria within ninety days from the coming into force of the present Treaty, and in so far as possible not later than 31st December, 1955. 4. The Government of Austria shall accord to the forces of the Allied and Associated Powers and the members of the Allied Commission for Austria pending their withdrawal from Austria the same rights, immunities and facilities as they enjoyed immediately before the coming into force of the present Treaty. 5. The allied and Associated Powers undertake to return to the Government of Austria after the coming into force of the present Treaty and within the period specified in paragraph 3 of this Article: (a) All currency which has made available free of cost to the Allied and Associated Powers for the purpose of the occupation and which remains unexpended at the time of completion of withdrawal of the Allied forces; (b) All Austrian property requisitioned by Allied forces or the Allied Commission, and which is still in their possession. The obligations under this subparagraph shall be applied

without prejudice to the provisions of Article 22 of the present Treaty.

Part IV: Claims Arising Out of the War.

Art. 31: Reparation: No reparation shall be exacted from Austria arising out of the existence of a state of war in Europe after 1st September, 1939.

Art. 22⁹: German Assets in Austria: The Soviet Union, the United Kingdom, the United States of America and France have the right to dispose of all German assets in Austria in accordance with the Protocol of the Berlin Conference of

⁹ This article has been revised and revalued by Annex II.

2nd August, 1945.¹⁰ 1. The Soviet Union shall receive for a period of validity of thirty years concessions to oil fields equivalent to 69% of the extraction of oil in Austria for 1947, as well as property rights to all buildings, constructions, equipment, and other property belonging to these oil fields, in accordance with list No.1 and map No.1¹¹ annexed to the Treaty. 2. The Soviet Union shall receive concessions to 60%

¹⁰ The relevant passages of section III of the protocol of the Berlin (Potsdam) Conference of 1945 read as follows: "1. Reparation claims of U.S.S.R. (against Germany) shall be met by removals from the zone of Germany occupied by the U.S.S.R., and from appropriate German external assets... 3. The reparations claims of the United States, the United Kingdom and other countries entitled to reparations (from Germany) shall be met from the Western Zones and from appropriate German external assets... 8. The Soviet Government renounces all claims (in respect of reparations) to shares of German enterprises which are located in the Western Zones of Germany as well as to German foreign assets in all countries except those specified in paragraph 9 below. 9 The Governments of the U.K. and U.S.A. renounce their claims (all claims in respect of reparations) to shares of German enterprises which are located in the Eastern Zone of occupation in Germany, as well as to German foreign assets in Bulgaria, Finland, Hungary, Roumania and Eastern Austria. Section VIII (by corrected numbering, section VII) of this protocol provided: "It was agreed that reparations should not be exacted from Austria."

¹¹ The copies of the maps as received, with the certified copy of the treaty, from the Government of the Union of Soviet Socialist Republics, are deposited with the treaty in the archives of the Department of State, where they are available for reference.

of all exploration areas located in Eastern Austria that are German assets to which the Soviet Union is entitled in conformity with the Potsdam Agreement and which are in its possession at the present time, in accordance with list No.2 and map No.2 annexed to the Treaty. The Soviet Union shall have the right to carry out explorations on the exploration areas mentioned in the present paragraph for 8 years and to subsequent extraction of oil for a period of 25 years beginning from the moment of the discovery of oil. 3. The Soviet Union shall receive oil refineries having a total annual production capacity of 420,000 tons of crude oil, in accordance with list No. 3. 4. The Soviet Union shall receive those undertakings concerned in the distribution of oil products which are at its disposal, in accordance with list No.4. 5. The Soviet Union shall receive the assets of the Danube Shipping Company (D.D.S.G.), located in Hungary, Rumania and Bulgaria; and, likewise, in accordance with list No.5. 100% of the assets of the Danube Shipping Company located in Eastern Austria. 6. The Soviet Union shall transfer to Austria property, rights and interests held or claimed as German assets, together with existing equipment, and shall also transfer war industrial enterprises, together with existing equipment houses and similar immovable property, including

plots of land, located in Austria and held or claimed as war booty with the exception of the assets mentioned in paragraphs 1,2,3,4 and 5 of the present Article. Austria for its part undertakes to pay the Soviet Union 150,000,000 United States dollars in freely convertible currency within a period of 6 years. The said sum will be paid by Austria to the Soviet Union in equal three-monthly installments of 6,250,000 United States dollars in freely convertible currency. The first payment will be made on the first day of the second month following the month of the entry into force of the present Treaty. Subsequent three-monthly payments will be made on the first day of the appropriate month. The last three-monthly payment will be made on the last day of the six-year period after the entry into force of this Treaty. The basis for payments provided for in this Article will be the United States dollar at its gold parity on 1st September, 1949, that is 35 dollars for 1 ounce of gold. As security for the punctual payment of the above-mentioned sums due to the Soviet Union the Austrian National Bank shall issue to the State Bank of the U.S.S.R. within two weeks of the coming into force of the present Treaty promissory notes to the total sum of

150,000,000 United States dollars to become payable on the dates provided for in the present Article. The promissory notes to be issued by Austria will be non-interest-bearing. The State Bank of the U.S.S.R. does not intend to discount these notes provided that the Austrian Government and the Austrian National Bank carry out their obligations punctually and exactly.

7. Legal Position of Assets: (a) All former German assets which have become the property of the Soviet Union in accordance with paragraphs 1,2,3,4 and 5 of the present Article shall, as the general rule, remain under Austrian jurisdiction and, in conformity with this, Austrian legislation shall apply to them. (b) Where duties and charges, commercial and industrial rights and the levying of taxation are concerned, these assets shall be subject to conditions not less favorable than those which apply or will apply to undertakings belonging to Austria and its nationals and also to other states and persons who are accorded most-favored-nation treatment. (c) All former German assets which have become the property of the Soviet Union shall not be subject to expropriation without the consent of the Soviet Union. (d) Austria will not raise any difficulties in regard to the export of profits or

other income (i. e. rents) in the form of output or of any freely convertible currency received. (e) The rights, properties and interests transferred to the Soviet Union as well as the rights, properties and interests which the Soviet Union relinquishes to Austria shall be transferred without any changes or claims on the part of the Soviet Union or on the part of Austria. Under the words "charges and claims" is understood not only creditor claims arising out of the exercise of Allied control of these properties, rights and interests after 8th May, 1945, but also all other claims including claims in respect of taxes. The reciprocal waiver by the Soviet Union and Austria of charges and claims applies to all such charges and claims as exist on the date when Austria formalizes the rights of the Soviet Union to the former German assets transferred to it and on the date of the actual transfer to Austria of the assets relinquished by the Soviet Union.

8. The transfer to Austria of all properties, rights and interests provided for in paragraph 6 of the present Article, and also the formalizing by Austria of the rights of the Soviet Union to the former German assets to be transferred shall be effected within two months from the date of the

entry into force of the present Treaty. 9. The Soviet Union shall likewise own the rights, property and interests in respect of all assets, wherever they may be situated in Eastern Austria, created by Soviet organizations or acquired by them by purchase after 8th May, 1945 for the operation of the properties enumerated in Lists 1,2,3,4 and 5 below. The provisions as set forth in sub-paragraphs a, b, c and d of paragraph 7 of the present Article shall correspondingly apply to these assets. 10. Disputes which may arise in connection with the application of the provisions of the present Article shall be settled by means of bilateral negotiations between the interested parties. In the event of failure to reach agreement by bilateral negotiations between the Governments of the Soviet Union and of Austria within three months, disputes shall be referred for settlement to an Arbitration Commission consisting of one representative of the Soviet Union and one representative of Austria with the addition of a third member, a national of a third country, selected by mutual agreement between the two Governments. 11. The United Kingdom, the United States of America and France hereby transfer to Austria all property, rights and interests held

or claimed by or on behalf of any of them in Austria as former

German assets or war booty. Property, rights and interests

transferred to Austria under this paragraph shall pass free

from any charges or claims on the part of the United Kingdom,

the United States of America or France arising out of the

exercise of their control of these properties, rights or

interests after 8th May, 1945. 12. After fulfilment by Austria

of all obligations stipulated in the provisions of the present

Article or derived from such provisions, the Claims of the

Allied and Associated Powers with respect to former German

assets in Austria, based on the Decision of the Berlin Con-

ference of 2nd August, 1945, shall be considered as fully

Satisfied. 13. Austria undertakes that, except in the case of

educational, cultural, charitable and religious property none

of the properties, rights and interests transferred to it as

former German assets shall be returned to ownership of German

juridical persons or where the value of the property, rights

and interests exceeds 260,000 shillings (sic), to the ownership

of German natural persons. Austria further undertakes not to

pass to foreign ownership those rights and properties indicated

in Lists 1 and 2 of this Article which will be transferred to

Austria by the Soviet Union in accordance with the Austro-Soviet Memorandum of April 15, 1955. 14. The provisions of this Article shall be subject to the terms of Annex II of this Treaty. List No.1: Oil Fields in Eastern Austria on Which Concessions Shall Be Granted to the Soviet Union...¹² List No.2: Concessions to Oil Exploration Areas in Eastern Austria To Be Transferred to the soviet Union..¹² List No.3: Oil Refineries in Eastern Austria the Property Rights to Which Are To Be Transferred to the Soviet Union..¹² List No.4: Undertakings in Eastern Engaged in the Distribution of Oil Products, the Property Rights to Which Are To Be Transferred to the Soviet Union...¹² List No.5: Assets of the D.D.S.G. in Eastern Austria To Be Transferred to the Soviet Union...¹²

Art. 23: Austrian Property in Germany and Renunciation of Claims by Austria on Germany: 1. From the date of the coming into force of the present Treaty the Property in Germany of

¹² The contents of these lists is not reproduced as the transfer of the oil fields, concessions, etc. mentioned therein did not take place because of the Moscow Memorandum and the Annex II of the State Treaty respectively. For the text of Annex II and of the Moscow Memorandum see below.

the Austrian Government or of Austrian nationals, including property forcibly removed from Austrian territory to Germany after 12th March, 1938 shall be returned to its owners. This provision shall not apply to the property of war criminals or persons who have been subjected to the penalties of denazification measures; such property shall be placed at the disposal of the Austrian Government if it has not been subjected to blocking or confiscation in accordance with the laws or ordinances in force in Germany after 8th May, 1945. 2. The restoration of Austria property rights in Germany shall be effected in accordance with measures which will be determined by the Powers in occupation of Germany in their zones of occupation. 3. Without prejudice to these and to any other disposition in favor of Austria and Austrian nationals by the Powers occupying Germany, and without prejudice to the validity of settlements already reached, Austria waives on its own behalf and on behalf of Austrian nationals all claims against Germany and German nationals outstanding on 8th May, 1945 except those arising out of contract and other obligations entered into, and rights acquired, before 13th March, 1938. This waiver shall be deemed to include all claims in respect of transaction effected by Germany during

the period of the annexation of Austria and all claims in respect of loss or damage suffered during the said period, particularly in respect of the German public debt held by the Austrian Government or its nationals and of currency withdrawn at the time of the monetary conversion. Such currency shall be destroyed upon the coming into force of the present Treaty.

Art. 24: Renunciation by Austria of Claims against the Allies:

1. Austria waives all claims of any description against the Allied and Associated Powers on behalf of the Austrian Government or Austrian nationals arising directly out of the war in Europe after 1st September, 1939, or out of actions taken because of the existence of a stage of war in Europe after that date whether or not such Allied or Associated Power was at war with Germany at the time. This renunciation of claims includes the following: (a) Claims for losses or damages sustained as a consequence of acts of armed forces or authorities of Allied or Associated Powers; (b) Claims arising from the presence, operations or actions of armed forces or authorities of Allied or Associated Powers in Austrian territory; (c) Claims with respect to the decrees or orders of Prize Courts of Allied or

Associated Powers, Austria agreeing to accept as valid and binding all decrees and orders of such Prize Courts on or after 1st September, 1939 concerning ships or goods belonging to Austrian nationals or concerning the payment of costs: (d) Claims arising out of the exercise or purported exercise of belligerent rights. 2. The provisions of this Article shall bar, completely and finally, all claims of the nature referred to herein, which shall henceforward be extinguished, whoever may be the parties in interest. The Austrian Government agrees to make equitable compensation in schillings to persons who furnished supplies or services on requisition to the forces of Allied or Associated Powers in Austrian territory and in satisfaction of noncombat damage claims against the forces of the Allied or Associated Powers arising in Austria territory. 3. Austria likewise waives all claims of the nature covered by paragraph 1 of this Article on behalf of the Austrian Government or Austrian nationals against any of the United Nations whose diplomatic relations with Germany were broken off between 1st September, 1939 and 1st January, 1945, and which took action in co-operation with the Allied and Associated Powers. 4. The Government of Austria shall assume full responsibility

for Allied military currency of denominations of five shillings and under issued in Austria by the Allied Military Authorities of denominations higher than five schillings shall be destroyed and no claims may be made in this connection against any of the Allied or Associated Powers. 5. The waiver of claims by Austria under paragraph 1 of this Article includes any claims arising out of actions taken by any of the Allied or Associated Powers with respect to ships belonging to Austrian nationals between 1st September, 1939 and the coming into force of the present Treaty as well as any claims and debts arising out of the Conventions on prisoners of war now in force.

Part V: Property, Rights And Interests

Art. 25: United Nations Property in Austria:

1. In so far as Austria has not already done so, Austria shall restore all legal rights and interests in Austria of the United Nations and their nationals as they existed on the day hostilities commenced between Germany and the United Nation concerned, and shall return all property in Austria of the United Nations and their nationals as it now exists. 2. The Austrian Government undertakes that all property, rights and

interests failing under this Article shall be restored free of all encumbrances and charges of any kind to which they may have become subject as a result of the war with Germany and without the imposition of any charges by the Austrian Government in connection with their return. The Austrian Government shall nullify all measures of seizure, sequestration or control taken against United Nations property in Austria between the day of commencement of hostilities between Germany and the United Nation concerned and the coming into force of the present Treaty. In cases where the property has not been returned within six months from the coming into force of the present Treaty, applications for the return of property shall be made to the Austrian authorities not later than twelve months from the coming into force of the Treaty, except in cases in which the claimant is able to show that he could not file his application within this period. 3. The Austrian Government shall invalidate transfers involving property, rights and interests of any description belonging to United Nations nationals, where such transfers resulted from force exerted by Axis Governments or their agencies between the beginning of hostilities between Germany and the United Nation concerned and 8th May, 1945.

4 (a) In cases in which the Austrian Government provides compensation for losses suffered by reason of injury or damage to property in Austria which occurred during the German occupation of Austria or during the war, United Nations nationals shall not receive less favorable treatment than that accorded to Austrian nationals; and in such cases United Nations nationals within the meaning of paragraph 8 (a) of interests in corporations or associations which are not United Nations nationals within the meaning of paragraph 8 (a) or this Article shall receive compensation based on the total loss or damage suffered by the corporations or associations and bearing the same proportion to such loss or damage as the beneficial interest of such nationals bears to the capital of the corporation or association. (b) The Austrian Government shall accord to United Nations and their nationals the same treatment in the allocation of materials for the repair or rehabilitation of their property in Austria and in the allocation of foreign exchange for the importation of such materials as applies to Austrian nationals.

5. All reasonable expenses incurred in Austria in establishing claims, including the assessment of loss or damage, shall be borne by the Austrian Government. 6. United Nations nationals

and their property shall be exempted from any exceptional taxes, levies, or imposts imposed on their capital assets in Austria by the Austrian Government or by any Austrian authority between the date of the surrender of the German armed forces and the coming into force of the present Treaty for the specific purpose of meeting charges arising out of the war or of meeting the costs of occupying forces. Any sums which have been so paid shall be refunded. 7. The owner of the property concerned and the Austrian Government may agree upon arrangements in lieu of the provisions of this Article. 8. As used in this Article: (a) "United Nations nationals" means individuals who are nationals of any of the United Nations, or corporations or associations organized under the laws of any of the United Nations, at the coming into force of the present Treaty, provided that the said individuals, corporations or associations also had this status on 8th May, 1945. The term "United Nations nationals" also includes all individuals, corporations or associations which, under the laws in force in Austria during the war, were treated as enemy. (b) "Owner" means one of the United Nations, or a national of one of the United Nations, as defined in sub-paragraph (a) above, who is entitled to the

property in question, and includes a successor of the owner, provided that the successor is also a United Nation or a United Nations national as defined in sub-paragraph (a). If the successor has purchased the property in its damaged state, the transferor shall retain his rights to compensation under this Article, without prejudice to obligations between the transferor and the purchaser under domestic law. (c) "Property" means all movable or immovable property, whether tangible or intangible, including industrial, literary and artistic property, as well as all rights or interests of any kind in property. 9. The provisions of this Article do not apply to transfers of property, rights or interests of United Nations or United Nations nationals in Austria made in accordance with laws and enactments which were in force as Austrian Law on 28th June, 1946. 10. The Austrian Government recognizes that the Brioni Agreement of 10th August, 1942¹² is null and void. It undertakes to participate with the other signatories of the

¹² Text in Raccikta ufficiale delle leggie e di decreti, 1942, vol. V, p. 3897.

Rome Agreement of 21st March, 1923,¹³ in any negotiations having the purpose of introducing into its provisions the modifications necessary to ensure the equitable settlement of the annuities which it provides.

Art. 26: Property, Rights and Interests of Minority Groups in Austria: 1. In so far as such action has not already been taken, Austria undertakes that, in all cases where property, legal rights and interests in Austria have since 13th March, 1938, been subject of forced transfer or measures of sequestration, confiscation or control on account of the racial origin or religion of the owner, the said property shall be returned and the said legal rights and interests shall be restored together with their accessories. Where return or restoration is impossible, compensation shall be granted for losses incurred by reason of such measures to the same extent as is, or may be, given to Austrian nationals generally in respect of war damage. 2. Austria agrees to take under its control all property, legal rights and interests in Austria of persons,

¹³ League of Nations Treaty Series, vol. XXII, p.336.

organizations or communities which, individually or as members of groups, were the object of racial, religious or other Nazi measures of persecution where, in the case of persons, such property, rights and interests remain heirless or unclaimed for six months after the coming into force of the present Treaty, or where in the case of organizations and communities such organizations or communities have ceased to exist. Austria shall transfer such property, rights and interests to appropriate agencies or organizations to be designated by the Four Heads of Mission in Vienna by agreement with the Austrian Government to be used for the relief and rehabilitation of victims of persecution by the Axis Powers, it being understood that these provisions do not require Austria to make payments in foreign exchange or other transfers to foreign countries which would constitute a burden on the Austrian economy. Such transfer shall be effected within eighteen months from the coming into force of the present Treaty and shall include property, rights and interests required to be restored under paragraph 1 of this Article.

Art. 27: Austrian Property in the Territory of the Allied and Associated Powers: 1. The Allied and Associated Powers declare

their intention to return Austrian property, rights and interests as they now exist in their territories or the proceeds arising out of the liquidation, disposal or realization of such property, rights of interests subject to accrued taxes, expenses of administration, creditor claims and other like charges, where such property, rights or interests have been liquidated, disposed of or otherwise realized. The Allied and Associated Powers will be prepared to conclude agreements with the Austrian Government for this purpose. 2. Notwithstanding the foregoing provisions, the Federal People's Republic of Yugoslavia shall have the right to seize, retain or liquidate Austrian property, rights and interests within Yugoslav territory on the coming into force of the present Treaty. The Government of Austria undertakes to compensate Austrian nationals whose property is taken under this paragraph.

Art. 28.: Debts: 1. The Allied and Associated Powers recognize that interest payments and similar charges on Austrian Government securities falling due after 12th March, 1938, and before 8th May, 1945, constitute a claim on Germany and not on Austria. 2. The Allied and Associated Powers declare their intention not to avail themselves of the provisions of loan agreements

made by the Government of Austria before 13th March, 1938, in so far as those provisions granted to the creditors a right of control over the government finances of Austria. 3. The existence of the state of war between the Allied and Associated Powers and Germany shall not, in itself, be regarded as affecting the obligation to pay pecuniary debts arising out of obligations and contracts that existed, and rights that were acquired before the existence of the state of war, which became payable prior to the coming into force of the present Treaty, and which are due by the Government or nationals of Austria to the Government or nationals of one of the Allied and Associated Powers or are due by the Government or nationals of one of the Allied and Associated Powers to the Government or nationals of Austria. 4. Except as otherwise expressly provided in the present Treaty, nothing therein shall be construed as impairing debtor-creditor relationships arising out of contracts concluded at any time prior to 1st September, 1939, by either the Government of Austria or persons who were nationals of Austria on 12th March, 1938.

Part VI: General Economic Relations

Art. 29: 1. Pending the conclusion of commercial treaties or agreements between individual United Nations and Austria, the Government of Austria shall, during a period of eighteen months from the coming into force of the present Treaty, grant the following treatment to each of the United Nations which, in fact, reciprocally grants similar treatment in like matters to Austria: (a) In all that concerns duties and charges on importation or exportation, the internal taxation of imported goods and all regulations pertaining thereto, the United Nations shall be granted unconditional most-favored-nation treatment; (b) In all other respects, Austria shall make no arbitrary discrimination against goods originating in or destined for any territory of any other of the United Nations or of any other foreign country; (c) United Nations nationals, including juridical persons, shall be granted national and most-favored-nation treatment in all matters pertaining to commerce, industry, shipping and other forms of business activity within Austria. These provisions shall not apply to commercial aviation, (d) Austria shall grant no exclusive or preferential rights to any country with regard to the

operation of commercial aircraft in international traffic, shall afford all the United Nations equality of opportunity in obtaining international commercial aviation rights in Austrian territory, including the right to land for refuelling and repair, and, with regard to the operation of commercial aircraft in international traffic, shall grant on a reciprocal and non-discriminatory basis to all United Nations the right to fly over Austrian territory without landing. These provisions shall not affect the interests of the national defense of Austria. 2. The foregoing undertaking by Austria shall be understood to be subject to the exceptions customarily included in commercial treaties concluded by Austria prior to 13th March, 1938; and the provisions with respect to reciprocity granted by each of the United Nations shall be understood to be subject to the exceptions customarily included in the commercial treaties concluded by that State.

Art. 30: 1. Any disputes which may arise in giving effect to the Article entitled "United Nations Property in Austria" of the present Treaty shall be referred to a conciliation Commission established on a parity basis consisting of one representative of the Government of the United Nation concerned

and one representative of the Government of Austria. If within three months after the dispute has been referred to the Conciliation Commission no agreement has been reached, either Government may ask for the addition to the Commission of a third member selected by mutual agreement of the two Governments from nationals of a third country. Should the two Governments fail to agree within two months on the selection of a Diplomatic Missions in Vienna of the Soviet Union, of the United Kingdom, of the United States of America, and of France to make the appointment. If the Heads of Mission are unable to agree within a period of one month upon the appointment of a third member, the Secretary-General of the United Nations may be requested by either party to make the appointment. 2. When any Conciliation Commission is established under paragraph 1 of this Article, it shall have jurisdiction over all disputes which may thereafter arise between the United Nation concerned and Austria in the application or interpretation of the Article referred to in paragraph 1 of this Article and shall perform the functions attributed to it by those provisions. 3. Each Conciliation Commission shall determine its own procedure, adopting rules conforming to justice and

equity. 4. Each Government shall pay the salary of the member of the Conciliation Commission whom it appoints and of any agent whom it may designate to represent it before the Commission. The salary of the third member shall be fixed by special agreement between the Governments concerned and this salary, together with the common expenses of each Commission, shall be paid in equal shares by the two Governments. 5. The parties undertake that their authorities shall furnish directly to the Conciliation Commission all assistance which may be within their power. 6. The decision of the majority of the members of the Commission shall be the decision of the Commission, and shall be accepted by the parties as definitive and binding.

Part VIII: Miscellaneous Economic Provisions

Art. 31: Provisions Relating to the Danube: Navigation on the Danube shall be free and open for the nationals, vessels of commerce, and goods of all States, on a footing of equality in regard to port and navigation charges and conditions for merchant shipping. The foregoing shall not apply to traffic between ports of the same State.

Art. 32: Transit Facilities: I. Austria shall facilitate as far as possible railway traffic in transit through its territory at reasonable rates and shall be prepared to conclude with neighboring States reciprocal agreements for this purpose.

2. The Allied and Associated Powers undertake to support inclusion in the settlement in relation to Germany of provisions to facilitate transit and communication without customs duties or charges between Salzburg and Lofet (Salzburg) across the Reichenhall-Steinpass and between Scharnitz (Tyrol) and Ehrwald (Tyrol) via Garmisch-Partenkirchen.

Art. 33: Scope of Application: The Articles entitled "United Nations Property in Austria" and "General Economic Relations" of the present Treaty shall apply to the Allied and Associated Powers and to those of the United Nations which had that status on 8th May, 1945, and whose diplomatic relations with Germany were broken off during the period between 1st September, 1939 and 1st January, 1945.

Part IX: Final Clauses

Art. 34: Heads of Mission: 1. For a period not to exceed eighteen months from the coming into force of the present Treaty, the Heads of the Diplomatic Missions in Vienna of the Soviet Union, the United Kingdom, the United States of America and France acting in concert, will represent the Allied and Associated Powers in dealing with the Government of Austria in all matters concerning the execution and interpretation of the present Treaty. 2. The Four Heads of Mission will give the Government of Austria such guidance, technical advice and clarification as may be necessary to ensure the rapid and efficient execution of the present Treaty both in letter and in spirit. 3. The Government of Austria shall afford to the said Four Heads of Mission all necessary information and any assistance which they may require in the fulfilment of the tasks devolving on them under the present Treaty.

Art. 35: Interpretation of the Treaty: 1. Except where another procedure is specifically provided under any Article of the present Treaty, any dispute concerning the interpretation or execution of the Treaty which is not settled by

direct diplomatic negotiations shall be referred to the Four Heads of Mission acting under Article 34, except that in this case the Heads of Mission will not be restricted by the time limit provided in that Article. Any such dispute not resolved by them within a period of two months shall, unless the parties to the dispute mutually agree upon another means of settlement, be referred at the request of either party to the dispute to a Commission composed of one representative of each party and a third member selected by mutual agreement of the two parties from nationals of a third country. Should the two parties fail to agree within a period of one month upon the appointment of the third member, the Secretary-General of the United Nations may be requested by either party to make the appointment.

2. The decision of the majority of the members of the Commission shall be the decision of the Commission, and shall be accepted by the parties as definitive and binding.

Art. 36: Force of Annexes: The provisions of the Annexes shall have force and effect as integral parts of the present Treaty.

Art. 37: Accession to the Treaty: 1. Any member of the United Nations which on 8th May, 1945 was at war with Germany and which then had the status of a United Nation and is not a signatory to the present Treaty, may accede to the Treaty and upon accession shall be deemed to be an Associated Power for the purposes of the Treaty. 2. Instruments of accession shall be deposited with the Government of the Union of Soviet Socialist Republics and shall take effect upon deposit.

Art. 38: Ratification of the Treaty: 1. The present Treaty, of which the Russian, English, French and German texts¹⁴ are authentic, shall be ratified. It shall come into force immediately upon deposit of instruments of ratification by the Union of Soviet Socialist Republics, by the United Kingdom of Great Britain and Northern Ireland, by the United States of America, and by France of the one part and by Austria of the other part. The instruments of ratification shall, in the shortest time possible, be deposited with the Government of the Union of Soviet Socialist Republics. 2. With respect to each Allied and Associated Power whose instrument of ratification is thereafter

¹⁴ For the Russian, French, and German texts, see Treaties and Other International Acts Series (TIAS) 3298

deposited, the Treaty shall into force upon the date of deposit.

The present Treaty shall be deposited in the archives of the Government of the Union of Soviet Socialist Republics, which shall furnish certified copies to each of the signatory and acceding States.

In faith whereof the undersigned Plenipotentiaries have signed the present Treaty and have affixed thereto their seals.

Done in the city of Vienna in the Russian, English, French and German languages this day of May 15, 1955.

(seal)	Vyacheslav Mikjailovich Molotov
(seal)	Ivan I. Ilyichev
(seal)	Harold Macmillan
(seal)	Geoffrey Wallinger
(seal)	John Foster Dulles
(seal)	Llewellyn E. Thompson
(seal)	A. Pinay
(seal)	R. Lalouette
(seal)	Leopold Figl

The term "war materiel" as used in the present Treaty shall include all arms, ammunition and implements specially designed or adapted for use in war as listed below. The Allied and Associated Powers reserve the right to amend the list periodically by modification or addition in the light of subsequent

scientific development.

Category I: Military rifles, carbines, revolvers and pistols; barrels for these weapons and other spare parts not readily adaptable for civilian use. 2. Machine guns, military automatic or autoloading rifles, and machine-pistols, barrels for these weapons and other spare parts not readily adaptable for civilian use; machine gun mounts. 3. Guns, howitzers, mortars (minenwerfer), cannon special to aircraft, breechless or recoilless guns and flamethrowers; barrels and other spare parts not readily adaptable for civilian use; carriages and mountings for the foregoing. 4. Rocket projectors; launching and control mechanisms for self-propelling and guided missiles and projectiles; mountings for same. 5. Self-propelling and guided missiles, projectiles, rockets, fixed ammunition and cartridges, filled or unfilled, for the arms listed in subparagraphs 1-4 above, and fuses, tubes or contrivances to explode or operate them. Fuses required for civilian use are not included. 6. Grenades, bombs, torpedoes, mines, depth charges and incendiary materials or charges, filled or unfilled; all means for exploding or operating them. Fuses required for civilian use are not included. 7. Bayonets.

Category II: 1. Armoured fighting vehicles, armoured trains, not technically convertible to civilian use. 2. Mechanical and self-propelled carriages for any of the weapons listed in Category I: special type military chassis or bodies other than those enumerated in sub-paragraph 1 above. 3. Armour plate, greater than three inches in thickness, used for protective purpose in warfare.

Category III: 1. Aiming and computing devices for the preparation and control of fire, including predictors and plotting apparatus, for fire control; direction of fire instruments; gun sights; bomb sights; fuse setters; equipment for the calibration of guns and fire control instruments. 2. Assault bridging, assault boats and storm boats. 3. Deceptive warfare, dazzle and decoy devices. 4. Personal war equipment of a specialized nature not readily adaptable to civilian use.

Category IV: 1. Warships of all kinds, including converted vessels and craft designed or intended for their attendance or support, which cannot be technically reconverted to civilian use, as well as weapons, armour, ammunition, aircraft and all other equipment, materials, machines and installations not

used in peace time on ships other than warships. 2. Landing craft and amphibious vehicles or equipment of any kind; assault boats or devices of any types as well as catapults or other apparatus for launching or throwing aircraft, rockets, propelled weapons or any other missile, instruments or devices whether manned or unmanned, guided or uncontrolled. 3. Submersible or demi-submersible ships, craft, weapons, devices, or apparatus of any kind, including specially designed harbor defense booms, except as required by salvage, rescue or other civilian uses, as well as all equipments, accessories, spare parts, experimental or training aids, instruments or installations as may be specially designed for the construction, testing, maintenance or housing of the same.

Category V: 1. Aircraft assembled or unassembled, both heavier and lighter than air, which are designed or adapted for aerial combat by the use of machine guns, rocket projectors or artillery, or for the carrying and dropping of bombs, or which are equipped with, or which by reason of their design or construction are prepared for, any of the appliances referred to in sub-paragraph 2 below. 2. Aerial gun mounts and frames, bomb racks, torpedo carriers and bomb release or

torpedo release mechanism, gun turrets and blisters. 3. Equipment specially designed for and used solely by airborne troops. 4. Catapults or launching apparatus for shipborne, land-or-sea-based aircraft; apparatus for launching aircraft weapons. 5. Barrage balloons.

Category VI: Asphyxiating, vesicant, lethal, toxic or incapacitating substances intended for war purposes, or manufactured in excess of civilian requirements.

Category VII: Propellants, explosives, pyrotechnics or liquified gases destined for propulsion, explosion, charging, or filling of, or for use in connection with, the war materiel in the present categories, not capable of civilian use or manufactured in excess of civilian requirements.

Category VIII: Factory and tool equipment specially designed for the production and maintenance of the materiel enumerated above and not technically convertible to civilian use.

ANNEX II

Having regard to the arrangements made between the Soviet Union and Austria, and recorded in the Memorandum signed at Moscow on April 15, 1955, Article 22 of the present Treaty shall have effect subject to the following provisions: 1. On the basis of the pertinent economic provisions of the April 15, 1955 arrangements between the Soviet Union and Austria, the Soviet Union will transfer to Austria within two months from the date of entry into force of the present Treaty, all property, rights and interests to be retained or received by it in accordance with Article 22, except the Danube Shipping Company (D.D.S.G.) assets in Hungary, Rumania and Bulgaria. 2. It is agreed that in respect of any property, right or interest transferred to Austria in accordance with this Annex, Austria's rights shall be limited only in the manner set out in paragraph 13 of Article 22.

Soviet-Austrian Memorandum, April 15, 1955¹⁵

MEMORANDUM: CONCERNING THE RESULTS OF THE CONVERSATIONS BETWEEN THE GOVERNMENT DELEGATION OF THE REPUBLIC OF AUSTRIA AND THE GOVERNMENT DELEGATION OF THE SOVIET UNION

I

In the course of conversations regarding the earliest conclusion of the Austrian State Treaty in Moscow from the 12th to the 15th of April 1955 agreement was reached between the Soviet and the Austrian delegations that, with regard to the declarations made by the members of the Soviet Government - the Deputy Chairman of the Council of Ministers and the Minister for Foreign Affairs of the U.S.S.R., V. M. Molotov, and the Deputy Chairman of the Council of Ministers of the U.S.S.R., A. I. Mikhoyan - Federal Chancellor Ing. Julius Raab, Vice Chancellor Dr. Adolf Schaerf, Foreign Minister Dr. h. c. Ing. Leopold Figl, State secretary Dr. Burno Kreisky, in connection with the conclusion of the Austrian State Treaty will see to it that the following decisions and measures of the Austrian Federal Government are brought about. 1. In the sense of the declaration already

¹⁵ Reprinted from S. Exec. G, 84th Cong., 1st sess., pp. 40-43.

given by Austria at the conference in Berlin in 1954 to join no military alliances and to permit no military bases on its territory, the Austrian Federal Government will make a declaration in a form which will obligate Austria internationally to practice in perpetuity a neutrality of the type maintained by Switzerland. 2. The Austrian Federal Government will submit this Austrian declaration in accordance with the terms of the Federal Constitution to the Austrian Parliament for decision immediately after ratification of the State Treaty. 3. The Federal Government will take all suitable steps to obtain international recognition for the declaration confirmed by the Austrian Parliament. 4. The Austrian Federal Government will welcome a guarantee by the four great powers of the inviolability and integrity and integrity of the Austrian State Territory. 5. The Austrian Federal Government will seek to obtain from the Governments of France, Great Britain and the United States of America such a guarantee by the four great powers. 6. The federal Government will, after return of German assets in the Soviet Zone of Occupation to Austria, take measures which will exclude a transfer of these assets to the possession of foreigners including juridical persons of private or public

character. Furthermore, it will see to it that no discriminating measures will be taken against the employees of the former USIA concerns, of the concerns of the former Soviet mineral oil administration, the Corporation OROP, and the DDSG.¹⁶

II

The Deputy Chairman of the Council of Ministers, V. M. Molotov and A. I. Mikhoian, made the following declaration in the name of the Soviet Government with regard to the declarations of the Austrian Government delegation: 1. The Soviet Government declares itself to be in agreement that all occupation troops of the four powers be withdrawn from Austria after the entry into force of the State Treaty, no later than on the 31st of December 1955. 3. The Soviet Government considers Articles 6, 11, 15, 16-bis and 36 as obsolete or superfluous and is prepared to drop these Articles. It is prepared, moreover, to drop also Article 48-bis if Austria is simultaneously prepared to drop its demands against the Soviet Union for the so-called "civilian occupation costs". It will support, moreover, the

¹⁶ USIA, OROP, and DDSG refer, respectively, to the Administration of Soviet Industries in Austria, the Distribution Company for Oil Products of Austrian and Soviet Origin, and the Danube Shipping Company.

Austrian Government in its efforts to attain further possible changes in the draft of the State Treaty, and will agree to such changes. However, agreement exists that the negotiations leading to the conclusion of the State Treaty between the four powers and Austria are not to be drawn out unnecessarily by proposals to change the Treaty. 4. The Soviet Government is prepared to recognize the declaration concerning the neutrality of Austria. 5. The Soviet Government is prepared to participate in a guarantee by the four powers of the inviolability and integrity of the Austrian State Territory - according to the model of Switzerland.

III

As a result of the exchange of opinions which has taken place, the delegations have reached the following conclusions:

CONCERNING THE DELIVERY OF GOODS to the U.S.S.R. in compensation for the value of Soviet enterprises in Austria as handed over in accordance with the Austrian State Treaty (Article 35):

1. The Soviet Government is prepared, in the sense of its pledge given at the Conference in Berlin in 1954, to accept Austrian goods in the equivalent of 150 million American

dollars provided for in Article 35 as a lump sum; 2. The Soviet delegation takes note of the declaration of the Austrian delegation that the latter accepts as a basis the list of goods which it has received from the Soviet delegation, and in this connection specially authorized representatives of the Austrian Government will go to Moscow not later than the end of May of this year. 3. The Soviet delegation also takes note of the declaration of the Austrian delegation that the Austrian Government will form a special commission which will concern itself with the terminal dates and quality of the shipments of goods to the Soviet Union, and specifically in the agreed upon amounts for the lump sum of 150 million American dollars, that is 25 million American dollars annually. 4. The Austrian delegation has declared itself prepared to guarantee to representatives of the Soviet purchaser the possibility to carry out examinations upon receipt of the goods which are destined to be delivered to the Soviet Union on account of the above-named sum. It is agreed that the delivery of the goods should be free to the Austrian border and at world market prices. The prices and the amount of goods will be agreed upon by both parties annually three months before the beginning of each

year. The Austrian National Bank will issue promissory notes to guarantee the above delivery of goods for the sum of 150 million American dollars indicated in the draft of the State Treaty. The promissory notes of the Austrian National Bank will be returned according to the liquidation of the sum by the delivery of goods. CONCERNING THE TRANSFER TO AUSTRIA of the oil enterprises held by the U.S.S.R. in Austria:

1. The Soviet delegation accepts the proposal of the Austrian delegation, according to which the Austrian delegation, according to which the Austrian Government in return for the oil fields and oil refineries held by the U.S.S.R. and transferred to Austria will pay the Soviet Union by delivery of crude oil to the extent of one million tons annually for a period of ten years, therefore a total of ten million tons. The Soviet delegation takes note of the declaration of the Austrian delegation that the Austrian Government reserves the right to carry out deliveries of the aforementioned quantity of crude oil to the Soviet Union also in shorter periods of time. The crude oil to be delivered under the following conditions: delivered free to the Austrian border, duty and customs free.
2. The Austrian delegation has taken note of the declaration

of the Soviet delegation that the oil enterprises and oil fields transferred by the Soviet Union to Austria include also refineries and the company for marketing oil products (OROP).

CONCERNING THE TRANSFER TO AUSTRIA of assets of the Danube Steamship Company in Eastern Austria: The Soviet side transfers to Austria all properties of the Danube Steamship Company, which are located in Eastern Austria, including the shipyard in Korneuburg, the ships and dock facilities, for which the Austrian Government will pay simultaneously with the transfer the amount of two million American dollars to the Soviet Union. CONCERNING TRADE between the Soviet Union and Austria: 1. Agreement was reached between the Soviet Union and Austria to conclude a trade treaty for a period of five years with an automatic extension as long as no termination of the treaty is brought about by one of the parties. 2. Furthermore, agreement was reached that a treaty regarding the exchange of goods and payments between Austria and the Soviet Union be concluded for a period of five years, according to which the amount of goods is to be agreed upon annually.

Done in two copies, in the German and Russian languages, of which both texts are of equal authenticity.

In verification of the above this Memorandum is signed by

For the Government Delegation
of the Soviet Union:

B.M. Molotov

A. I. Mikoyan

For the Austrian
Delegation:

J. Raab

A. Schaerf

L. figl

B. Kreisky

Moscow, 15 April 1955

Memorandum by the United States, the United Kingdom, and
Austria, May 10, 1955¹⁷

MEMORANDUM: CONCERNING THE RESULTS OF THE DISCUSSIONS BETWEEN
MEMBERS OF THE AUSTRIAN FEDERAL GOVERNMENT AND THE AMBASSADORS
OF HER BRITANNIC MAJESTY AND OF THE UNITED STATES OF AMERICA

On the occasion of the Conference of Ambassadors in Vienna,
with a view to the earliest possible conclusion of the Austrian
State Treaty, discussions took place between Her Britannic
Majesty's Ambassador Sir Geoffrey Arnold Wallinger, K.C.M.G.,
and the Ambassador of the United States of America, Mr.
Llewellyn E. Thompson, of the one part, and the members of
the Austrian Federal Government Federal Chancellor Ing.

¹⁷ Reprinted from Treaties and Other International Acts Series
(TIAS) 3560, pp. 10-15.

Julius Raab, Vice-Chancellor Dr. Adolf Schaerf, Federal Minister of Foreign Affairs Dr. (h.c.) Leopold Figl and State Secretary for Foreign Affairs Dr. Bruno Kreisky, of the other part, with the following result:

I

1. The two Ambassadors gave an assurance to the above-mentioned members of the Austrian Federal Government that the United Kingdom and the United States of America will transfer to Austria the property, rights and interests which are subject of paragraph 11 of Article 35 of the draft State Treaty in its present version.
2. The two Ambassadors referred to the fact that the former German assets situated in the U.S. and British Zones were handed over to Austrian administrative control as long ago as 1946. Their Governments, in conformity with their intention declared in 1949 to hand over to Austria the former German assets in Western Austria upon the entry into force of the Austrian State Treaty, have taken measures outside Austria for the recognition of Austria's future title to those assets.

3. These former German assets will be transferred to Austria by virtue of the Austrian State Treaty with the aim of strengthening the Austrian economy and in order to compensate Austria to a certain extent for its waive of existing claims against Germany resulting from the period of occupation of Austria by Germany.

4. This transfer will, furthermore, be made without payment or other consideration given to the United Kingdom and the United States of America by Austria.

5. The Ambassador of the United States of America stated his understanding that his Government did not intend to remove the buildings erected in Austria by the United States of America for occupation purposes, and that his Government would be prepared to consider promptly and sympathetically any proposals by the Austian Federal Government for the acquisition by Austria of these properties, fixtures and installations on advantageous terms. 6. Her Britannic Majesty's Ambassador confirmed that all married families' quarters constructed at United Kindom expense will be handed over to the Austrian Authorities in a manner advantageous to Austria. Furthermore, his Government would be prepared to consider sympathetically

a similar disposition of the equipment and fixtures belonging to the occupation forces of the United Kingdom in Austria.

7. The two Ambassadors further declared that with a view to expediting final agreement on the text of the Austrian State Treaty, they would support the Austrian Government in its efforts to obtain possible changes in the State Treaty favorable to Austria. 8. Her Britannic Majesty's Ambassador further agreed that he would, so far as he was able, support the deletion from the State Treaty of Annexes VIII and X¹⁸ upon request of the Austrian Government. It was stated that Austria would give effect to the provisions of these Annexes in regard to the few cases which are involved by the conclusion of bilateral arrangements in so far as this was still necessary.

II

In view of the declarations of the Ambassadors of Her Britannic Majesty and of the United States of America set out in I, above, the above-mentioned Members of the Austrian Federal Government declared that they will ensure that as soon as possible after the entry into force of the State Treaty, but at the latest

¹⁸ Annexes VIII and X were deleted from the final treaty text.

within 21 months from that date, unless otherwise stipulated below, the following decisions and measures will be effected:

1. In view of the indirect 100 percent ownership rights which the firms Anglo-Saxon Petroleum Co. Ltd. and Socony Vacuum Oil Co. held before the entry into force of the State Treaty in the Lobau refinery and the Zistersdorf-Lobau pipeline, these assets will be transferred either to these firms directly or to their subsidiary company Oesterreichische Mineraloelwerke. If the Austrian Federal Government is prevented from doing this, it will give adequate satisfaction to the above-mentioned firms as set forth in the Declaration of November 29, 1949.
2. The firms Anglo-Saxon Petroleum Co. Ltd. and Standard Oil Co. (N.J.) will, in view of their indirect 50 percent (25 percent each) participating interests in the Korneuburg refinery which they held prior to the entry into force of the State Treaty, receive adequate satisfaction as set forth in the Declaration of November 29, 1949.
3. The firms Anglo-Saxon Petroleum Co. Ltd. and Standard Oil Co. (NJ.) will, in view of their 50 percent (25 percent each) indirect participating interests in the distribution installations of the Deutsche Gasolin A. G. and Gasolin Ges. m. b. H. situated in Eastern

Austria, receive compensation in the form of a transfer to them of the 50 percent German interests in the distribution installations in Western Austria of the Deutsche Gasolin A. G. and its subsidiary company Gasolin Ges. m. b. H. 4. In view of a possible American 25 percent indirect participating interest in the Hotel Nordbahn-Gesellschaft and of a possible 5.6 percent British indirect participating interest in the Osram Ges. m.b.H.m shareholding rights of the same intrinsic value in other firms engaged in similar commercial activities in Austria will be transferred. If the Austrian Federal Government is not in a position to do this, the shareowners will receive adequate compensation therefor. 5. The Atzgersdorf factory of the Austrian Unilever A. G., which is British-Dutch property, will be handed over to the Austrian Unilever A. G. as soon as possible. 6. The firms Roholgewinnungs-Aktiengesellschaft (RAG), Van Sickle and possibly Austrogasco and Steinberg-Naphta have lost exploration rights (Freischurfrechte) for bitumen as a result of German legislation or as a result of alleged cancellation pursuant to restitution laws. By reason of this fact and to give effect to the Declarations of November 29, 1949, Zl. 89.095 - Pol/49 of Juli 31, 1951, Zl.

137.556 - Pol/51, and the accompanying note thereto, the Austrian Federal Government declares itself ready, in so far as this has not already been done, to enter into negotiations with these firms or their British, Canadian or American share-owners, who on March 12, 1938 held exploration rights which they lost as a result of German legislation or through cancellation pursuant to Austrian restitution laws, in order to reach a settlement satisfactory to the parties concerned. In so doing, the Austrian Federal Government does not intend to transfer to the ownership of the above-mentioned firms assets in the areas shown in Lists 1 and 2 of Article 35¹⁹ of the draft State Treaty in the version existing at the beginning of the Conference of Ambassadors except in restitution cases failing under Austrian restitution legislation. In the case of RAG, however, the Austrian Federal Government intends to fulfill this declaration first of all by endeavoring to conclude operating agreements with this firms satisfactory to both parties for the purpose of developing the oil resources in Austria.

7. A. The Ambassadors of Her Britannic Majesty and of the

¹⁹ Redrafted as Lists 1 and 2 or article 22 of the final treaty text.

United States of America have declared as follows: a) At the time of the promulgation of the Nationalization Law of July 26, 1946 (BGBl. No. 168), the Anglo-Saxon Petroleum States nationality respectively, were the direct or indirect owners of the shares of the Shell Floridsdorfer Mineraloelfabrik and of Vacuum Oil Co. respectively. All investments in these Austrian companies since the coming into force of the Nationalization Law have been made exclusively by the parent companies or by the Austrian companies out of their own resources.

b) At the time of the promulgation of the Nationalization Law of July 26, 1946 (BGBl. No. 168), the Anglo-Saxon Petroleum Co. Ltd. and the Socony Vacuum Oil Co. Inc., which are of British and United States nationality respectively, were the direct or indirect owners of the shareholding rights in the Oesterreichische Mineraloelwerke Ges. m.b.H. (Oe. M. V.).

c) At the time of the promulgation of the Nationalization Law of July 26, 1946 the Socony Vacuum Oil Co Inc. and the Anglo-Saxon Petroleum Co. Ltd., which are of United States and British nationality respectively, were the direct owners of the shares of the Rohoel-Gewinnungs A. G. (RAG). At the same time the Standard Oil Co. (N. J.), which is of United States

nationality, was the direct owner of shareholding rights in Austrogasco. At that time Richard Keith van Sickle, a Canadian citizen, was the direct owner of the firm Tiefbohrunternehmen R. K. van Sickle. All investments in RAG and Tiefbohrunternehmen R. K. van Sickle since the coming into force of the Nationalization Law have been made exclusively by their parent companies (in the case of the Tiefbohrunternehmen R. K. van Sickle by Mr. Richard Keith van Sickle) or by themselves out of their own resources. B. On the assumption that the facts set out under A., above, are correct, the above-named members of the Austrian Federal Government declare that they will ensure that the following measures are taken by the Austrian Federal Government: ad a): The shares interests in the Austrian companies named under Item a) will be transferred to the ownership of the Anglo-Saxon Petroleum Co. Ltd. and of the Socony Vacuum Oil Co. respectively. ad b): After the retention of shareholding rights corresponding in value to the investments made in the Oe. M. W. by parties other than the companies named under Item b), the remaining shareholding rights in the Oe. M. W. will be transferred to the Anglo-Saxon Petroleum Co. Ltd. and the Socony Vacuum Oil Co. respectively; the proportion of

the shareholding rights is to be returned is to be agreed upon with these companies. ad c): The share interests and shareholding rights in the Austrian companies referred to in Item c) will be transferred to the parent companies therein referred to and, in the case of the Tiefbohrunternehmen R. K. van Sickle, to Mr. Richard Keith van Sickle. ad a) - c): It is understood that the re-establishment of ownership rights provided for in this Paragraph does not include the claims to rights in the areas formerly covered by exploration rights (Freischurfrechte) of the above-named companies and enterprises since the claims connected therewith are governed by the provisions of Paragraph 6. 8. The Declaration of the Austrian Federal Government of September 21, 1949 is affirmed. For the sake of clarity the Austrian Federal Government declares that the measures for the elimination of German property, rights and interests in the Western Zones of Austria and in the First District of Vienna shall not impair lawfully acquired property, rights and interests situated in these areas which are directly or indirectly owned by nationals Treaty, nor such property rights and interests which are to be restored in accordance with

Articles 42 and 44²⁰ of the draft State Treaty or under existing Austrian legislation. In all cases, however, in which direct or indirect property rights or interests in any part of the territory of Austria of nationals of the United Nations (Article 42, paragraph 8 of the draft State Treaty) are affected by the draft State Treaty, in particular by Article 35, the Austrian Federal Government moreover declares that it is ready to enter into negotiations with the member states of the United Nations concerned for the purpose of concluding mutually satisfactory agreements concerning recognition of and satisfaction for such property rights and interests. This declaration does not apply to nationals of a country within the territory of which Austrian property is subject to measures of confiscation. 9. None of the above declarations should in the Austrian view be interpreted in such a way that any compensation whatsoever, whether in cash or by way of payment in kind or in goods, is to be granted for any loss of production or profit during the period from the beginning of the occupation

²⁰ Redrafted as articles 25 and 26 of the final treaty text.

of Austria by Germany up to three month after the assumption of effective control by Austria and in any case not earlier than three months after the end of the occupation, nor for any damages or losses which occurred during this period. Amounts which were paid after March 12, 1938 to the share-owners in the above-mentioned companies or to the owners of these enterprises for the transfer of their participating interests, or for the assets and rights of the enterprises are to be debited. On the other hand, the investments made after nationalization went into effect by the original shareowners in nationalized companies or by the owners of such enterprises notwithstanding their nationalization will be credited in determining the value of their participating interests or assets, respectively. Increases in the value of the assets effected after March 12, 1938 out of the resources of parties other than the original share-owners are not to be credited in determining the value of the participating interests, but are to be redeemed by the respective claimants in a manner still to be agreed upon.

Done in three copies in the German language. For the purpose of authenticating the foregoing this Memorandum shall be initialed.

Vienna, May 10, 1955.

L(lewellyn) E. T(hompson, Jr.)
G(eoffrey) A. W(allinger)
R(aa)b

Sch(aerf)
F(igl)
K(reisk)y

(seal)

Franco-Austrian Memorandum, May 10, 1955²¹

FRANCO-AUSTRIAN MEMORANDUM, Vienna, May 10, 1955

During the discussion concerning an early conclusion of the Austrian State Treaty at Vienna, Mr. Roger Lalouette, Charge d'Affaires of the French Republic, stated: 1. That the French Government was prepared to waive all its claims against the Austrian Government or against Austrian citizens, arising out of deliveries of food supplies imported for the Austrian civilian population during the period from May 8, 1945 to the date of the coming into force of the State Treaty, with the exception of transactions of a commercial nature; 2. That the French Government was prepared to waive restitution of any of the following assets removed by force or duress from France during

²¹ Translation by the Department of State of the French text printed in French Ministry of Foreign Affairs, La documentation: Articles et documents; bulletin d'informations et de presse etrangere, No. 0.290, Dec. 3, 1955.

the German occupation, and now on Austrian territory, the right to restitution of which had been reserved under Article 2 of the Agreement of July 18, 1949²²: (a) Bearer-bonds, foreign currencies, and precious metals (in cash or bullion); (b) Rolling stock; 3. That the french Government was prepared to relinquish all its rights deriving from its sucession to the rights of the Czechoslovak Government with regard to the restitution of property in the French Zone of Occupation in Austria. On their part, Mr. Julius Raab, Federal Chancellor, Dr. Adolf Schaerf, Vice Changellor, Dr. Leopold Figl, Federal Minister of Foreign Affairs, and Dr. Bruno Kreisky, Secretary of State for Foreign Affairs, stated that they would see that the Austrian Government took the following decisions and measures within an appropriate period after the coming into force of the State Treaty, but not later than eighteen months its coming into force: 1. Any of the following assets taken by force or duress during the German occupation in France and discovered in Autria, will be returned to France: (a) Cultural property, works of art, art objects, and objects belonging to collections: (b) Jewels, precious stones, period furniture,

²² Not printed.

and musical instruments if their present value exceeds 100,000 schillings. 2. In final settlement, a lump sum of 25 million schillings, to be paid in two equal annual installments, the first one year after the entry into force of the Treaty, and the second one year later, shall be paid to the French Government as compensation in view of the fact that the electric installations at Ranshofen and the petroleum extraction equipment located at Moosbierbaum could not be physically returned and that France waives all claim thereto. 3. The Austrian Federal Government, in order to restore the interests of the S.F.I.C.P.²³ in the oil refinery at Schwechat (NOVA), will: (a) Transfer to an open account in the name of the S.F.I.C.P. a fair compensation, the amount of which shall be fixed by agreements between the Austrian Government and the French company, account being taken of all the elements involved; (b) Facilitate, within a period of eighteen months after the coming into force of the State Treaty, the investment of the sums so deposited in the petroleum products industry or trade in Austria, in such a way that the French company will recover its interests and resume its

²³ Societe Francaise Industrielle et Commerciale des Petroles.

activities as they existed before the Anschluss; (c) Reinstate the S.F.I.C.P., in accordance with the provisions of paragraphs 7 and 9 of the Anglo-American-Austrian memorandum of this date, in the rights and interests that it had in the refinery at Schwechat on March 13, 1938, in case the regulation to which the oil refineries in Eastern Austria are at present subject should be changed in favor of other United Nations nationals.