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Authority DDI 887208
By TB NARA Date 12/1/99

RG 59
Entry Lot # 580723
File # 586
Box 2

Without Annex D

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Files of the Vermogensverkehrsstelle
in custody of the
Federal Ministry of Finance, Vienna.

The files contain the records of the aryanization of

30.000 houses
10.000 commercial enterprises
5.000 handicraft enterprises
1.500 industries
200 export business
1.000 transport enterprises
80 banks
17.000 liquidated firms

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Authority MOD 887208
By TJB NARA Date 12/1/99RG 59
Entry Lot # 580223
File # 586
Box 8Annex FThe essential difference between
legislation on restitution
in
Austria and in Germany

1. It is frequently thought that the essential difference between legislation on restitution in Austria and in Germany lies in the fact that
 - a) in Austria
only property can be claimed which can be still identified when the claim is lodged or adjudicated, (traceable property), while
 - b) in Germany
identifiability at the time of confiscation is sufficient.
2. Art. 3 of the Third (Austrian) Restitution Law provides that all confiscations are null and void. It also provides that as far as the Third Law itself established no other rules, the rules apply which in general Austrian Civil Law govern the consequences of nullity of contracts concluded as a result of unjust and wellfounded apprehension. These rules are contained in art. 870-874 of the Austrian Civil Code.

Art. 874 reads as follows:

"whoever accomplishes a contract by slight or unjust apprehension has to give satisfaction for all detrimental consequences."

According to the wording of the law a restitutor who cannot restitute in natura is therefore at least liable to indemnify the restitutee for the value of the confiscated object (art. 338, 339 and 346 Austrian Civil Code) unless the object would have been destroyed by accident even if it had remained in possession of the restitutee (art. 338 Austrian Civil Code).

Consequently claims under the Third Restitution Law are not restricted to traceable property. In cases of untraceable property the restitutee has rights very similar and possibly stronger than those established in art. 30 and 31 US Mil. Gov. Law No. 59, provided, of course, that he can identify the restitutor.

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3. It is true that the Highest Restitution Commission in at least one decision (Rkv 204/48 of December 18th, 1948) has used a language which seems to indicate that even claims for indemnification can be lodged only against persons "who are in possession of the confiscated property at the time of filing the claim", but the decision states in the next sentence: "Only when restitution in natura cannot be achieved in this way, is the owner entitled to claim indemnification, provided that the conditions for such a claim exist." It can therefore be assumed that this decision, which after all could not alter the law, only wanted to state that claims for indemnification can only be entertained if a claim for restitution cannot succeed. This condition is, however, already given if a claim for restitution in natura cannot succeed because the whereabouts of the confiscated object are unknown while one of the former possessor is known.
4. If this interpretation of the Third Restitution Law is accepted the difference between restitution in Austria and Germany lies not in the fact that only traceable property can be claimed in Austria but in the fact that the Bund has accepted liability for indemnification of untraceable property confiscated by the Reich.

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Annex G

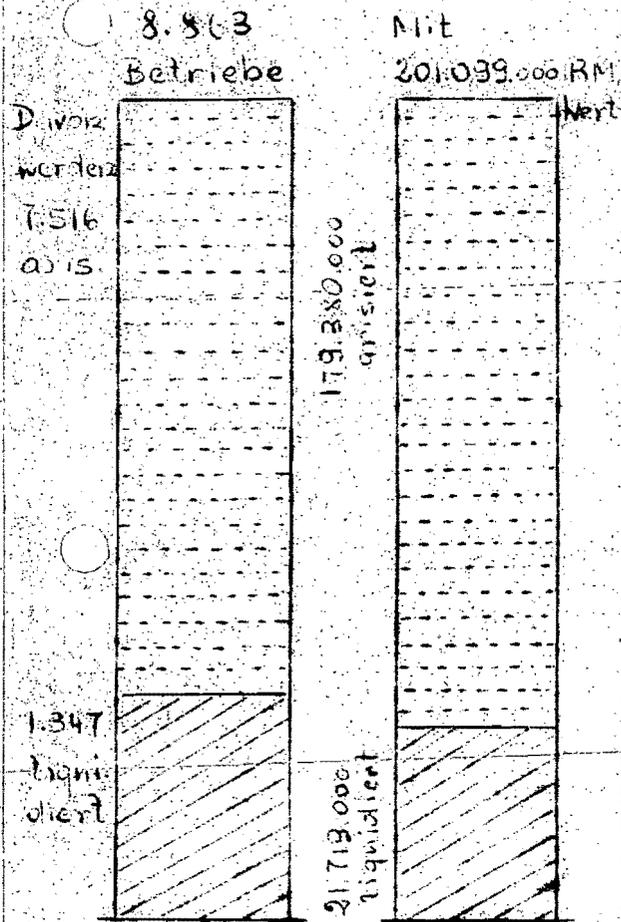
Unclaimed Real Estate in Vienna

Dis- trict	Encumbrances				Sales Price	Einheitswert
	a. sh.	RM	n. sh.	total		
1.	273.000	102.280	612.147	987.427	733.645	3.262.600.--
2.	955.287	211.878	5567.746	6,734.911	2,200.853	6.898.239.32
3.	---	49.000	2027.682	2,076.682	1,792.079	3,207.380.--
4.	15.900	48.000	966.300	1,030.200	1,000.000	1,904.613.32
5.	40.700	115.000	1025.662	1,181.362	959.933	1,449.873.32
6.	55.000	35.300	1653.000	1,743,300	481.893	766.553.32
7.	122.200	103.779	342.575	568.554	1,586.633	2,367.346.65
8.	18.000	56.512	319.900	394.412	604.657	978.413.32
9.	203.500	130.750	553.743	887.993	1,101.550	2,359.683.32
10.	194.920	333.502	3,464.887	3,993.309	1,475.016	2,555.454.--
11.	5.323	179.626	106.371	291.320	163.809	303.233.32
12.	2.376	108.062	1,386.924	1,497.362	814.728	1,043.153.45
13.	133.932	96.787	2,458.095	2,688.814	1,058.381	1,955.477.32
14.	41.660	185.133	96.000	322.793	346.308	512.951.25
15.	54.535	91.113	412.867	558.515	510.103	744.406.65
16.	201.893	99.769	724.835	1,026.497	487.285	1,093.620.--
17.	69.468	131.482	2,068.017	2,268.967	762.007	852.698.--
18.	207.986	73.703	717.278	998.967	1,341.595	1,965.920.--
19.	241.487	339.443	1,992.491	2,573.421	1,109.335	1,126.022.32
20.	160.431	1,941.863	741.678	15,843.972	898.624	1,781.340.--
21.	44.115	942.410	6,579.519	7,566.044	641.635	1,204.412.--
Total	3,041.713	18,375.392	33,817.717	55,234.822	20,070.069	38,333.390.88

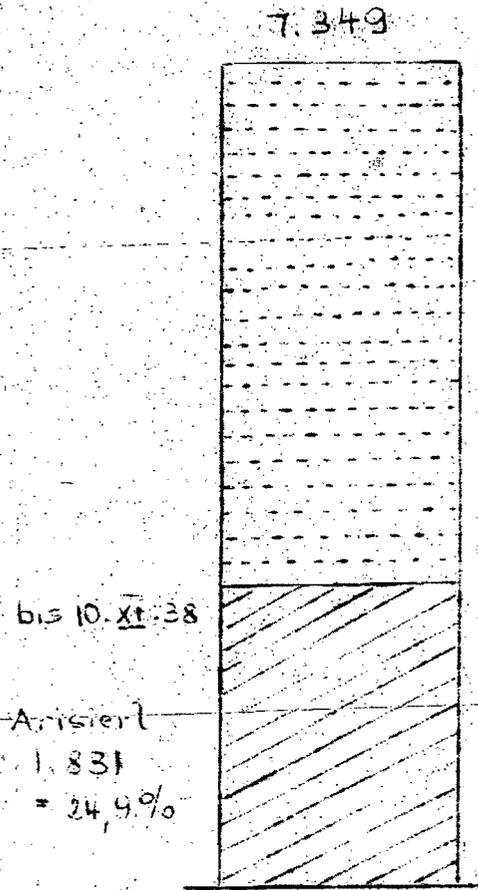
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 By: TP NARA Date: 12/1/99

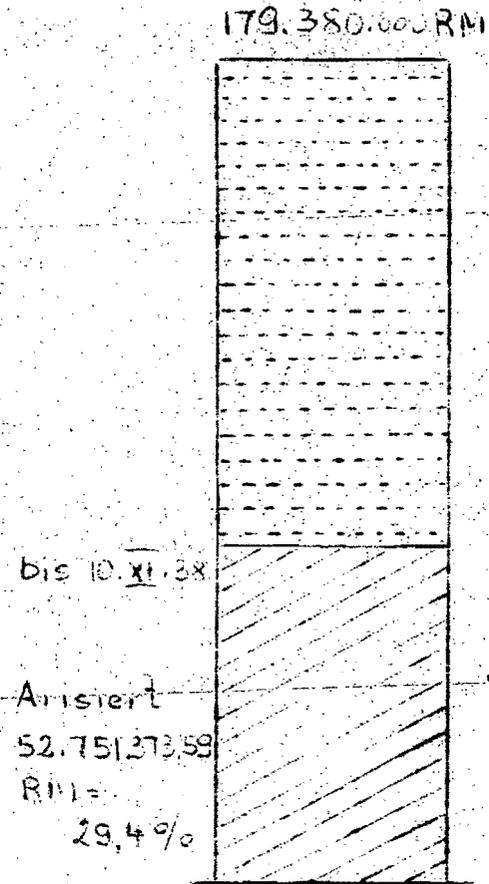
2.) JÜD. BETRIEBE LAUT
 VERMÖGENSAMMEL-
 DUNG - per 27. Apr 1938



3.) VON DEN ZU ARISIERT-
 ENDEN BETRIEBEN



4.) VON DEN ZU ARISIERT-
 ENDEN WERTEN PER



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Authority: E.O. 12812

By: SP NARA Date: 12/1/99

Annex H

Survey of unclaimed real estate in Upper Austria

	Number of Jews in 1934	Number of Objects	Value in report of 1938 b)	Sales Price b)	Einheitswert b)	Market value b)	Evaluation for duty b) on sale	without evaluation:
Linz	679	26	16 559,407 c) 2 41,700 R	1 10,000				7
Bad Ischl	43	22		14 351,550	1 14,000			7
Gmunden	77	9	3 70,000			2 51,000		2 2 R
Steyr	78	8	4 43,487 1 19,000	3 66,967				
Voecklabruck	1	6		3 56,300			2 10,000	1 R
Total	a) 878	c) 71	23 672,894 c) 3 60,700 R	21 484,817	1 14,000	2 51,000	2 10,000	16 3 R

- a) Total number of Jews resident in Upper Austria in 1934 was: 966.
b) Number of objects.
c) Including one plot of land, all other objects are houses.
R Objects in the name of the Reich.

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Annex I

S u r v e y of unclaimed real estate in Lower Austria

	Number of Jews in 1934	Number of Objects	Value in Report of 1938 b)	Sales Price b)	Einheitswert b)	Without Evaluation:
Baden	1,255	157	40 1,096,508	71 1,802,444		46
Bruck a.D.L.	53	13	3 102,192	5 172,433		5
Gaenserndorf	208	26	14 848,500	5 37,430		7
Gloggnitz	92	54	14 641,344	15 1,224,776		25
Gross Enzersdorf	110	82	12 191,887	14 71,788		56
Hainburg	12	5		2 11,413		3
Hollabrunn	100	13		6 68,750	5 12,530	2
Klosterneuburg	270	12	5 72,300	3 25,725		4
Korneuburg	52	15		1 11,000		14
Liesing	619	86		36 1,177,485		50
Mistelbach	103	6		5 94,633		1
Moedling	425	54		19 500,153		35
Neulengbach	73	18	1 21,000	9 157,108	1 4,500	7
Neunkirchen	219	10	1 40,000	5 54,006	1 5,000	3
Purkersdorf	165	41	4 12,761	14 185,520		23
St. Poelten	348	30		8 70,500		22
Schwechat	99	25		7 98,499		18
Stockerau	104	9		6 46,155		3
Tulln	93	16		8 92,300	3 18,155	5
Wiener Neustadt	722	34	13 254,199	9 70,991		12
Total:	5,182 ^{a)}	706	107 3,280,691	248 5,973,109	10 40,185	341

a) Total number of Jews resident in Lower Austria in 1934 was: 7,716

b) Number of objects.

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Annex K

S u r v e y

of unclaimed real estate in Burgenland

	Number of Jews in 1934	Number of Objects	Houses	Plots of Land
Eisenstadt	539	75	37	38
Neusiedl	691	98	45	53
Mattersburg	623	125	104	21
Pullendorf	1,150	181	129	52
Total:	^{a.)} 3,003	479	315	164

a) Total number of Jews resident in Burgenland in 1934 was: 3, 632

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Annex I

Voelkischer Beobachter 4. I. 1939 No. 4 Seite 2

Aus der Arbeit der Vermoegensverkehrsstelle

Auf Grund des Gesetzes vom 18. 5. 1938 (Ges. Bl. fuer das Land Oesterreich) wurde in Wien die Vermoegensverkehrsstelle errichtet. Mit dem gleichen Gesetz wurden dieser Behoerde als Aufgaben zugewiesen: Die Entgegennahme der Anmeldungen des Judenvermoegens, die Genehmigung der Veraeusserung gewerblicher, land- und forstwirtschaftlicher Betriebe der Juden und die Genehmigung der Erwerbung oder Neuerrichtung von Erwerbsunternehmen durch Altreichsdeutsche oder Auslaender.

Mit diesen Bestimmungen wurde der neugeschaffenen Behoerde ein ungeheurer Aufgabenkreis uebertragen.

Die Ueberwachung der Anmeldungen des Judenvermoegens und die Genehmigung nach dem Gesetz zum Schutz der oesterreichischen Wirtschaft (Punkt 1 und 3) boten keine ausserordentlichen Schwierigkeiten. Die Anmeldung des Judenvermoegens hatte bis 30.6.1938 zu erfolgen und die Geltung des Schutzgesetzes war mit 1.10.1938 befristet. Es haben 47.768 Juden ein Vermoegen von mehr als 5.000 RM angemeldet.

Diese 47.768 Anmeldungen wurden bearbeitet und statistisch erfasst. Demnach bekannten die Juden folgende Vermoegen ein: In Unternehmungen 321.329.000 RM, an Wertpapiervermoegen 265.958.000 RM, in staedtischem Haus- und Grundbesitz 521.126.000 RM, an land- und forstwirtschaftlichem Besitz 36.673.000 RM. Insgesamt haben die Juden ein Vermoegen von 2.041.828.000 RM angemeldet. Die unter Punkt 3 angefuehrte Taetigkeit der Vermoegensverkehrsstelle, Ausnahmgenehmigungen nach dem Schutzgesetz zu erteilen, war auch nicht gering zu veranschlagen. Hier waren etwa 2.000 Faelle zu bearbeiten. Zur Arisierung waren 26.263 Betriebe zu untersuchen. Gebietsmaessig fallen diese Betriebe mit Ausnahme der Landwirtschaften zu 90% auf Wien, da gerade in dieser Stadt die starke Zusammenballung des juedischen Kapitals stattfand.

Vor allem war die Frage des Uebernahmepreises der Geschaeftse durch die hier zu regeln. Die Arisierung sollte nicht zu einer ungebuehrlichen Bereicherung fuehren. Man wollte keine Arisierungsgewinne schaffen. Nach reichlicher Ueberlegung kam man zu folgendem Vorgang: Im Zuge des Arisierungsverfahrens wird jedes Unternehmen von Wirtschaftspruefern eingehend untersucht und der Sachwert sowie der Verkehrswert festgesetzt.

Der Kaufpreis kommt grundsatzlich durch freie Vereinbarung zustande mit der Einschraenkung, dass der Kaufpreis den Sachwert nicht uebersteigen darf.

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Ueber den Kaufpreis hinaus, der dem Juden entrichtet wird, hat der Unternehmer die Differenz zwischen dem Kaufpreis und dem Verkehrswert an die Vermoegensverkehrsstelle abzugeben und wird dieser Betrag dann der Allgemeinheit gewidmet.

Die entsprechende Auswahl unter den Kaufwerbern bildet auch einen sehr wichtigen Punkt im Entjudungsverfahren. Vor allem musste sich die Vermoegensverkehrsstelle ueber die fachliche Eignung der Bewerber Klarheit schaffen. Dann war eine Beurteilung der Kaufwerber durch die Partei notwendig, um nicht Personen zu den verantwortungsvollen Posten eines Betriebsfuehrers gelangen zu lassen, die ihrer Einstellung nach hierzu ungeeignet sind. Die Vermoegensverkehrsstelle unterzieht sich also durch eine sorgfaeltige Sichtung der Bewerber einer sehr wichtigen Aufgabe, naemlich durch entsprechende Auswahl neue, ihrer Verantwortung gegenueber der Volksgemeinschaft bewusste Unternehmen zu erziehen.

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Der Staatskommissar in der Privatwirtschaft
Vermögensverkehrsstelle

S t a t i s t i s c h e r B e r i c h t
u e b e r

- I.) Juedische Betriebe und ihre Planung
- II.) Betriebe lt. Vermoegensanmeldung
- III.) Bisher arisierte und liquidierte Betriebe
- IV.) Bisher arisierte Werte

Der Staatskommissar in der
Privatwirtschaft und Leiter
der Vermoegensverkehrsstelle:

Stichtag: 10. XI.38
Wien, den 19. November 1938.

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I. Juedische Betriebe und ihre Planung:

Das durch die Fachabteilungen der Vermoegensverkehrsstelle ermittelte Planungsergebnis gibt ueber die Arierisierung und Liquidierung der juedischen Betriebe in der Ostmark folgendes Bild:

1.) Gewerbe (Handwerk, Beherbergungs- und Gaststaettengewerbe, Vermittlungsgewerbe, Apotheken und Kinos):

Hier wurden:

gezaehlt, von welchen 13.411 Betriebe
10.307 Betriebe
das sind 76.9 %
liquidiert

und

3.104 Betriebe
das sind 23.1 %
arisiert

werden.

2.) Handel, Presse- und Verlagswesen:

Hier wurden:

gezaehlt, von welchen 10.876 Betriebe
7.870 Betriebe
das sind 72.4 %
liquidiert

und

3.006 Betriebe
das sind 27.6 %
arisiert

werden.

3.) Industrie:

Hier wurden:

gezaehlt, von welchen 1.048 Betriebe
319 Betriebe
das sind 30.4 %
liquidiert

und

729 Betriebe
das sind 69.6 %
arisiert

werden.

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4.) B a n k e n, Versicherungsanstalten u.s.w.:

Hier wurden

gezählt, von welchen

und

werden.

84 Betriebe
77 Betriebe
 das sind 91.7 %
liquidiert

7 Betriebe
 das sind 8.3 %
arisiert

5.) V e r k e h r:

Hier wurden

gezählt, von welchen

und

werden.

443 Betriebe

334 Betriebe
 das sind 75.4 %
liquidiert

109 Betriebe
 das sind 24.6 %
arisiert

6.) L a n d- und F o r s t w i r t s c h a f t:

Hier wurden

gezählt, von welchen

und

werden

401 Betriebe

7 Betriebe
 das sind 1.7 %
liquidiert

394 Betriebe
 das sind 98.3 %
arisiert

7.) Z u s a m m e n s t e l l u n g:

Zusammengenommen zählen die vorgenannten Gruppen

von welchen

und

werden.

26.263 Betriebe
18.914 Betriebe
 das sind 72.1 %
liquidiert

7.349 Betriebe
 das sind 27.9 %
arisiert

(Siehe Bildstatistik 1/)

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II. Betriebe, lt. Vermoegensanmeldung (Stichtag: 27. Apr 1938)

Es wurden von den Juden und versippten Ariern auf Grund der gesetzlichen Vorschrift Betriebe mit einem Werte ueber RM 5.000.-- angemeldet:

Zusammen: 8.863 Betriebe, Wert RM 201.099.000.--

Es entfallen auf:

	<u>Betriebe:</u>	<u>Wert:</u>
a) Gewerbe (Handwerk).....	1.739	35.893.000.--
b) Handel	6.169	139.616.000.--
c) Industrie.....	795	20.216.000.--
d) Banken, Versicherungen	37	2.995.000.--
e) Verkehr	78	1.176.000.--
f) Land- und Forst- wirtschaft.....	45	1.203.000.--

Von diesen auf Grund der Vermoegensanmeldung erfassten Betrieben werden:

1.347 Betriebe
das sind 15.2%
liquidiert

und

7.516 Betriebe
das sind 84.8%
arisiert.

Es haben:

Die zur Arisierung kommenden 7.516 Betriebe einen Anmeldewert von RM 179.380.000.--
das sind 89.2 %

Die zur Liquidierung kommenden

einen Anmeldewert von RM 21.719.000
das sind 10.8 %

(Siehe Bildstatistik 2./)

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III. Bisher arisierte und liquidierte Betriebe:

Von den unter I. (Seite 2) angeführten Betrieben waren bis 10. November 1938:

1.) im Gewerbe:
 (Handwerk)

liquidiert: arisiert:

2.902 Betriebe 767 Betriebe
 das sind 28.2 % das sind 24.7%

Von der Gesamtzahl der 13.411
 Betriebe wurden daher 26.6 %
 entjudet.

2.) im Handel:

liquidiert: arisiert:

1.471 Betriebe 729 Betriebe
 das sind 18.7 % das sind 24.3%

Von der Gesamtzahl der 10.876
 Betriebe wurden daher 20.2 %
 entjudet.

3.) in der Industrie:

liquidiert: arisiert:

6 Betriebe 191 Betriebe
 das sind 1.9 % das sind 26.2%

Von der Gesamtzahl der 1.048
 Betriebe wurden daher 18.9 %
 entjudet.

4.) im Bankwesen:

liquidiert: arisiert:

31 Betriebe 7 Betriebe
 das sind 40.2 % das sind 100%

Von der Gesamtzahl der 84 Be-
 triebe wurden daher 45.2 %
 entjudet.

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5.) Im Verkehrsweisen:

liquidiert: arisiert:
203 Betriebe 83 Betriebe
das sind 60.8% das sind 76.1%

Von der Gesamtzahl der 443 Betriebe
wurden daher 62.5% entjudet.

6.) in der Land- und Forstwirtschaft:

Liquidiert: arisiert:
1 Betrieb 54 Betriebe
das sind 14.2% das sind 13.7%

Von der Gesamtzahl der 401 Betriebe
wurden daher 13.7% entjudet.

7.) im Gesamten:

liquidiert: arisiert:
4.614 Betriebe 1.831 Betriebe
das sind 24.4% das sind 24.9%

Von der Gesamtzahl der 26.263
Betriebe wurden daher 24.5%
entjudet.

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IV. Bisher arisierte Werte:

Bis 10. November 1938 wurden folgende Kaufpreise laut Sperrkonti-Nachweis erzielt:

im Monat:

Juli.....	RM	9.397.148.67
August.....	RM	8.266.427.32
September.....	RM	5.244.774.43
Oktöber.....	RM	4.186.788.59
1. November bis 10. November.....	RM	1.002.207.79
Gesamtsumme.....	RM	28.097.346.80
Summe der erzielten Auflage.....	RM	4.154.026.79

Summe.....RM 32.251.373.59

In den Monaten Mai und Juni in der Reichsstatthalterei durch den Reichsbeauftragten Staatsrat Dr. Oberhardt und innerhalb dieser Zeit von der Vermögensverkehrsstelle ohne Sperrkonti durchgeführte Arisierungen.....RM 20.500.000.-=

Gesamtbetrag.....RM 52.751.373.59

Die Auflage stellt die Differenz zwischen dem Sachwert, bzw. Verkehrswert und der abgeschlossenen Kaufsumme dar; sie betraegt 14,8 % der Kaufsumme von RM 32.251.373.59.

Kapitalsmaessig entjudet.....29,4%

(Aufnahme des Dienstbetriebes in der Vermögensverkehrsstelle am 24. Mai 1938)

K o n t r o l l b a n k

Erledigung der Faelle:

Aktenmaessig uebergeben.....128 Faelle
 Bisher erledigt:..... 5 Faelle
 Das sind:.....3,9 %
 (Aufnahme des Dienstbetriebes am 30.9.1938)

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8Annex N

a)

Memorandum

From a report on the activities of the Vermoegensverkehrsstelle Vienna at the Ministry of Economics and Labor (Situation as per 14-11-1939) the following figures might be of interest:

I General

1. Number of Jews in Vienna (Sheet 1):

- a) religious Jews % of the population
b) Jews

2. Registered Jewish Property (only Jews owing property of more than 5,000 RM were subject to registration (sheet 2/20):

Austria

included therein
Vienna district

- a) Registrations filed
b) property reported for registration
 gross property
 debts and encumbrances, net property
c) specification of gross property
 agricultural and forest real estate
 urban real estate
 property invested in enterprises
 other property, mainly in securities total
d) specification of the net property by occupation of owners
 reported by Jews
 net property
 businessmen
 housewives
 without occupation
 managers
 other employees
 pensioners, lawyers, public health service
 other professions
 total

- a.) This is a translation (made by US Mil. Govt. before 1948) of a draft memo. Up to now the memo could not be found neither in Vienna nor in Berlin. Attempts are made to find it, or at least the German original of the draft among the papers of U.S. Mil. Govt.

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II. De-judaization of the Austrian Economy

1. De-judaization plan of the VVSt (Vermögensverkehrsstelle) sheet 5:
- | Group of profession | exist. Jew. | designated for de-jud. | designated for closing down |
|--------------------------|-------------|------------------------|-----------------------------|
| Commerce | | | |
| trade | | | |
| industry | | | |
| transportation | | | |
| banking | | | |
| agriculture and forestry | | | |
| total | | | |

Commerce
trade
industry
transportation
banking
agriculture
and forestry

total

In addition to these enterprises there are about 7,000 business closed down because of flight of their owners immediately after the 13th March 1938.

2. Measures of de-judaization of the Economy up to 14-11-1939 (sheet 10/42)

commerce	trade	industry	transport	banking	total

total numb.
cl. down
balance
including
de-judaized
assigned to
other distr.
open for de-
judaization
in liquidation

total

Note: Under enterprises "in liquidation" enterprises are meant where there are still goods in stock for sale. Enterprises the stocks of which have been disposed of, but where the accounts have not yet been settled, are included figure of enterprises closed down (17,877). The total number of unsettled cases in liquidation (sales of goods in stock; settlement of accounts) is 8,151 in the Vienna district; 154 of such cases have been assigned to other districts.

III. De-judaization of the real estate

Jewish real estate (excluding real estate used for business purposes and agricultural (forest) property) appears in the report as follows (sheet 62).

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RG 59
 Entry Lot # 580723
 File # 586
 Box 8

	<u>plots of land</u>	<u>value</u>
Reich District of Vienna		
Remainder of Austria		
total		521,200,000

Up to now the following transactions have been approved by the VVSt:

Auctions entries of mortgages	cases
Contract of sale	
total		

Contracts of sale not yet approved in the Reich District of Vienna

Contracts of sale not yet approved assigned to other districts

Not yet 50% of the de-judaization have been carried through.

IV Charges

Up to now charges have been imposed in the de-judaization of trade enterprises in sales of real estate in about

	total about	cases
for sales of trade-enterprises, in		cases

charges are still to be fixed.

Up to now the following charges have been imposed, by the VVSt, by the Control Bank

Additional charges will be imposed. For these an amount of..... is given on sheet 52.

For the charges imposed by the VVSt proof has been given on sheet 52/53:

charges imposed
 paid up to now

balance unpaid
 which is subdivided as follows:

disputed charge of the Brewery Kufner (Ottakringerbraeu)

Moratoria and Instalments granted
requested for payment	about

Out of the amounts received totalling the following have already been disposed of:

- a) Credit with the Pharmacredit Control Bank
- b) Remitted to the National Treasury
- c) Debited to the account at the Control Bank

paid on
11-3-39

Total

V. Proceeds from Sale

The following balance has been made by the VVSt (sheet 52):

purchasing prices VVSt	Control Bank	total
total charges		
purchase prices plus charges		

The VVSt compares with this amount property invested in enterprises ("own enterprises") of and for the purchasing prices plus charges it calculates a percentage of

This statement doubtless paints too favorable a picture of the results of de-judaization. In the charges the amounts for de-judaized real estate (3,000 cases) are included. It may also be assumed that in the purchase-prices the proceeds from real estate are also included.

VI Custodians and Employees

For carrying through the de-judaization, custodians had been appointed. When trustees were appointed, and the activities of the custodians (1938) had been controled, 1,128 out of about 2,800 custodians had to be dismissed for incapability. 382 custodians were prosecuted for irregularities.

The maximum number of persons employed with the VVSt is stated with 501. Out of these, 16 persons having committed irregularities had to be dismissed and punished.

Annex C

STATUS OF RESTITUTION OF ALIENATED
PROPERTY as on August 31st, 1952.

I. APPLICATIONS PURSUANT TO THE FIRST RESTITUTION LAW WHICH DEALS WITH THE RESTITUTION OF ALIENATED PROPERTY NOT BEING ADMINISTERED BY THE AUSTRIAN STATE OR LAND GOVERNMENT:

Authority	Filed in Aug 1952	Total filed	Withdrawn or trans- ferred	Granted	Denied	Pending	Not yet cons.
Vienna	12	9,380	446	7,258	615	1,029	32
Linz	--	607	62	420	111	14	--
Graz	1	862	65	518	245	34	--
Salzburg	--	351	36	252	59	4	--
Klagenfurt	--	251	35	105	102	9	--
Innsbruck	--	219	33	150	34	2	--
Feldkirch	--	45	4	40	1	--	--
	13	11,715	681	8,743	1,167	1,092	32

II. APPLICATIONS PURSUANT TO THE SECOND RESTITUTION LAW WHICH CONCERNS RESTITUTION OF ALIENATED PROPERTY, THE TITLES TO WHICH HAD PASSED TO THE AUSTRIAN STATE:

Vienna	3	682	52	381	84	162	3
Linz	-	143	11	60	63	9	--
Graz	1	183	20	76	73	14	--
Salzburg	-	85	7	31	42	5	--
Klagenfurt	2	88	5	44	36	3	--
Innsbruck	-	87	20	41	22	4	--
Feldkirch	-	53	13	30	9	--	1
	6	1,321	128	663	329	197	4

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III. DISPOSITION OF APPEALS BY THE FEDERAL MINISTRY OF PROPERTY CONTROL AND RESTITUTION BRANCH:

Total of appeals until August 1952		First	Second
		Restitution Law	
		691	344
therefrom:	1. Withdrawn	77	31
	2. Granted	187	167
	3. Denied	421	133
	4. Pending	6	13
	5. Not yet considered	-	-
		691	344

IV. APPLICATIONS PURSUANT TO THE THIRD RESTITUTION LAW WHICH PROVIDES FOR THE RESTITUTION OF REAL AND PERSONAL PROPERTY NOW IN THE HANDS OF PERSONS, CORPORATIONS, ETC.

Authority	Filed in Aug 1952	Total filed	With- drawn	Trans-ferred	Settled	Granted	Denied	Pen- ding
Vienna	43	21500	2943	885	7513	4704	899	4556
Linz	3	2069	349	121	391	417	190	601
Linz-Nord	-	318	53	19	76	50	67	53
Graz	6	2557	670	64	534	550	606	133
Salzburg	6	715	142	48	156	161	118	90
Klagenfurt	1	1580	280	33	559	289	339	80
Innsbruck	2	1243	132	29	217	489	342	34
Feldkirch	1	239	75	4	68	27	57	8
	62	30.221	4644	1203	9514	6687	2618	5555

Authority	Filed in Aug 1952	Total filed	Granted	Trans-ferred	Denied	Pending
ROK VIENNA	53	5968	3687	1094	1099	88
ROK GRAZ	4	1362	851	276	228	7
ROK LINZ	13	716	393	128	146	49
ROK INNSBRUCK	3	388	195	111	80	2
	73	8434	5126	1609	1553	146
ORK	16	1844	1352	243	224	25

V. NUMBER OF COMPROMISES, RENOUNCEMENTS AND ACKNOWLEDGMENTS FILED WITH THE DISTRICT ADMINISTRATIONS, PURSUANT TO SEC 13(2) OF THE THIRD RESTITUTION LAW:

Vienna	5998	Carinthia	516
Lower Austria	1046	Salzburg	183
Upper Austria	527	Tyrol	246
Muehlviertel	133	Vorarlberg	251
Styria	1512	Burgenland	290
			<u>10.692</u>

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THE REHABILITATION OF AUSTRIA

1945-1947

VOLUME III

PREPARED BY UNITED STATES ALLIED COMMISSION AUSTRIA

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RESTITUTIONS AND REPARATIONS

External Restitutions

The Problem of External Restitution

Between the invasion of Poland in September 1939 and the capitulation in 1945, Germany and her satellites stripped the occupied countries of vast quantities of raw materials, machinery, machine tools, railway equipment, vehicles, gold, art treasures, and every other type of movable property. A substantial part of this wealth accumulated in Austria, either fortuitously through the disintegration of the enemy armed forces, or through planned storage with the view to relative safety from destruction by bombing. The Occupying Powers were charged with the tremendous task of restoring to its rightful owners this wealth which had been extorted under duress.

Basic Policy for Restitution

On 5 January 1943, eighteen Allied Nations, including the Soviet Union, announced an "Inter-Allied Declaration Against Acts of Dispossession Committed in Territories under Enemy Occupation or Control." The following quotation from this declaration commonly known as the "London Declaration", established the fundamental basis for restitution: "The Union of South Africa, the United States of America, Australia, Belgium, Canada, China, the Czechoslovak Republic, the United Kingdom of Great Britain and Northern Ireland, the Union of Soviet Socialist Republics, Greece, India, Luxemburg, the Netherlands, New Zealand, Norway, Poland, Yugoslavia and the French National Committee: Hereby issue a formal warning to all concerned, and in particular to persons in neutral countries, that they intend to do their utmost to defeat the methods of dispossession practiced by the governments with which they are at war against the countries and peoples who have been so wantonly assaulted and despoiled. Accordingly, the governments making this declaration and the French National Committee reserve all their rights to declare invalid any transfer of, or dealings with, property, rights and interests of any description whatsoever which are or have been situated in the territories which have come under the occupation or control, direct or indirect, of the governments with which they are at war or which belong or have belonged to persons, including juridical persons, resident in such territories. This warning applies whether such transfers or dealings

have taken the form of open looting or plunder, or of transactions apparently legal in form, even when they purport to be voluntarily effected. The governments making this declaration and the French National Committee record their solidarity in this matter".

Implementation of External Restitution

After the fall of the German Reich a general plan for restitution in Austria was submitted by the Quadripartite Reparations, Delivery and Restitution Directorate to the Allied Council on 26 January 1946.

At this level the problem met with difficulties engendered by differences in ideology, concept and interpretation of the Potsdam Declaration on the part of the Soviet Element.

Quadripartite agreement was finally reached on the following points:

a. The cost of transportation within the frontiers of Austria, as well as the cost of necessary repairs for transportation, including labor, material and organization necessary for the restitution of property removed from countries occupied by the German Army and which have been recovered in Austria, must be borne by Austria. Expenses incurred outside of Austria, with the exception of Germany, must be borne by the recipient countries.

b. A "Decree on the Declaration and Registration of Property Belonging to the United Nations, Seized by the Germans and Taken from the Territory of Countries Occupied by Them" was promulgated throughout Austria on 25 May 1946 by order of the Allied Council. The purpose of this order was to compel all institutions and private individuals in Austria to declare within 30 days all looted property and assets in their possession in excess of S 500 valuation, or administered, safeguarded or controlled by them.

c. To organize a Quadripartite Restitution Commission in the International District of Vienna to make external restitutions by quadripartite agreement.

With the exception of these three quadripartite decisions, restitutions proceeded unilaterally within the four occupation zones of Austria.

Austria's Position with Respect to Restitution

The Moscow Declaration of November 1943, recognizing Austria as a liberated nation, rather than a German satellite, opened the way to permit

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restitutions to Austria. In March, 1946, the US Element announced that Austria would be included in its restitution program with respect to Austrian property looted between 12 March 1938 and 15 May 1945.

External Restitution in the US Zone

Restitution Policy

In the beginning of the occupation the US Element hoped for a uniform policy of restitution in all of the four zones of Austria. In November 1945, the US High Commissioner attempted to obtain quadripartite agreement in the Allied Control Commission on restitution principles in all the zones of occupation. It was impossible to reach such an agreement. Therefore in the US Zone of Austria the US Element proceeded to carry out its own restitution policy.

All properties identified as having been looted or acquired, through commercial transactions or otherwise, by the Germans, from Allied Nations during the German occupation were subject to restitution. Only gold, securities and foreign exchange were excepted. Restitutions were carried out regardless of whether such items were needed to meet military or civilian requirements within the zone of occupation, provided that in the case of transportation equipment restitution might be phased so as to withhold sufficient equipment to meet the requirements for military deployment and occupation needs.

With respect to Allied Nations, the following categories of property were subject to restitution:

- a. Cultural, religious and artistic works, museum collections, libraries, archives, etc. Restitution in these cases required only that the goods be identified as having been looted or otherwise acquired in any manner during the German occupation of Allied Nations.
- b. Heavy, power-driven industrial and agricultural equipment and machinery, rolling stock, locomotives, barges and other transport equipment, communications and power equipment.
- c. Other goods, valuables (excluding gold, securities and foreign currencies) materials, equipment, livestock and other properties found in storage, or otherwise, in bulk form.
- d. Property produced during the period of German occupation of Allied Nations, provided the claimant governments submitted valid proof that Germany acquired such goods by an act of force.

In March 1946 the US High Commissioner made a new attempt to seek quadripartite agreement in the Allied Council on the conditions under which limited restitutions were to be effected to ex-enemy and satellite nations. There again no agreement could be reached and the US Element proceeded with restitutions to ex-enemy and satellite nations in the US Zone according to its own policy. Restitution was limited to property which was forcibly removed from the ex-enemy countries after their collapse or liberation during the following periods:

ITALY, from 3 September 1943 to 15 May 1945
HUNGARY, from 20 January 1945 to 15 May 1945
RUMANIA, from 12 September 1944 to 15 May 1945
AUSTRIA, from 12 March 1938 to 15 May 1945
FINLAND, from 19 September 1944 to 15 May 1945

In June 1946 the above dates were amended as follows:

ITALY, from 25 July 1943 to 15 May 1945
HUNGARY, from 15 October 1944 to 15 May 1945
AUSTRIA, from 12 March 1938 to 15 May 1945 (no change)
RUMANIA, from 23 August 1944 to 15 May 1945
FINLAND, from 2 September 1944 to 15 May 1945

The claimant nation was required to submit proof that the property, except for works of art and cultural objects, had been acquired by Germany as the result of an act of force and was removed into Austria without compensation to the original owner.

In the case of other property found in storage or bulk form, restitution was not mandatory if the US High Commissioner considered that such action would jeopardize minimum requirements of the Austrian economy or require additional US assistance or expenditure.

As Austrian industry began to recuperate from the effects of the war, a policy change with respect to external restitution became imperative to avert irreparable damage to the Austrian economy through removal to claimant countries of key machinery vital to Austria's productivity. Consequently, in September 1947, the US Element resolved, in specific cases, to delay restitution for a stipulated period of time (generally three months) of certain machinery and equipment vital to the country's industrial recovery. This afforded Austria and the claimant nations an opportunity to seek a settlement by means of trade negotiations.

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Procedure

External restitution is made only to governments and not directly to private claimants. Restitution to the claimant nations is accomplished in the following manner:

- a. Claimant government presents a claim through diplomatic channels.
- b. A copy of the claim is sent to the appropriate agency in the US Zone of Austria, for investigation, and, circumstances warranting, the claimed property is placed under formal US property control or custodianship.
- c. Claimant nation is advised of the results of the investigation and is invited to submit proofs of ownership.
- d. If satisfactory proof is submitted, the claimant nation is invited to send a mission to the US Zone of Austria, to be accompanied by a US field representative.
- e. If the property is identified, restitution is made on the spot and receipts are signed by the US field representative and the representative of the claimant government.
- f. Movement of the property is begun and assistance furnished by the Austrian Labor Office.

Authority for Blocking and Control of Property

The act of seizure, control and appointment of a custodian for property covered by a claim, is based on military government decree number 3, issued in May 1945. It empowers a duly authorized representative of military government to safeguard such properties against sale, transfer, theft, alteration, etc., by appointing a custodian who becomes personally responsible and liable for the property in question.

Scope of Claims Received by the US Element

Since the beginning of restitution activities in the US Zone of Austria, and up to 31 December 1947, 2,765 claims have been received for looted property. Individual claims vary in magnitude from claims for one radio receiver to complete industrial plants involving hundreds of machine tools.

Claims were received from 19 governments and the United Nations Organization but the majority originated from Hungary, Czechoslovakia, France, Poland, Yugoslavia, Italy and the Netherlands, from which 89% of the claims have been received. To date 518 claims have been allowed, 878 claims have been disallowed, and 1,369 are pending. (see Fig. 23 and St. A. Table 54.)

Restitutions Made

The bulk of property restituted up to 31 December 1947 from the US Zone of Austria represented industrial machinery and equipment. 18,660 metric tons of such material valued at 19.8 million dollars were shipped to claimant governments.

Smaller in bulk, but of far greater monetary value were the restitutions of fine arts and cultural objects. The total value of completed restitutions to Austria or from the US Zone of Austria was \$ 188,748,450. Of this sum, \$ 149,625,850 was represented by fine arts and cultural objects. Figures were based on values, estimated by the governments to which the restitutions have been made. (see Fig. 24 and St. A. Tables 55 & 56.)

Highlights of Restitutions, US Zone

(1) Austria

The Alt Aussee salt mine in the US Zone of Austria housed the greatest collection of Nazi loot in Austria. Here was found the major part of the great collection destined for the *Linzer Kunstmuseum*, a project close to the heart of Hitler. The material had been collected from all Nazi occupied Europe, under the supervision of Dr. Posse, fine arts professor of the University of Dresden. The contents of this mine consisted of more than 7,000 paintings and drawings, and approximately 3,000 cases of art treasures. The caves in which this loot was stored were electrically lighted and were well equipped with wooden floors and racks on which the objects reposed. The air in the caves was dry and of uniform temperature so that there was no deterioration.

A considerable portion of the Alt Aussee loot was of Austrian origin. Some 700 paintings belonging to the Rothschild family and 500 paintings belonging to other Jewish families were recovered. Other Austrian deposits were unearthed which originated from the Austrian Army Museum, the Military Academy Wiener Neustadt, the Museum at Eisenstadt, Burgenland, the Dorotheum of Vienna and divers Austrian churches. There were also 3 to 4 freightloads of paintings from the Schoenbrunn and Hetzendorf Castles.

In the Lauffen Salt Mine, the following Austrian Museum collections were found:

- Kunsthistorische Museum* — 787 paintings
- Museum fuer Voelkerkunde* — 88 cases of art objects
- Akademie der bildenden Kuenste* — 42 paintings
- Nationalbibliothek* — 150 cases of rare old books, manuscripts, etc.
- Denkmalamt* — 6 cases of art objects, 21 pictures, 8 pieces of sculpture

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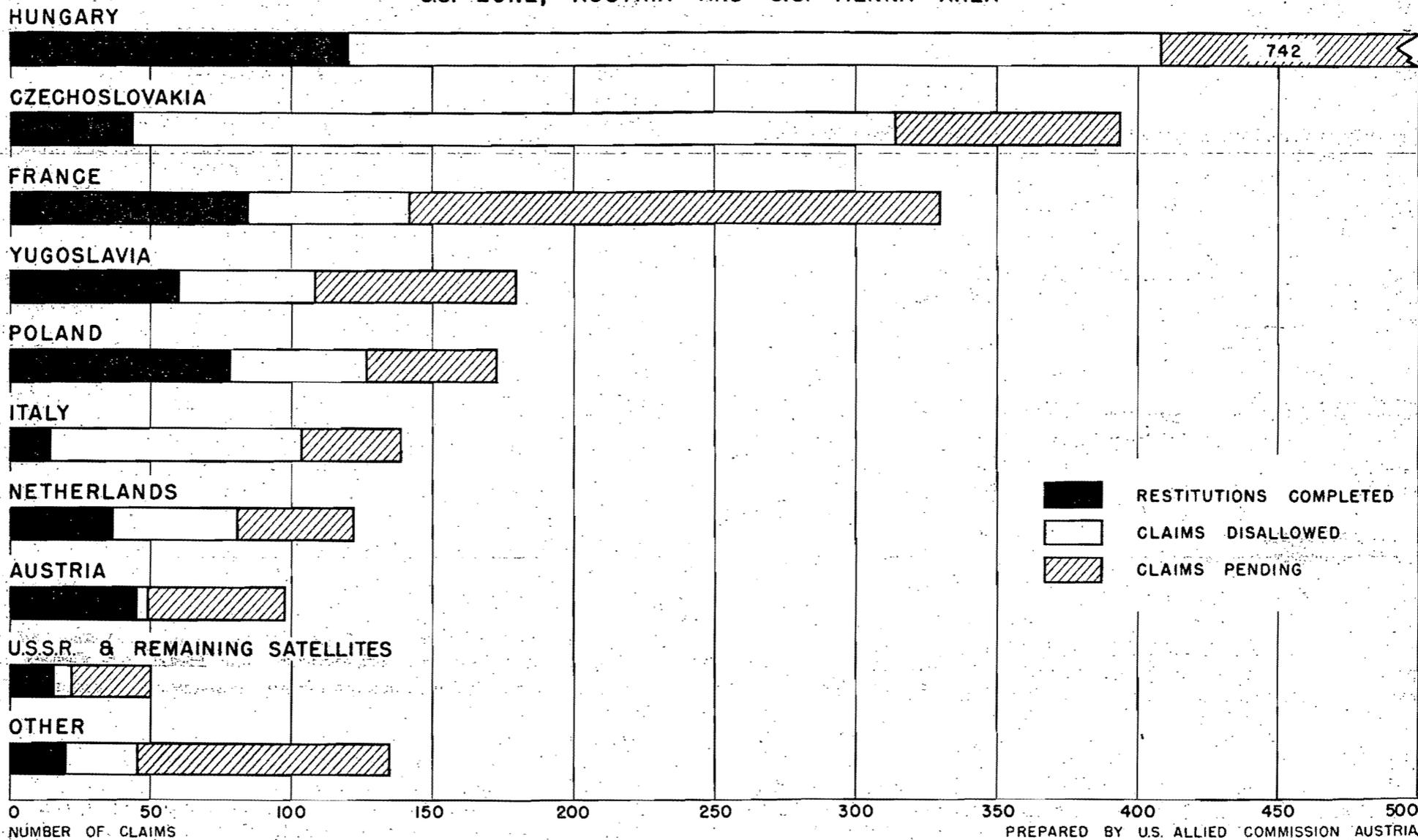
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STATUS OF RESTITUTION CLAIMS 31 DECEMBER 1947

U.S. ZONE, AUSTRIA AND U.S. VIENNA AREA



PREPARED BY U.S. ALLIED COMMISSION AUSTRIA.

Figure 23

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ESTIMATED VALUE OF COMPLETED RESTITUTIONS - 31 DECEMBER 1947

U.S. ZONE AUSTRIA AND U.S. VIENNA AREA
VALUES BASED ON U.S. DOLLAR PRICES

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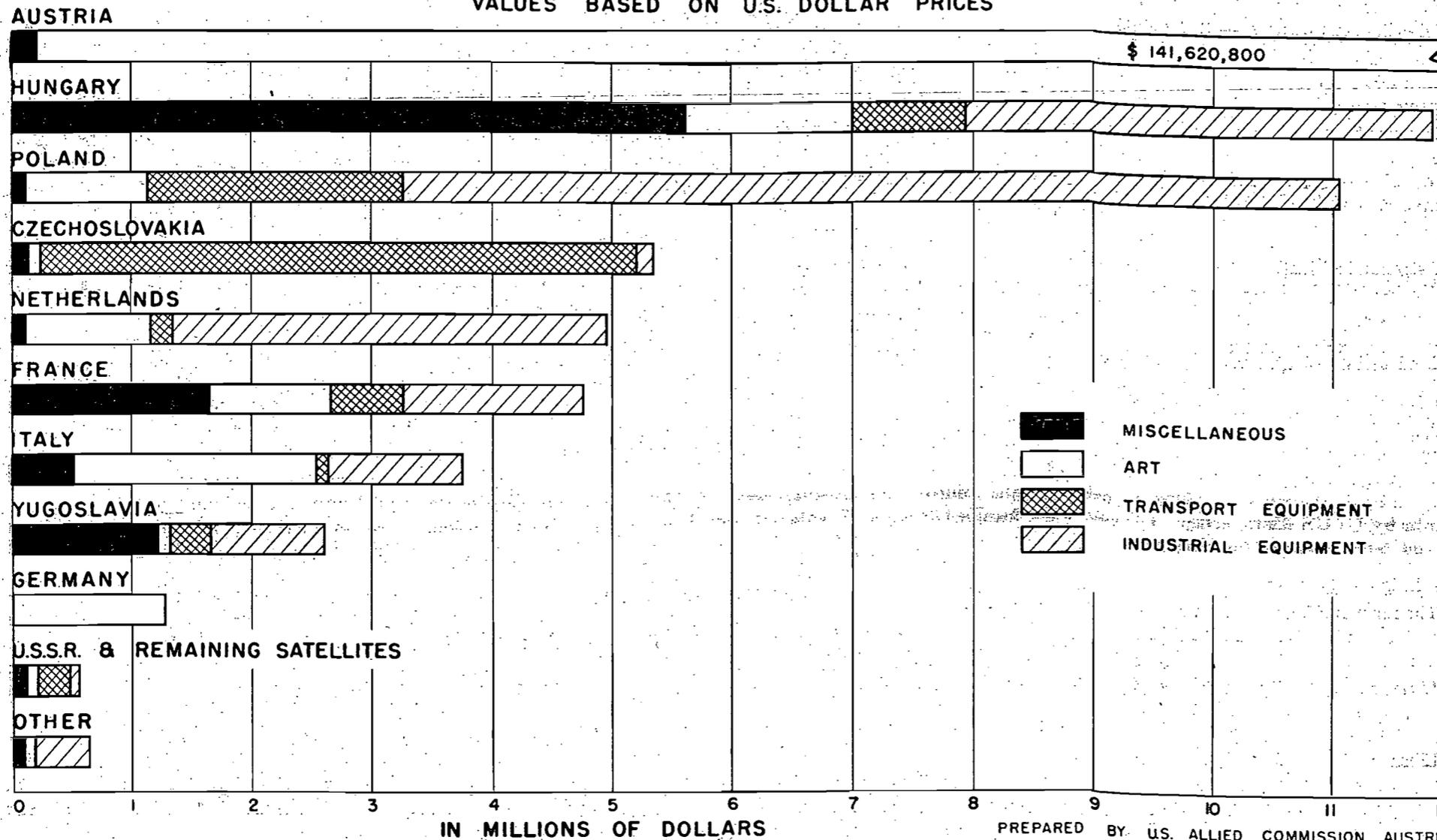


Figure 24

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Oesterreichische Geologische Bundesanstalt — 22 cases of archives
Graphische Sammlung Albertina — 50 cases of watercolors, drawings and prints

Hauptvermessungsabteilung XIV — 278 cases of maps, etc.
Miscellaneous owners — 342 paintings

In the lower level of the mine were stored various Austrian archives. In the Hallein salt mine was found the Vienna Archeological Library as well as a coin collection from the *Landesgalerie*, Salzburg.

Other outstanding art treasures restored from the US Zone of Austria were the crown jewels of the Holy Roman Empire, a Vermeer painting with an estimated value of \$ 1,000,000 and priceless stained glass windows from Vienna churches.

(2) *Poland*

Astronomical instruments estimated to have a value of \$ 1,000,000 were restituted to Poland. These instruments were looted from the Astronomical Observatory of the University of Warsaw.

Machines and industrial equipment vital to the economic recovery of Poland estimated at several million dollars were also restituted.

(3) *Hungary*

A priceless religious relic, The Holy Hand of Saint Stephan, was restored to Hungary.

\$ 32,000,000 in gold belonging to the Hungarian National Bank was discovered at Spital am Pyhrn, Upper Austria, during the closing days of the war by the US Third Army. The gold was shipped by air to Frankfurt am Main and later restored to Hungary.

(4) *Italy*

The following four libraries, consisting of 2,621 cases of books, manuscripts and documents valued at \$ 1,900,000 were returned to Italy in January, 1946:

- Library of the German Archeological Institute
- Library of the German Historical Institute
- Biblioteca Hertziana
- Library of the German Art-Historical Institute of Florence.

The City of Linz had in operation 60 autobuses of Italian origin which were subject to a restitution claim. The loss of these buses would have crippled the public transportation facilities of the city. Through conferences

arranged by the US authorities, the Italian Mission and the officials of Linz effected a trade agreement whereby the autobuses were retained and Italy received an equivalent value in raw material needed by Italian industry.

(5) *The Netherlands*

Objects of art including many paintings by famous Dutch masters valued at \$ 1,107,500 were restituted to the Netherlands.

The Netherlands Mission claimed a complete nitrate manufacturing plant which had been incorporated in the *Stickstoffwerke* at Linz. Investigation disclosed that while the removal of most of the equipment would not be detrimental to Austria's fertilizer production, certain parts of the plant were of vital importance. Through a series of conferences arranged by the US Element, an agreement was reached whereby the Netherland Government agreed to permit Austria to retain the necessary equipment in exchange for two air-reduction plants which were not essential to the Austrian economy.

International District of Vienna

Since the first district of Vienna, commonly known as the International District, was placed under the joint control of the four occupying powers, it became necessary to devise a quadripartite procedure for the restitution of looted property located there. In November 1946 the Executive Committee agreed to pass a resolution which established a Joint Property Control and Restitution Commission for the first district of Vienna. This commission operated as a section of the Vienna Interallied Command and consisted of representatives of each of the four elements. Unanimous decision was necessary to effect any restitution. In the event the elements disagreed as to the action to be taken in any particular case, the matter could be referred by successive steps up to the Allied Council. If unanimous agreement could not be obtained in the Allied Council, no action could be taken.

Up to 31 December 1947, the commission had received 174 restitution claims, of which 143 were allowed.

Restitution in the British Zone of Austria

Restitution policy

British restitution policy with respect to the United Nations countries, like the US policy, is based upon the "London Declaration" of 5 January 1943. In general, property is regarded as appropriate for restitution if it falls into one of the following categories:

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(1) Identifiable goods which were in existence in the claimant country at the beginning of the German occupation, and which were removed from the claimant country during the occupation as the result of an act of dispossession of any kind, with or without the use of force.

(2) Identifiable goods which came into existence after the beginning of the German occupation of the claimant country, and which were removed during the occupation as the result of an act of dispossession, involving the use of force directly exercised against the property concerned.

As with US policy, currencies, monetary gold and silver, and securities do not come within the terms of the British restitution program.

British restitution policy with regard to ex-enemy countries differs slightly from US policy. According to the British view restitution of ex-enemy property from Austria is a matter for direct settlement between the governments concerned and the Austrian Federal Government.

Highlights of British Restitution Activities

As in the case of the US Zone of Austria property restituted from the British Zone of Austria was extremely varied in nature. Although the bulk of restitutions were of machinery and equipment, the following cases illustrate the scope of the British restitution program:

a. The Tanzenberg library was established during the war near Klagenfurt, Carinthia by the *Zentralbibliothek der Hohen Schule* (NSDAP) and contained thousands of rare books looted by the Germans in occupied countries. Cases of books have been restituted to claimant countries in the following numbers: to Belgium, 155; to Czechoslovakia, 1300; to France, 2516; to Greece, 1; to Holland, 1300; to Poland, 4; to the USSR, 569; to Yugoslavia, 16.

b. Eight yachts were restituted to Holland from the Woerthersee Lake.

c. A Danube tugboat was restituted to Yugoslavia.

d. Twenty-seven crates of agriculture and scientific equipment looted from the Soviet Institute for Scientific Research in Agriculture have been returned to the Soviet Union.

e. Forty-two railway locomotives have been restituted to Yugoslavia.

Restitution in the French Zone of Austria

Restitution policy

The French restitution program is also based on the London Declaration. In addition to the classes of property which are deemed as restitutable by the US and British Elements, the French also retribute goods manufactured in a

country during the German occupation, and those removed to Germany or Austria through purchase, on the thesis that the German occupation so debased the currencies of the occupied countries that the purchase price did not represent a just compensation.

The French restitution program makes no distinction between United Nations and ex-enemy nations.

With respect to the restitution of property essential to Austria's economic recovery, the French policy, by comparison, is less lenient than US policy, particularly with respect to deferment of removals. The French point of view is that ample advance notice of removal is given and that in some cases the Austrians have taken no remedial measures to avoid hardship.

Restitution in the Soviet Zone of Austria

Initially, the Soviet Element declared itself in general agreement with the restitution policies of the three other occupation powers. From the beginning of restitution operations, however, it was apparent that the Soviet satellite countries were being favored. The French, however, apparently for political reasons and for reasons of reciprocal restitution from the French Zone of Austria, were given particular consideration.

Co-incident with the electoral defeat of the Communist party in France in 1948, and the promulgation of the European Recovery Program, the Soviet Element revised its restitution policy, demanding evidence of personal or direct duress as a requisite for restitution. Since the Soviet restitution program was virtually completed prior to this time, this change in policy had little effect except in the quadripartite controlled International District of Vienna where unanimous agreement is necessary to effect restitutions.

The Soviet Element has given due consideration to the Austrian point of view in the case of restitution of properties whose removal would be detrimental to the Austrian economy. In such cases the Soviet authorities have encouraged trade agreements and bi-lateral negotiation. The Soviet Element has also been co-operative in the restitution of looted property to Austrian nationals.

The Soviet Element does not consider that the restitution program in its occupation zone has been detrimental to the Austrian economy, since it has held that most of the restituted machinery and equipment was not in good condition and restitution was effected before it had been absorbed into the post-war Austrian economy.

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General Effect of Restitution on the Austrian Economy

It is the Austrian point of view that the External Restitution Program was harmful to the country's economy. The Austrians further consider that the greater part of the restitutions did injustice to the Austrian holders of such property who had acquired the property through direct purchase in countries occupied by the German armies, or paid some value for the property by purchase from German military sources.

It must be stated in rebuttal, however, that available evidence indicates that the majority of restitutions were made from property not yet integrated into the Austrian post-war economy and no markedly adverse effect upon the Austrian economy has been observed as a result of the external restitution program in Austria. With respect to properties purchased by the Austrians in German occupied countries, either directly or through German war office intermediaries, it must be remembered that the claimant nations received nothing in most cases, or currency so debased by German occupation charges that it by no means reflected the true value of the properties purchased.

The Question of German Assets

Introduction

The economic penetration of Austria by the German Reich had been planned long before the actual annexation on 12 March 1938. On 25 March 1938, Hermann Goering invited a selected group of Austrian bankers, industrialists, and businessmen to take a trip with him on the Danube. On this trip the Austrians were informed of the overall plan for incorporating the economy of Austria into that of the Greater Reich. Goering's own vast industrial combine, the *Hermann Goering Werke* of Berlin, led the way in the implementation of this plan by acquiring control of Austria's largest steamship company and Austria's major heavy industries.

The German Ministry of Finance took control of the Austrian National Bank and the *Creditanstalt-Bankverein*, Austria's largest private bank. German Nazi organizations and German business firms penetrated and gained control of the insurance, oil, electrical industries, and other fields of business. Individual Germans, by means of racial legislation, acquired ownership of hundreds of smaller business enterprises at practically no cost or for nominal sums.

The German Reich, through the *Goering Werke* and the *Wehrmacht* poured vast amounts of money into the conversion and expansion of industrial concerns for war purposes. The German firms then commenced to acquire other Austrian firms as subsidiaries. By 1945 the network of German control had spread into all sections of the Austrian economy.

The ramifications of German ownership were so intricate and complex that its extent cannot be expressed in comparative figures or statistics. All attempts to establish its extent were further hampered by the division of Austria into zones. It is, however, safe to assume that German ownership and control of industry and business enterprises had by 1945 given Germany an effective stranglehold on the Austrian economy.

Allied Policy Prior to the Occupation of Austria

The United Nations Declaration made at London in January 1943 (signed by all four powers who later took over the occupation of Austria), made it clear that the Allied Nations reserved the right to invalidate property transfers in those countries which had been occupied by the German armies. This declaration was followed by the Moscow Declaration of 1 November 1943, in which the governments of the US, UK, and USSR declared that Austria, as the first victim of Nazi aggression, would be restored as an independent nation. But Austria was also reminded that she would be held responsible for participation in the war on the side of Germany and that in the final settlement, account would be taken of Austria's contribution to her own liberation.

Thus a certain ambiguity was injected into the Allied postwar program for Austria. The declaration promised the new Austria economic and political security and appeared to imply that Austrian resources or Austro-German resources could be used for reparations only to an extent compatible with the creation of a healthy economy. After Austria was freed from the German army, none of the Allies attempted publicly to evaluate the activities of the Austrian resistance; nor did any of them suggest what contribution Austria had made to her own liberation.

The US Element has stressed its promise in the *Moscow Declaration* to recreate a free and independent Austria, by US attempts in the Allied Council for Austria, to limit removals of German assets in Austria as reparations. On the other hand, the Soviet Element, while stating that it recognized Austria as a liberated country, repeated that it must take into account Austria's contribution to the German war effort.

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The Potsdam Conference

The Potsdam Protocol of 2 August 1945 announced that the Conference of the Heads of the Governments of the US, UK, and USSR had examined the Soviet proposal to extend the authority of the Provisional Government (of Dr. Renner) to all Austria. It stated that the three governments would re-examine this proposal after the entry of the British and US Forces into the City of Vienna. The only other reference to Austria contained in the published Declaration concerns the use of German assets located in Austria as reparations.

Under the heading "III. REPARATIONS FROM GERMANY" the Potsdam Conference agreed:

"1. Reparations claims of the USSR shall be met by removals from the Zone of Germany occupied by the USSR and from appropriate German external assets.

3. The reparation claims of the United States, the United Kingdom and other countries entitled to reparations shall be met from the Western zones and from appropriate German external assets."

With respect to German external assets, the Declaration says:

"8. The Soviet Government renounces all claims in respect of reparations ... to German foreign assets in all countries except those specified in Paragraph 9 below.

9. The Governments of the UK and the USA renounce all claims in respect of reparations to ... German foreign assets in Bulgaria, Finland, Hungary and Eastern Austria."

These articles thus determined the appropriateness for reparations of German external assets in Austria on a geographical basis, even as German internal assets were to be used as reparations according to their physical location in Germany.

US Attempts to Unify Policy

The US Element in Austria has, however, constantly advocated that once the geographic location and validity of German ownership was established, the real determination of the appropriateness of an asset for reparations should be the effect of its removal on the Austrian economy. The mission of US Military Government with respect to German property in Austria was as follows:

1. To protect such property rights and interests.
2. To end German control of property in Austria.

3. As far as compatible with the above objectives, to facilitate the employment of such property for the benefit of the Austrian economy.

The US Element attempted to obtain an agreement in the Allied Council that until appropriate Allied authorities formulated a reparations and restitution program for application in Austria, no removals should be permitted on reparations account. Unfortunately, no such agreement could be reached.

Soviet-Sponsored Austrian Directives

No information is available as to the instructions the Soviet Commander may have received from his government in the initial months of occupation. These instructions may be inferred, however, from Austrian laws which the Soviet Commander approved before the Allied Commission for Austria was established.

The Soviets, having recognized the Provisional Renner Government in April 1945, permitted the decrees of this government to be enforced in Vienna and Eastern Austria. Law No. 10 of 10 May 1945 required registration of "aryanized" (property obtained from Jewish owners, after the Anschluss) and other properties seized during the German occupation of Austria. This law reads in part as follows:

"1. Subject of this law is the registration of property and property rights which have been seized in connection with the Nazi annexation from their owners since 13 March 1938, either arbitrarily or based on laws or other ordinances for so-called racial, national, or other reasons."

"3. The owners of the properties and property rights enumerated in paragraph 1 are to register them within one month after enactment of this law ... Until final decision concerning properties and property rights, the owners ... are obliged to administer these properties and properties rights with due commercial diligence."

This law did not require the registration of all German-owned property and was primarily directed at identifying property which could not be considered as validly German-owned. It is indicative of initial Soviet willingness to correct some of the wrongs done by the German Reich.

Law No. 9, passed the same day, permitted the Provisional Government to appoint public administrators for business undertakings in Austria, if an important public interest was involved. Many German-owned businesses were taken under control pursuant to this law. This law was later confirmed by the Allied Council.

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Simultaneously with the recognition of these laws by the Soviet Commander as applicable to Vienna and Eastern Austria, a branch of the Red Army, known as the "Booty Department", was active in the same area removing any German property it chose as spoils of war and not specifically as reparations. No information is available as to the policies of this unit, nor to what extent it interfered with the administration of properties subject to laws No. 9 and 10. Apparently it operated independently of the Property Control Officers of the Red Army and was not infrequently in conflict with them. It is clear, however, that much German or apparently German property was removed from the Austrian economy by this "Booty Department."

The New Control Agreement of 28 June 1946

On 28 June 1946, the Allied Council adopted a New Control Agreement for Austria. In spite of their differences, the four occupying powers had reached accord on an instrument which greatly extended the powers of the Austrian Government. The New Control Agreement made the Austrian Government sovereign in many respects, particularly in the field of internal affairs. Austrian legislation, except for constitutional measures, could only be disapproved by unanimous veto of the Allied Council. One of the remaining restraints was over the Austrian Government's power to dispose of German assets. In this matter written Allied Commission consent was mandatory. The pertinent sections of the New Control Agreement follow:

ARTICLE 1.

The authority of the Austrian Government shall extend fully throughout Austria, subject only to the following reservations:

b) In regard to the matters specified in Article 5 below neither the Austrian Government nor any subordinate Austrian authority shall take action without the prior written consent of the Allied Commission.

ARTICLE 2.

c) The Allied Commission shall act only through the Austrian Government or other appropriate Austrian authorities except:

III where, in the case of any of the subjects detailed in Article 5 below, the Allied Commission acts directly.

d) In the absence of action by the Allied Council, the four several High Commissioners may act independently in their respective zones in any matter covered by ... Article 5,

ARTICLE 5.

The following are the matters in regard to which the Allied Commission may act directly

IV. The disposal of German property in accordance with the existing agreements between the Allies.

ARTICLE 6.

a) All legislative measures, ... shall, before they take effect or are published in the State Gazette be submitted by the Austrian Government to the Allied Council. In the case of constitutional laws, the written approval of the Allied Council is required, before any such law may be published and put into effect. In the case of all other legislative measures ... it may be assumed that the Allied Council has given its approval if within thirty-one days of the time of receipt by the Allied Commission it has not informed the Austrian Government that it objects to a legislative measure.

b) The Allied Council may at any time inform the Austrian Government or the appropriate Austrian authority of its disapproval of any of the Legislative measures, ... and may direct that the action in question shall be cancelled or amended.

ARTICLE 12.

The decisions of the Allied Council ... shall be unanimous."

Interpretation of the New Control Agreement by the Occupying Powers with Respect to German Assets in Austria

Within two months of the promulgation of the New Control Agreement, a situation arose which clearly demonstrated that the provisions of the agreement with respect to German assets in Austria were not being interpreted in the same manner by all of the occupying powers.

On 26 July 1946, the Austrian parliament passed a law nationalizing some 70 enterprises, mainly in the Soviet Zone, most of which had a German interest. The Soviet High Commissioner for Austria called an extraordinary meeting of the Allied Council on 2 August 1946 at which he introduced a resolution that the Allied Council, pursuant to Article 6 (b) of the New Control

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Agreement, order that the nationalization law be revoked. Discussion was postponed until the following week when the US Element announced that it would not support the Soviet resolution. Since compensation for nationalization was contemplated, the US Element considered that the interests of all concerned would be protected. The British Element considered that the law did not dispose of German assets but was only a transfer of ownership within Austria which did not in any way affect the rights of the four powers under the Potsdam Agreement. The French Element did not object to the Nationalization Law itself, but did object to inclusion of enterprises which came within the scope of Article V (4) of the New Control Agreement. The Soviet Element stated that since the Potsdam Agreement specified that reparations from Germany be paid in kind, the Nationalization Law would violate the agreement. The Soviets also considered the law to be a violation of the New Control Agreement, and proposed a resolution that it be regarded as a constitutional law and, therefore, required written approval of the Allied Council prior to publication and promulgation. The French Element considered that prior written agreement was necessary only with respect to that part of the law concerning property provided for by Article V (4) of the New Control Agreement. The British and US Elements did not consider the law to be a constitutional measure. The Soviet representative stated that since the Allied Council was unable to adopt an agreed resolution abrogating the Nationalization Law, he reserved the right to take such action in the Soviet Zone of Austria as he deemed necessary to protect the interests of the Soviet Union.

Unilateral Action by the Four Powers

The positions taken by the four powers at this point reflect the fundamental differences concerning the issue of German external assets in Austria and foreshadow the independent future course of action of the individual powers. ~~When unanimous agreement on common action could not be reached, the four powers acted unilaterally in their own zones in pursuing their separate policies with respect to German assets and, to a certain extent, used or attempted to use the agencies of the Austrian Government to carry out their individual intentions.~~

By military decree, the USSR has attempted to take control, possession, and title to all property under German title in Eastern Austria. The Soviets also set up an administration to exploit such German property. ~~Acting unilaterally, the US turned over to the Austrian Government the administrat-~~

~~ion of most German properties in its zone under a trusteeship agreement, which requires periodic accountings from the Austrian Ministry concerned. The French have made a similar arrangement for the management of German properties in their zone by individual leases of the properties rather than by executing a formal trusteeship agreement. The rent paid for the lease is blocked as a German external asset. The UK on the other hand, made no arrangements whatever, but has permitted all Austrian laws affecting German properties in Austria to operate freely. The US, UK, and France simultaneously issued military decrees prohibiting disposal of German properties by sale or transfer or other means, while the military decree of the USSR requires the properties to be transferred to an agency of the USSR.~~

USSR Action

On 27 June 1946, the day before adoption of the Control Agreement, the Soviet Commander-in-Chief promulgated Soviet Military Order No. 17. This order notified all Austrian authorities and the population of the Soviet Zone of Occupation that German assets located in Eastern Austria, which belonged to the German Reich or to German firms, corporations, or natural persons, had passed into possession of the Soviet Union as reparations payments, and that the management of such properties would be turned over to the "Administration of Soviet Properties in Eastern Austria" (USIVA, later called USIA.) All authorities and private persons administering such properties were ordered to transfer them to USIA in legal form. All stock certificates and shares not turned over would be null and void. USIA was empowered to issue new shares in their stead. All mayors and other governmental officials in whose territory former German assets were located and which had not yet been transferred to USIA were ordered to take the necessary measures to safeguard the properties and report within ten days to the local Soviet Commander. The order guaranteed rights and interests, according to the laws of Austria, of all workers and employees in firms transferred to USIA and provided punishment of any person who withheld knowledge of or made false statements regarding German properties, or who hindered the execution of the order or damaged the property in any way.

In a newspaper interview explaining order No. 17, the Soviet High Commissioner and Commander-in-Chief stated the Soviet position on German property. The USSR regarded as German property in Eastern Austria all

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German rights and assets located there which existed as such on 15 March 1938, or which had been transferred to Germany or German citizens, real or juridical, after that date on the basis of sale or purchase. If duress or insufficient compensation could be proved by the previous Austrian, neutral, or Allied owner, the Soviet could either return the assets to the former owner on condition that sums received from the Germans be repaid to the Soviets; or the Soviet Union might rule to retain the right of ownership and pay the former owner the difference between the actual sum paid him and the real value of the property. All rights acquired by German firms after 1938 to exploit the natural resources of the country and all other enterprises originated and developed after this order on the basis of German investments are now Soviet property. Also, patents and trademarks of Germans and accounts and valuables of Germans deposited in Austrian banks and the property of German public organizations and the personal property of German citizens, as far as it could not be proven that this property had been taken from the former owners by force, were now Soviet property.

The Soviet attitude toward German property in Austria involved its interpretation of the Potsdam Agreement as to what German property was "appropriate" for reparations. Many properties in Austria, such as the Zistersdorf oil fields and associated production properties, were owned prior to the Anschluss by corporations organized under the laws of and having their legal seat in Germany. These German corporations were in turn owned in whole or in part by United Nation or other non-German nationals. The US and UK position has been to recognize the ultimate beneficial ownership of these non-Germans and declare their assets in Austria as not "appropriate for reparations" under the Potsdam Agreement. The USSR position has been to refuse to recognize the ultimate beneficial ownership of those non-Germans. Such properties have been seized and held by the Soviets as German Assets in Austria "appropriate for reparations".

This difference in the interpretation of the Potsdam Agreement has been a main source of contention at the various conferences of the foreign ministers and their deputies in attempting to arrive at an agreed Austrian State Treaty.

State, communal, and other property which had been Austrian up to 15 March 1938 and later passed into the possession of the German state or of German citizens without any compensation in the course of the fusion of the states, or by means of credit or aryanization, was to be returned to the owners who were in possession of it at the time of the Anschluss.

An Austrian request for clarification of the Soviet order, addressed to the Allied Council in July 1946, drew the Soviet comment that the Austrian

Government should approach the Soviet command, as decisions concerning German properties in Eastern Austria were the sole concern of the Soviet authorities and the Austrian Government.

The USSR High Commissioner, in refusing approval of the Nationalization Law, had stated he would take such action in his zone as he deemed necessary to protect Soviet interests in any German property involved. He repeated his assertion when he disapproved the first Austrian Restitution Law, saying that this qualification would apply in all cases where the Soviets disapproved an Austrian law. While it is assumed that no transfer of title to the Austrian Government has been permitted under the Nationalization Law, in all cases brought under the first and second Restitution Laws, the Austrian Ministry of Justice states that the USSR has permitted the return of assets nominally German to their former owners in individual instances. Dispossessions affected by the first law were those made by the Nazi Government under expropriation decrees aimed at non-aryans, and no compensation was paid for the properties taken. The second law concerns Nazi property forfeited to the Austrian Government and likewise involved no repayment by the "wronged owner".

The third Restitution Law deals with cases in which the dispossession took place under color of legal action, such as a contract of sale, etc., with some consideration being allegedly paid. Each case arising under this law involving German title is reviewed by the USSR legal authorities before the Austrian court is permitted to order restitution and change of ownership records.

The Austrian Ministry of Property Control and Economic Planning states that in cases in which the USSR refuses approval, no change of ownership record may be made. In those cases in which the USSR desires the wronged owner to pay whatever compensation he may have received from the German dispossessor to the Soviets, the Ministry advises that such payment is at the risk of the claimant, since under a state treaty he may be required to pay such compensation again to the Austrian Government. Where the USSR decides that it will retain such German property, paying as compensation to the wronged owner the difference between what he actually received and the real worth of the property, the Austrian courts have refused to enter in the land or commercial records any transfer of title to the Soviet Union, basing such refusal on the absence of written Allied Commission approval. Therefore, even where the wronged owner is willing to accept compensation from the USSR, the record title is not changed from the German owner to the USSR, and the title books still show German ownership.

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To sum up, therefore, while the perfection of title in the wronged owner under this third Restitution Law may only take place with USSR approval, the Austrian courts have succeeded in blocking any change of German title to the Soviet Union in the record books.

The Soviets have adopted no general rule with respect to restitution cases, and it is impossible even to infer such a rule in view of our scant knowledge of Soviet operations. It may be assumed, however, that they have blocked the restitution of most valuable industrial properties and have continued to exploit them even though they have not been able to obtain a valid Austrian title to them. Profits from certain operations have been used to bolster other weak ones. Some goods are exported for hard currencies; others, sold in Austria on the "grey" market above legal prices. The overall profit is disposed of by USIA as reparations from German assets in Austria. It has been estimated that this may be between twenty and thirty million dollars per year. Other sources, judging from the recently expressed desire of USIA to sell certain factories, etc., suggest an overall loss. No accurate information on the balance sheets of USIA is available.

US Action

On 11 July 1946, the US High Commissioner wrote to the Austrian Chancellor, informing him that the US was prepared to enter negotiations with other Allied Governments and with Austria, with a view to a possible renunciation of the US share of German assets in Austria as part of the general settlement of the question of German assets. In the meantime, the US agreed to turn over to the Austrian Government, as trustee, all German assets physically located in the US Zone of Austria. He assured the Austrian Government that these assets might be used for purposes of reconstruction, that they would not be removed from the US Zone, and that the question of ownership was to be resolved at a later date. He repeated that the US would recognize no physical transfer of property which did not conform to the United Nations Declaration of forced transfers of January 1943 and which did not leave Austria sovereign control of resources within her borders, as envisaged in the Moscow Declaration of 1943.

On 16 July 1946, the US High Commissioner executed a Trust Agreement for the United States of America, turning over to the Austrian Government certain specified assets. Additional German assets were subsequently added to the original list. These properties had been under control of administrators appointed by US Military Government. Austria obtained full power to

operate the properties, including financing and appointment and removal of administrators. Austria was to take no profit or loss from the operation of the German property and pay no dividends and to render such accounts of its trusteeship as might be required by the US High Commissioner. The trusteeship was to remain in effect until the question of ownership of the assets was resolved. Under this Trusteeship Agreement, most of the German assets in the US Zone of Austria were transferred to the control of the Austrian Government. The US Element reserved the right to approve the sale of such assets as might prove a loss to the enterprise by their retention, and required periodic accounting reports.

Austrian Management of German Property Under the Trusteeship Agreement

Two actions beyond the ordinary management of these assets were taken in the course of their administration by the Ministry for Property Control and Economic Planning. Both actions were approved by the US Element. They illustrate the extent to which control over German assets has been exercised by the Austrians in conformance with the Trusteeship Agreement for the rehabilitation of the Austrian economy.

Certain German assets, mainly building machinery of German firms had been engaged in construction projects in Austria during the war. The Austrian Government would not permit these German firms to operate since the firms had no trade licenses valid for Austria. Their original trade licenses had been granted by the German Government at a time when Austria was a part of Greater Germany. The firms did not then need any specific authority to operate in the *Ostmark*, as Austria was called when it was part of the Greater Reich. The Austrian local authorities would not, of course, grant new trade licenses to the administrators of these German firms since that would have permitted the firms to continue in business as competitors of the local Austrian contractors. Moreover, any profit the firms made would be considered as a German asset since the firms were unquestionably German-owned. Therefore, the machinery could only be stored or rented to local Austrian contractors. The local contractors would not rent the machinery, however, since they would have to keep it in repair but eventually lose it when the leases expired. Moreover, any rent obtained for the machines would likewise have gone to augment the value of the firms which were German assets. Because of storage charges, the value of the machinery was deteriorating, even if the machines themselves were well cared for. Soon no German asset would be left, the liabilities against the machines

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French Action

The French have not permitted the Nationalization Law to be enforced in their zone insofar as this law affects German property. All property in their zone is subject to the effects of the Restitution Laws and the Public Administrator's Law even though the sections in the laws dealing with German property were disapproved by the French Element in the Allied Commission. When a case is brought up under the third Restitution Law and the defendant is either the German Government or a German National, the French Element reviews the facts of the case before it permits execution of an Austrian decision in favor of the plaintiff. If the risk seems slight that the property will eventually be considered a German asset appropriate for reparations, the French approve the decision of the Austrian court and permit execution of its decree. The French position was set out by the French Deputy Commissioner in a letter to the Austrian Chancellor. This letter stated that the question of German assets in Austria would be decided in a light favorable to the rehabilitation of Austria and pointed out the intention of the French Element to associate the Austrian authorities in the administration of these properties and of using the assets for the reconstruction of Austria.

In the French Zone, according to available information, the asset itself is leased by the administrator, appointed by the Austrian Ministry for Property Control and Economic Planning pursuant to the Public Administrator's Law, to a suitable entrepreneur, who may exploit the asset for his own profit. The rent to be paid for the lease of the asset is subject to approval by the French authorities who assure themselves that the terms of the lease do not permit the entrepreneur to achieve too high a profit. The income received from the lease is then regarded as German property and blocked to await disposal as a German asset. No periodic reports are required of the Austrian Ministry in regard to the operation of the asset. In accordance with the promulgation of Law No. 3 of the French Military Government prohibiting such action, no sale of the German asset may be made. Exceptions are made in the case of sales by the Austrian Ministry of minor assets which are deteriorating.

While the French have never challenged the validity of the passage of any legislation affecting German assets after it has been approved by the Allied Council, they have not permitted the operation in their zone of any legislation which might bring about the disposal of German assets before the French themselves have given their written consent to the Austrian

Government. In cases in which the German ownership of the property appears valid, either because such ownership existed before 15 March 1938 or because large increases in the value of the property were brought about by investment of German capital, the French Element has not permitted any disposition of the property by the Austrian Government or its agencies.

British Action

On 9 July 1946, the British Military Government in Vienna promulgated its notice No. 3 which established control over German assets in the British-occupied districts of Vienna and premises occupied by them in the first district. The notice forbade, except as authorized by military government, any transfer of property owned by the Government of Germany or its nationals and situated in the British-occupied districts of Vienna. The property of any business enterprise could continue to be used for its normal purposes and government property for governmental or administrative purposes. No real estate might be leased for a term exceeding thirty days, but bank accounts might be operated for normal purposes, subject to any restrictions placed on them by Austrian law.

Notice No. 3 was the first British regulation controlling German property in Vienna and was chiefly directed against the Soviet order No. 17 of 27 June 1946 which confiscated German assets in Eastern Austria. It was a precautionary measure designed to prevent the Soviets from indirectly controlling German assets in the British-occupied districts of Vienna. The British thought that in cases in which the main office of a German firm was located in Eastern Austria, the Soviets might order the branches located in the British-occupied districts of Vienna to deliver the assets of the branches to the Soviet Zone. British notice No. 3 gave the branch managers of German firms in the British-controlled districts a legal reason not to comply with any such Soviet requests which might be made.

In October 1946, ordinance No. 553 was promulgated, which forbade any transfer of ownership of German property and was designed to serve the same purpose in the British Zone, with respect to indirect Soviet control, as did notice No. 3 in Vienna.

As was pointed out previously, the British High Commissioner in the Allied Council did not reject the transfer of ownership of German assets to the Austrian Government by means of the Austrian Nationalization Laws as a violation of the Control Agreement. Nor did he later object to the passage of the Austrian Restitution Laws, which could also effect the

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transfer of assets from present German record ownership. Insofar as these Austrian laws effected a transfer of ownership of property under German title, they could appear to violate the British Military Government regulation cited above. Since the purpose of the British ordinances was to prevent Soviet activity with respect to German property in the British Zone but not to hinder Austrian legislation, the British felt called upon to inform the Austrian Government accordingly. With respect to the nationalized property, the British authorities requested that the Austrian Government take no action by way of a disposal or otherwise which would prejudice any settlement of German property in Austria. The Austrian Government answered that they would not do so.

With respect to the restitution laws, the British Element informed the Austrian Government in July 1947 of the formal release of any property which was required to be dealt with under the Austrian restitution legislation and had been subject to the terms of British Military Government ordinance No. 553 and Vienna notice No. 3.

The British Element interpret the refusal of the Allied Council unanimously to reject the Nationalization and Restitution Laws as sufficient written approval for the laws to operate on assets which may be in the name of German nationals but subject to restitution.

Whenever the Austrian Government has requested approval from the Allied Council for any action affecting German assets which the Government wished to take, the British have not opposed such approval. Unanimous Allied Council consent, however, has not been granted, usually because of Soviet or French objection. Thus, execution of Austrian court decrees in restitution cases ordering a change of title of German property back to the rightful owner has been often blocked.

Since the passage of the Austrian Public Administrator's Law in the summer of 1946, the British have left the administration of any German assets entirely in the hands of the Austrian Government. The Ministry for Property Control and Economic Planning appoints and controls the administrators. The only restraint exercised by the British on the Ministry's actions is the prohibition against the transfer of ownership of German property contained in Vienna notice No. 3 and British Military Government ordinance No. 553. Even in such cases, special licenses have been granted by the British, at the request of the Ministry, exempting certain transactions from the prohibition of these ordinances. The British require no regular reports from the Ministry on these German assets, but reserve the right

eventually to request an accounting from the Austrian Ministry, should any German property in their zone be required for reparations. Since the adoption of the New Control Agreement the British Element has exercised the least direct control over German external assets in Austria.

Austro-American Cooperation with Respect to German External Assets in the US Zone of Austria

As the Austrian Government took full advantage of the terms of the Trusteeship Agreement promulgated on 16 July 1946, substantial progress was made in the operation and integration of German assets into the Austrian economy. Under the provisions of the agreement, the US Element received an increasing number of requests for authorization to lease, rent, sell, or otherwise convert physical surplus and perishable assets of German firms in the US Zone. The nature of these requests and the information supporting them were indicative of an increased efficiency of the organizations of the Ministry charged with the responsibility for the supervision and administration of German properties.

In November 1946, eleven former German companies engaged in the petroleum business in the US Zone of Austria, as well as the *Eugen Grill Werke*, a German firm controlling the largest pool of machine tools in the US Zone, were transferred to the trusteeship of the Austrian Government. The machine tools from the latter firm were loaned to other companies in the US Zone and aided in the production of vitally needed consumer goods.

Eighty-two thousand machine tools were surveyed, registered, catalogued, and classified in Upper Austria and Land Salzburg. These were then released to the Austrian Government, subject to the provision that the Austrian Government assume liability in connection with any claim subsequently arising in regard to these assets (see also Vol. II, p. 48). Machines showing German ownership or no ownership at all were turned over to the Ministry for Property Control and Economic Planning under the terms of the Trusteeship Agreement subjecting the trustee to accountability to the US Element and with the understanding that any transfer from the US Zone of Austria would require the prior approval of the US Element.

Fifty-six business enterprises under direct US control, as well as 333 German-owned firms located in the US controlled areas of Austria released to the Austrian Government under trusteeship, were integrated into the

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Austrian economy between July 1946 and December 1947. This incorporation of productive capacity represented an important contribution to Austria's resurgent economy and reflected a major accomplishment of US policy in Austria. No statistical data on the activities of the other occupying powers are available.

German Assets in the City of Vienna

By the Allied Agreement of 9 July 1945, the City of Vienna was divided into four separate occupational sectors. A fifth sector, the first district, or International Zone (in the center of the city), was set aside as an area of joint control. It is in this district that the large financial enterprises of Austria, the banks, insurance companies, shipping companies, etc., have their head offices. Title to many of these enterprises, as recorded in the Land and Commercial Registers on 8 May 1945, indicated German ownership.

While the separate policies of the four Allies as to the fate of German property could not be reconciled for Austria as a whole, each power could enforce its different policies to a certain extent in its separate zone of Austria and individual sector of Vienna. But in the first district the different policies were bound to clash.

Because of the requirement of unanimous agreement as a pre-condition to Allied action, in respect to German assets, the opposing policies have prevented any definite action in the first district. The practical result of this Allied inaction has been to give as much control as possible to the Austrian Government.

The Soviet Element has been unable to control and use, or even investigate to its satisfaction, German property located in the first district. The French, willing enough to agree to a compromise solution on German property, have been unable even to regain control of enterprises located there which were formerly French but taken by the Germans after the Anschluss. The US Element, unable to achieve quadripartite agreement applicable to all of Austria that only a limited amount of German property would be taken as reparations, has not been able to obtain satisfactory quadripartite control or even investigation of German property located there.

Control over German property in the first district is still where it was in May 1945, in the hands of the Austrian Government. Administrators for property under German title in the first district are presently appointed and removed at the discretion of the Ministry for Property Control and Economic Planning.

The City as a Whole

On 10 May 1945, the Austrian Provisional Government promulgated Law No. 9 which permitted it to appoint administrators for properties wherever the public interest demanded it. Under this law, administrators were appointed for most large German-owned properties in Vienna.

At that time, the city was under the sole control of the Soviet army. In August, the three Western powers entered the City. In September 1945, the Joint Property Control and Restitution Commission, a permanent sub-committee of the Vienna Inter-Allied Command (VIAC), was established.

While the Soviet Union generally agreed to the freedom of each Allied power to protect the property interests of his nationals in the USSR Sector, it frequently developed that a property alleged to belong to an Allied national was registered as German-owned in the Land Commercial Registers. As a result, the Soviet Element stated it would require documentary proof of ownership for the other Allies to appoint administrators for property located in the Soviet Sector of Vienna.

No further attempts were made by the three Western powers to directly appoint administrators in the Soviet Sector. The only area where differences still existed was the first district.

The First District (International)

Control of German Property

At a meeting of the Joint Property Control and Restitution Commission of VIAC in January 1946, lists of properties claimed by the US, United Kingdom, and France in the first district were exchanged, the USSR submitting a list of German properties which the Soviets claimed as war booty. At a further meeting in February 1946, it was agreed that each power would be responsible for property claimed by its nationals in the first district as shown by the lists submitted.

At this point a negative policy was adopted by the Western Allies under the leadership of the United Kingdom. If the USSR would neither agree to the Western Allies' definition of German property, nor propose for discussion a definition of its own, no German property would be investigated, much less controlled.

At a meeting in May 1946, the Joint Property Control Commission considered the list of German properties in the first district claimed by the Soviet Element's representative in January as war booty. When it was

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pointed out that only quadripartite action could be taken with respect to German properties in the International Zone, the USSR representative agreed to take no action except by such agreement.

However, quadripartite agreement for joint control of German properties in the first district was being studiously avoided by the British until the USSR would agree to a definition of German property satisfactory to the United Kingdom. The only approach to joint control of German property was made at the 35th meeting of the Joint Property Control Commission on 4 July 1946. It was then agreed that the appointment of administrators for all German property in the first district would be made by the chairman of the Joint Property Control Commission on the recommendation of the Austrian Ministry for Property Control and Economic Planning.

In November 1946, the French member pointed out that since 12 September 1946 the Austrian Commercial Court had refused to register appointments of administrators made by the French authorities in the first district, explaining that the Ministry for Property Control and Economic Planning was now the appointing authority. Since the Public Administrator's Law had not been vetoed by the Allied Council, the Joint Property Control Commission accepted the explanation of the Austrian court. For a time the Ministry went about exercising its powers slowly. There was no show of immediate independence. In December 1946 and January 1947 the Ministry sought approval from the Joint Property Control Commission to appoint or change administrators for a few unimportant German properties in the first district. But for most German properties, including large-scale German enterprise in the first district, the administrators originally appointed under Law No. 9 were still in office and responsible only to the Ministry. Because of British opposition, the Joint Property Control Commission had taken no general action either to confirm their appointees or remove them from office. Only isolated cases had been examined and administrators removed.

Investigation of German Property

Beside blocking quadripartite control of German property in the first district, the British Element also succeeded in limiting the present procedure for investigation of property in the first district. Only quadripartite action may be taken, which consists in sending out a questionnaire when all agree. The investigation is limited to turning up nominal German ownership. When property is discovered as German or part-German, the British will not agree to further quadripartite investigation as to how the property became German. The other three Allies have usually desired further

investigation, especially the Soviet Union and France, the US merely agreeing.

At the initiative of the US Element, a plan was adopted by the Allied powers to collect all available information on German assets located in Vienna. However, only the Soviet Element, although no Soviet nationals had claims to property, investigated German assets.

In March 1947, the Soviet Element stated that it wished to make separate investigations of any firms in the first district without prior permission of the commission, as the information collected by questionnaires had proved inadequate. When, in April 1947, the commanders of VIAC decided that the procedure of investigating German property in the first district should go on as usual, representing an ambiguous decision since the very question was what the procedure should be, the British Element protested all subsequent unilateral action by the Soviets and urged commission disapproval.

Unless the Soviets agree to a definition of German assets, there will be no British cooperation, even in investigations of admittedly German-owned property. The US is willing for such investigations to take place, and the French and Soviets urge it when German interests appear.

The Joint Property Control Commission has amassed a collection of questionnaires but has not digested them. Until an agreed definition of German assets is reached, it will not be possible for the commission jointly to categorize these questionnaires of German property in the first district.

Conclusion

The US policy toward German assets in Austria has been to prevent the removal of the assets or their use as reparations by the United Nations until four-power agreement on the amount and quality to be removed or used is reached. Meanwhile, the US has attempted stringently to limit the removal of German property except against adequate compensation to Austria, either in hard currency or in equipment useful to the Austrian economy. The US has pursued this policy, not only unilaterally in its own zone, but in all of Austria, by repeatedly seeking Allied Council agreement to establish a four-power board for all German assets in Austria, irrespective of zonal location. This board would determine first, the validity of the acquisition of an asset by the Germans and second, the appropriateness for reparations of an asset unanimously agreed to be German.

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The brief summaries of policies of the Soviet Union, France, and United Kingdom on German external assets in Austria, presented in the preceding pages, afford a basis merely for a general appraisal and inferential conclusion as to the relative contribution of these occupying powers to the revival of Austria's economy.

It may be stated that in the control of German assets in Austria, the policy of the British Element has imposed a minimum of controls, permitting the Austrian authorities a generous latitude of action. It appears, on the other hand, that Soviet policy was to acquire as much property as possible in Austria under its interpretation of the phrase "appropriate German external assets", even though such assets may have been acquired by duress or may have an indirect United Nations interest. The adamant refusal to define a German asset has permitted a certain freedom of action in putting these properties in the Soviet Zone and the Soviet Sector of Vienna at the service of Soviet interests, military and economic, as well as political, and has

crippled western efforts to arrive at an equitable solution of the issue. The French policy toward German assets in Austria tends, in principle, to support the position taken by the US and the British, with the exception that the French position stresses closer supervision and delegates fewer discretionary powers to the Austrian authorities.

It was anticipated that by the end of 1947 the question of German assets would be settled soon under the terms of an Austrian state treaty. So far it has been one of the principal stumbling blocks to an Austrian treaty and considerably retarded the rehabilitation of Austria.

In the face of a failure of four-power agreement on the disposition of German assets, the Western powers, as an interim measure, were taking steps to seek an integration of the assets into the Austrian economy on a unilateral basis. The Soviet Element was continuing its plan to exploit all of the properties claimed as German assets in the Soviet Zone for its own profit and without regard to Austrian laws.

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Table No. 52

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AIR OPERATIONS
OELAG a) 1930 to 1937

Table No. 53

Year	Miles Flown	Passengers Carried	Freight Carried
			(Thousand Metric Tons)
1930.....	453,205	7,869	117
1931.....	411,952	9,192	130
1932.....	324,551	9,908	113
1933.....	341,520	11,410	160
1934.....	311,929	4,896	89
1935.....	328,610	11,724	129
1936.....	387,068	15,467	176
1937.....	494,021	19,501	434

a) Austrian Air Line Company (Oesterreichische Luftverkehrs-Aktiengesellschaft).

Source: US Allied Commission Austria.

RESTITUTIONS

STATUS OF RESTITUTION CLAIMS

Table No. 54

Country	Claims Received		Claims Dropped or Disallowed (a)		Restitutions Completed		Claims Pending	
	31 December		31 December		31 December		31 December	
	1946	1947	1946	1947	1946	1947	1946	1947
Austria.....	31	98	0	3	31	46	0	49
Belgium.....	4	43	1	14	1	2	2	27
Brit. Subjects.....	0	8	0	1	0	1	0	6
Bulgaria.....	1	1	0	0	0	1	1	0
Czechoslovakia.....	304	394	208	270	18	44	78	80
France.....	69	328	11	57	22	85	36	187
Germany.....	8	34	0	0	6	12	2	22
Greece.....	1	5	0	2	1	1	0	2
Hungary.....	576	1,146	3	288	32	120	541	742
Italy.....	106	142	0	89	6	14	100	35
Luxembourg.....	1	1	1	1	0	0	0	0
Netherlands.....	77	121	8	44	31	36	38	41
Norway.....	2	2	0	0	0	1	2	1
Poland.....	110	172	23	48	39	78	48	46
Rumania.....	12	25	0	0	0	4	12	21
Soviet Union.....	4	24	0	5	2	11	2	8
Turkey.....	0	1	0	1	0	0	0	0
UNO.....	0	2	0	0	0	2	0	0
US Citizens.....	0	38	0	7	0	0	0	31
Yugoslavia.....	63	180	9	48	11	60	43	71
Total..	1,369	2,765	264	878	200	518	905	1,369
Percentages.....	100	100	19	32	15	19	66	49

% Completion of Restitution Program: 31 December 1946 = 34%

31 December 1947 = 51%

a) Claims dropped or disallowed because of duplication, location outside US Zone of Austria or failure to substantiate claim.

Source: US Allied Commission Austria.

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RESTITUTIONS
ESTIMATED EVALUATION OF COMPLETED RESTITUTIONS IN US ZONE AUSTRIA
 Values based on US Dollar Prices

(In US Dollars)

Table No. 55

Country	Art		Industrial Equipment		Transport Equipment		Other Properties		Total	
	31 December		31 December		31 December		31 December		31 December	
	1946	1947	1946	1947	1946	1947	1946	1947	1946	1947
Austria	61,618,500	141,620,800	0	0	0	0	106,600	206,600	61,725,100	141,827,400
Belgium	20,000	20,000	0	6,400	0	0	0	0	20,000	26,400
British Subjects	0	0	0	0	0	0	0	2,000	0	2,000
Bulgaria	0	0	0	0	0	140,000	0	0	0	140,000
Czechoslovakia	32,900	56,400	91,450	142,060	5,014,000	5,066,500	79,000	100,000	5,217,350	5,364,950
France	813,450	1,011,850	1,323,000	1,489,450	0	587,000	1,657,362	1,667,850	3,793,812	4,756,150
Germany	1,257,000	1,297,000	0	0	0	0	0	0	1,257,000	1,297,000
Greece	0	0	0	0	0	0	1,000	1,000	1,000	1,000
Hungary	1,000,000	1,377,000	1,360,000	3,920,000	98,000	943,600	4,432,000	5,626,400	6,890,000	11,867,000
Italy	2,020,000	2,020,000	0	1,215,000	0	1,000	33,000	533,000	2,053,000	3,769,000
Luxembourg	0	0	0	0	0	0	0	0	0	0
Netherlands	1,057,000	1,107,500	3,400,750	3,650,750	175,000	175,000	52,000	52,350	4,684,750	4,985,600
Norway	0	0	0	600,000	0	0	0	0	0	600,000
Poland	1,110,000	1,110,000	7,500,000	7,780,850	0	2,141,200	0	3,200	8,610,000	11,040,250
Rumania	0	0	0	0	0	267,000	0	5,000	0	272,000
Soviet Union	0	300	10,000	73,900	0	0	75,000	75,000	85,000	149,200
Turkey	0	0	0	0	0	0	0	0	0	0
UNO	0	0	0	0	0	0	0	45,500	0	45,500
US Citizens	0	0	0	0	0	0	0	0	0	0
Yugoslavia	5,000	5,000	46,500	967,700	0	423,525	69,500	1,208,775	121,000	2,605,000
Total ...	68,933,850	149,625,850	13,731,700	19,846,100	5,287,000	9,744,825	6,505,462	9,531,675	94,458,012	188,748,450
Percentages ...	72.9	79.3	14.6	10.5	5.6	5.2	6.9	5.0	100	100

Source: US Allied Commission Austria.

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RESTITUTIONS

(In Metric Tons)

COMPLETED RESTITUTIONS FROM THE US ZONE AUSTRIA

Table No. 56

Country	Art		Industrial Equipment		Transport Equipment		Other Properties		Total	
	31 December		31 December		31 December		31 December		31 December	
	1946	1947	1946	1947	1946	1947	1946	1947	1946	1947
Austria	1,650	3,540	0	0	0	0	12	22.5	1,662	3,562.5
Belgium	7.5	7.5	0	7.5	0	0	0	0	7.5	15
British Subjects	0	0	0	0	0	0	0	0	0	0
Bulgaria	0	0	0	0	0	0 a)	0	0	0	0
Czechoslovakia	60	135	70	105	150	180 b)	30	45	310	465
France	180	367.5	540	900	0	960	30	67.5	750	2,295
Germany	180	240	0	0	0	0	0	0	180	240
Greece	0	0	0	0	0	0	0	0	0	0
Hungary	3.5	22.5	2,100	2,670	60	3,615 c)	620	1,447.5	2,783.5	7,755
Italy	690	690	0	3,480	0	15	50	285	740	4,470
Luxembourg	0	0	0	0	0	0	0	0	0	0
Netherlands	130	150	2,310	2,985	90	90 d)	45	45	2,575	3,270
Norway	0	0	0	1,800	0	0	0	0	0	1,800
Poland	180	180	4,830	5,422.5	0	2,895	0	22.5	5,010	8,520
Rumania	0	0	0	0	0	510 e)	0	7.5	0	517.5
Soviet Union	0	37.5	30	142.5	0	0	15	15	45	195
Turkey	0	0	0	0	0	0	0	0	0	0
UNO	0	0	0	0	0	0	0	30	0	30
US Citizens	0	0	0	0	0	0	0	0	0	0
Yugoslavia	30	30	135	1,147.5	0	540 f)	150	157.5	315	1,875
Total...	3,111	5,400	10,015	18,660	300	8,805	952	2,145	14,378	35,010
Percentages...	21.7	15.4	69.6	53.3	2.1	25.2	6.6	6.1	100	100

Note: Additional restitutions in 1947 not listed above:

- a) 2 Barges.
- b) 18 Barges.
- c) 252 Unserviceable Freight cars (empty) and 5 Barges.

- d) 1 Tugboat.
- e) 2 Barges.
- f) 2 Barges.

Source: US Allied Commission Austria.

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RG 261
 Entry EXTERNAL ASSETS
 File JEWISH NA'S PROP.
 Box 13

OFFICE OF MILITARY GOVERNMENT FOR GERMANY (U.S.)
 Finance Division
 APO 742

1744
 Dr Klein/hs

5 December 1946

MEMORANDUM

SUBJECT : Reference to the Ascertainment of Records Concerning Jewish Property.

TO : Mr. E. J. Casseday, D/Chief, Property Control Branch.

For the ascertainment of records of former Jewish property there are two possibilities for location, either by the aid of

1. public registers according to the kind of property as defined under para I below, or
2. by means of official records, which were filed on the basis of discriminating legal measures by the Nazis against certain categories of persons as indicated under para II below.

I. REGISTERS ACCORDING TO THE TYPE OF PROPERTY.

1. According to German Law all real estate and any right pertaining to real estate is entered in the Grundbuch (Land register). All records in connection with real estate will be found at the respective Amtsgericht, Abt. Grundbuchamt, in whose district the real estate is located. In addition to the Grundbuch and Grundakten, this agency keeps an alphabetical Personen Register containing the names of all owners of real estate, i.e. a cross index to the so-called Grundbuch. In connection with locating former Jewish owners of real estate it would only be necessary to check the Personen-Register, containing the names and addresses of all of them. According to the 2. Carrying-out decree regarding the law of changing family- and first name of 17.8.38 - RGBl I, S.1044 (2.VO v. Durchf. d. Ges. über die Änderung von Familiennamen u. Vornamen) all Jewish persons had to adopt a Jewish first name and this new name had to be entered into all public registers. Therefore it would be easy to find out former Jewish owners of real estate in checking the Personen-Register.

2. The Trade Register (Handelsregister), which is also kept at the Amtsgericht, Abt. Handelsregister is the official record indicating all interests in connection with commercial enterprises. It contains 2 divisions:

- a. In division A individual business men, partnerships (Offene Handelsgesellschaften) and limited partnerships (Kommanditgesellschaften) are entered.
- b. Division B contains corporations (Aktiengesellschaften, Kommanditgesellschaften auf Aktien, Gesellschaften mit

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beschränkter Haftung) and mutual insurance organizations (Vergesellschaftungen auf Gegenseitigkeit)

In both divisions all facts are contained concerning the date of beginning, firm-name, location, purpose and kind of the enterprise, branches, representatives, dissolution and liquidation; with regard to corporations the amount of the capital, the members of the officers (Vorstand) and all other data whose publication is required by Commercial Law Code.

In the Trade Register as well as in the Land Register Jewish interests will be found out very easily by checking the German-Register with regard to the adopted name.

3. At the former Reich Patent Office (Reichspatentamt) a Patent-Register was located containing all patent rights. There is also an alphabetical names register of all holders of such rights.

4. Similar to the Grundbuch (Land Register) there is a Ship-Register of the Seeregisteramt of the respective home port where all ships, which are subject to registration, according to the legal regulation, have to be entered as well as all liens-against ships. There exists likewise an alphabetical names register of ship owners.

11. SPECIAL RECORDS REGARDING PROPERTY OF JEWS DECLARED AS ENEMIES OF THE STATE AND JEWISH PROPERTY.

On the basis of so-called legal measures and in order to centralize Jewish properties and to impose special charges on it, to transfer or to confiscate it, special official agencies were created under the control of the Reich Ministry of Finance, Division VIII/14, Ministerialrat Dr. Maedel and Generalbuero for general financial matters, GHV, Division Patzer with the function to seize, administer and utilize the respective property.

1. The local Scharfamt under the direction of the Finance Ministry had a special division, the so-called "Vermögensverwertungsstelle". All properties except securities which were confiscated in favor of the Reich according to

- a. law concerning the confiscation of communist property of 26 May 1933 (RGBl I S.293 - in connection with law concerning the confiscation of properties belonging to persons alien to the German nation and enemies of the German State of 14 July 1933 - RGBl I S.479)

Gesetz über die Einziehung kommunistischen Vermögens von 26. Mai 1933 - RGBl I S. 293 - in Verbindung mit dem Gesetz über die Einziehung volks- und staatsfeindlichen Vermögens von 14. Juli 1933 - RGBl I S. 479 -

- b. law concerning the withdrawal of naturalizations and deprivation of German citizenship of 14 July 1933 - RGBl I S.480

Gesetz über den Widerruf von Einbürgerungen und die Aberkennung der deutschen Staatsangehörigkeit von 14. Juli 1933

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- c. 11th decree regarding the National Citizenship Law of 25 Nov 1941 - RGBI I S. 722 -

Elfte Verordnung zum Reichsbürgergesetz vom 25. November 1941 - RGBI I S. 722 -

- d. 19th decree regarding the National Citizenship Law of 1 July 43 RGBI I S. 372

Dreizehnte Verordnung zum Reichsbürgergesetz vom 1. Juli 1943 - RGBI I S. 372

- e. Legal sentences of courts in which besides the penalty confiscation of property had been pronounced.

Rechtskräftige Urteile von Gerichten, in denen neben der Strafe auf Vermögensentziehung erkannt wurde.

were transferred to this office in order to utilize it for sales, public auction, etc.

The records of the Oberfinanzpräsident Berlin are now in the hands of a custodian appointed by the Kommandatura. A special report is attached as inclosure A.

2. The Liquidating Office of the Ministry of Finance (Restverwaltung des Reichsfinanzministeriums) has almost complete files of all securities not subject to administration and utilization of the Oberfinanzpräsident which came into the hands of the Reich on the basis of the laws enumerated under 1a - e above. About 25,000 - 40,000 files containing names and addresses of the owners and amount of the securities will be an important record to find out the proper value of the property concerned and to reconstitute it to the rightful owner.

3. Insofar as emigrated Jews from Germany were already citizens of other nations at the time of the beginning of the war, their property records were kept with the office of the Reichskommissar f. d. Erfassung feindlichen Vermögens (Reichs Commissioner for handling Enemy Property). The office of the Reichskommissar was located in the Reich Ministry of Justice in Berlin. Every Oberlandesgericht had files of such enemy property within its district of jurisdiction.

On the basis of information of the Restverwaltung of the RM all records of the Reichskommissar were transferred to Steinhagen/Westfalen.

4. The proper finance offices (Finanzämter) have kept complete records about the Reichsfinanzminister, the Judenvermögensabgabe according

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to the VO unter dem Einsatz des jüdischen Vermögens und 1. Durchf. V. O. überpaid income taxes, property taxes and special wage taxes (Sozialausgleichsabgabe).

A number of volumes regarding the Judenverm. Abgabe are collected in the Amtverwaltung HVA in Berlin.

1 Incl:
Report dtd 2 Dec 46

DR. RUTH ELLEN

Telephone: Ext. 42935