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Box 27

By JW NARA Date: 7-2-99

Foreign Funds Control
Defrosting Austria

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the other countries which came under German rule much later and never actually became a part of the German state.

Respectfully yours,
For the Minister

James Orr Denby
Counsellor of Legation

Enclosure:

- 1. Austrian Defrosting Report
Original and one copy.

unclassified

File No. 851
CCM:bm

To the Department
in Original and Ozalid

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Vienna, Austria
July 31, 1946AUSTRIAN DEFROSTING REPORT

Reference is made to Vienna cable No. F1354, dated July 17, 1946 in which it is stated that a detailed report and recommendations regarding the Austrian defrosting negotiations will be transmitted to the Treasury Department.

The background information for the report which follows was obtained primarily in discussions with members of the Economic Section of the Political Adviser's Office and of the Finance Division of the United States Element of the Allied Commission for Austria, and representatives of the Austrian National Bank. A representative of both AUSPOLAD and USACA participated in all defrosting discussions with the Austrian authorities.

After preliminary meetings with Minister of Finance Zimmermann and President Rizzi of the National Bank of Austria, the defrosting discussions were conducted on a technical level in a series of meetings with the following representatives of the National Bank of Austria:

Dr. von Stüger-Merenpach - Director of the National Bank in charge of Foreign Exchange
 Dr. Hagen-Müller - Assistant Director of the National Bank in charge of Foreign Exchange
 Dr. Mahr - Foreign Exchange Department of the National Bank
 Dr. Waermer - Director of the National Bank in charge of Research
 Dr. Wewalka - Legal Advisor to the National Bank

Subsequently, the wording of the letter of assurance was discussed in some detail in a meeting with the following Austrian officials among others:

Dr. Zimmermann - Minister of Finance
 Dr. Rizzi - President of the National Bank of Austria
 Count Hartenau - Ministry of Finance
 Dr. Lowenthal - Foreign Office
 Dr. Makowsky - Foreign Office
 Dr. Wewalka - Legal Advisor to the National Bank

As indicated in paragraph 1 of Vienna cable No. F1354, dated July 17, 1946, the Austrian foreign exchange controls suffer for the moment from a lack of coordination, due to the splitting of Austria into four occupation zones. The controls in the United States zone are apparently as effective as they can be in the absence of any over-all centralization. As for the Russian zone, on the other hand, there appears to be little concrete knowledge as to what is taking

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place, although the general impression appears to be that the Russians lack the technical staff necessary to establish a truly effective control over foreign exchange operations in their zone even if they were so inclined. The exchange controls in the British zone apparently resemble closely those in the American zone, since the British drafted their controls in close cooperation with the Americans. The effectiveness of the controls in the French zone is apparently unknown.

For purposes of this report, the Austrian foreign exchange controls will be described in terms of legislation which is designed to centralize all foreign exchange operations in the National Bank of Austria. This legislation, which was drafted with the assistance and guidance of the Finance Division of USACA was approved by the Austrian Parliament on July 25, 1946 and will automatically become law under the New Control Agreement for Austria 31 days later, provided that in the interim the Allied Council has not unanimously vetoed it. Since the text of the above legislation, which will hereafter be referred to as the Foreign Exchange Act, has already received the informal approval of the Quadripartite Finance Directorate, a veto would not appear likely. Copy of the German text of the Foreign Exchange Act and an unofficial English translation are attached as Appendix No. 1 to this report.

PROPERTY CENSUS

1. Gold, foreign exchange, foreign securities and domestic securities redeemable in a foreign currency.

The Foreign Exchange Act requires that on a date established by the National Bank of Austria, residents of Austria, i.e. persons who have been in Austria more than ninety days, must file a declaration with the National Bank of all gold, foreign exchange, foreign securities and domestic securities redeemable in a foreign currency in which they have any interest, even if it be a mere custodial interest. Officials of the National Bank have indicated their intention of requiring that these declarations be filed within approximately thirty days after the Foreign Exchange Act becomes law. Although the language of the Foreign Exchange Act is considered by the Austrians to be sufficiently broad to require the declarations of other types of foreign property in which an Austrian resident has an interest, e.g. real estate, interests in foreign business enterprises etc., (See Article 15(3) of the Foreign Exchange Act) for the time being the Austrian National Bank will confine the census requirement to the assets mentioned above.

2. Looted assets.

There is as yet no procedure under which Austrian nationals may declare to the Austrian Government assets which were looted by the Germans during the occupation. However, legislation to this effect is apparently to be considered in the Austrian Parliament in the near future. Since the proposed looted assets legislation would undoubtedly include a census of looted securities, the Austrians expressed a desire to participate in the Treasury Department's looted securities program as outlined in your cable No. 500, dated May 21, 1946 to AUSPOLAD, Vienna. Unfortunately, however, it will probably not be possible for the Austrians to have the necessary detailed information in the list form requested by the Treasury Department before the end of September. The Austrians are fully cognizant of the desirability from their point of view of having the requisite information ready by the time the looted security program

is put into

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is put into effect by the Treasury Department. They have inquired whether they would be expected to include in the lists of looted securities which would be transmitted to Washington, securities transferred to the Reichsbank against payment in Reichsmarks shortly after the Anschluss in accordance with German requirements of the time. Since there was a lapse of more than three years between the Anschluss and freezing of Austria under Executive Order 8389, the Austrians feel certain that a number of the securities "sold" to the Reichsbank after the Anschluss under the above circumstances have since found their way into the international security markets. (Vienna cable No. 1037, dated July 27, 1946.)

3. Austrian Nazis.

Austrian Ordinance No. 18 of June 11, 1945, the text of which is attached to this report as Appendix No. 2, requires that all persons falling into the categories mentioned in paragraph 4 of the Nazi Verbotsgesetz (Austrian Denazification Law) of May 6, 1945, the text of which is attached to this report as Appendix No. 3, approved by the Allied Council on December 15, 1945, must register in their commune of residence and fill out a detailed questionnaire form. Since paragraph 4 includes all members of the Nazi Party and affiliated organizations, in effect Ordinance No. 18 may be characterized as a compulsory Nazi registration Decree. Approximately 519 thousand persons of a total population of 6 and 3/4 million have registered under this Ordinance as former Nazis.

However, no Austrian law presently in effect requires the former Nazis to file declarations of their assets. This oversight is corrected in a long revision of the Nazi Verbotsgesetz which was approved by the Austrian Parliament on July 25, 1946. Since this revision, the text of which is attached to this report as Appendix No. 4, is considered a constitutional law within the meaning of the New Control Agreement for Austria as approved by the Allied Council on June 28, 1946, before becoming legally effective it must be unanimously ratified by the Allied Council. The new revision, which is technically drafted in the form of an amendment to prior legislation affecting the denazification problem, provides, among other things, for a graduated capital tax levy against Nazis commencing at 10% and 20% for the first 10 thousand Schillings depending on whether the person against whom the tax is levied falls into the category of "guilty" or "less guilty" Nazis, and rising to 25% and 50% for amounts in excess of 250 thousand Schillings, less various basic exemptions starting at 5 thousand and 10 thousand Schillings, depending again on the category of Nazi involved, plus 2 thousand Schillings for each dependent under the age of 18. In connection with the administration of the capital tax levy proposed under the new legislation, there will be required a complete census of the assets of both "guilty" and "less guilty" Nazis.

The new revision also provides for an increase of 10% in the normal income tax payments of "less guilty" Nazis and 20% for "guilty" Nazis, which will remain in effect for three years for "less guilty" Nazis and five years for "guilty" Nazis. The definition of what constitutes "guilty" and "less guilty" Nazis under the new legislation will be discussed infra.

BLOCKING MEASURES

1. Blocking provisions under the Foreign Exchange Act.

All foreign exchange and other assets declared under the Foreign Exchange Act are automatically blocked under the Act unless sold to the

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National Bank or to an authorized dealer in foreign exchange. The Foreign Exchange Act similarly blocks Austrian internal assets in which a foreign national has an interest. It should be noted, however, that the term "foreign national" as used in the proposed Foreign Exchange Act does not apply to foreigners residing in Austria, or to the Austrian office of a foreign business enterprise. Thus the only Schilling accounts of American citizens affected under this provision are those controlled from outside Austria. The reason for this type of blocking provision is to prevent Schillings from being purchased and sold in London, Paris, New York and other international financial markets without any control by the National Bank.

The officials of the National Bank offered assurances that special licenses will be readily granted to United States citizens residing outside Austria who desire to make innocent transfers from their Austrian Schilling accounts. This assurance has been translated into the following language in the proposed letter of assurances:

"Transfers and other internal dealings in assets of United States citizens blocked as foreign assets pursuant to the Foreign Exchange Act of _____, 1946, will be authorized upon the filing of an application requesting such action in all cases where this would not have an adverse economic effect on the Austrian economy".

2. Blocking provisions against former enemy assets.

The blocking measures taken during the war by the German-Austrian authorities against the assets of United States and other allied citizens were lifted by order of the Allied Forces shortly after the liberation of Austria.

3. Blocking provisions under the Schillinggesetz of November 30, 1945.

The Austrians have taken anti-inflationary blocking measures in much the same fashion as the Belgians did under the Gutt decrees of October 6, 1944, referred to in the next to the last paragraph of the Belgian letter of assurances. The Austrian Schillinggesetz, the text of which is attached to this report as Appendix No. 5, divides Austrian bank accounts into three categories: completely blocked, partially blocked but with withdrawals authorized under license, and completely free accounts. Generally speaking, bank accounts opened before July 4, 1945, the liberation date for Austria, are divided under the Schillinggesetz into 60% which is completely blocked, and 40% which is partially blocked. Accounts established after July 4, 1945 but before November 30, 1945, the date of the Schillinggesetz, are divided into 60% which is completely blocked, and 40% which is completely free. Conversion accounts, i.e. accounts established with excess currency holdings turned in during the currency conversion period from December 1 to 22, 1945 are divided into 60% which is completely blocked, and 40% which is partially blocked. Accounts established after December 22, 1945 are completely free.

It has been proposed to insert the following language in the letter of assurances in order to protect the rights of United States citizens whose accounts are blocked under the Schillinggesetz:

"With reference to the Austrian Schilling Law (Schillinggesetz) of November 30, 1945, assets of United States citizens will be

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accorded as favorable treatment as is now or will hereafter be accorded the assets of any citizen of any other foreign country".

4. Blocking provisions against Nazis under the Nazi Verbotsgesetz and related laws.

Paragraph 19 of the Nazi Verbotsgesetz, as it is worded prior to its amendment by the Austrian Parliament on July 25, 1946, provides for the blocking of the assets of persons falling within the categories listed in paragraph 17. These include all the following:

- a) Illegal Nazis, i.e. those who were secret members of the Nazi Party before the Anschluss when membership in the Party was prohibited by Austrian law;
- b) Supporters of the Nazi Party, i.e. any person, whether or not a member of the Party, who helped support the Party with important financial contributions;
- c) Any member of the SS; and
- d) Functionaries of the Nazi Party, the SA, etc.

The administrative policy regarding withdrawals from accounts blocked under paragraph 19 of the Nazi Verbotsgesetz appears to follow closely that established with respect to withdrawals from the partially blocked accounts under the Schillinggesetz of November 30, 1945. In both cases monthly withdrawals of 150 Schillings are authorized, provided that there is no other source of income, and in exceptional cases a larger withdrawal may be permitted. However, the treatment in the two cases is not exactly parallel, since paragraph 17 Nazis may not have free accounts even where the account has been opened after December 22, 1945.

If the revision of the Nazi Verbotsgesetz approved by Parliament on July 25, 1946 is ratified by all four members of the Allied Council and thereby becomes law, which is not at all certain to be the case, the four paragraph 17 categories will be eliminated and replaced by two new ones, "guilty" Nazis and "less guilty" Nazis. The new category of "guilty" Nazis will comprise the same persons included under the present paragraph 17, with the exception of the illegals. Illegals will be classified as "guilty" Nazis only if they happen to fall within one of the other categories, such as membership in the SS, functionaries of the Nazi Party or SA, etc. The effect of the new provision will be, therefore, to eliminate from the "guilty" category the thousands of small fanatical Nazis who joined the Party before the Anschluss, but who never rose to any prominence in the Party. "Less guilty" Nazis under the new paragraph 17 will include substantially all persons, other than "guilty" Nazis, who were obliged to register under Ordinance No. 18.

Under the new amendment to the Nazi Verbotsgesetz the blocking provisions against Nazis have been completely eliminated, so that the new accounts of both "less guilty" and "guilty" Nazis will be free.

5. Ad hoc blocking measures.

The National Bank has no legal basis on which to take ad hoc blocking action against an individual. However, the Austrian police authorities apparently have power to ad hoc block in special cases,

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as does the Ministry of Finance under its general taxing authority.

SECURITIES

The future program of the Austrian authorities with regard to securities is somewhat nebulous at the moment. Subsequent to the Anschluss, the majority of Austrian securities were held on deposit with an institution known as the Wertpapiersammelbank. During the war the Germans removed the securities on deposit with this institution to Regensburg in Germany for safekeeping from destruction by Allied bombs. According to Austrian statements, many of the coupons which were not transferred to Regensburg with the securities were subsequently looted by the Russians. When the Regensburg securities are returned to Vienna, the Austrians intend to make an inventory and determine thereafter what is to be done with them.

Although more than 50% of the Austrian securities may be physically located in Regensburg, there are unquestionably a large number which still remain in Austria. The most important of these are undoubtedly held in the customer's portfolios of the commercial banks. Notwithstanding the fact that the stock exchange is closed, these securities which are still physically in Austria may be freely dealt in under present Austrian law in over the counter deals, provided that they do not fall into one of the categories of blocked assets under the Foreign Exchange Act, i.e. foreign securities, domestic securities redeemable in a foreign currency or domestic securities in which a foreign national has an interest, and provided also that they are not blocked under the Nazi Verbotsgesetz as belonging to a person falling within the provisions of paragraph 17. The Austrian banks may perhaps be relied on not to engage in over the counter dealings in blocked securities in their custody. There appears to be no effective control, however, over dealings in securities not in Regensburg and not in the custody of the banks. Although both the new and the present version of the Nazi Verbotsgesetz void any purported transfer of securities in which Nazis falling within the paragraph 17 category have an interest, this provision would be extremely difficult to implement in practice since most securities in Austria are bearer certificates, and consequently it would be difficult to trace transfers from Nazis to camouflaging agents.

It would appear, therefore, that the Austrian securities controls are inadequate from an economic warfare standpoint so long as there is no requirement that all securities physically located in Austria be turned into a designated depository, while in the meantime all securities dealings are suspended in the absence of a special authorization from the National Bank. A ruling such as this would at least serve to preserve the status quo until the securities now in Regensburg are returned to Austria and an over-all securities program is worked out.

It should be noted that the above comments are confined to the Austrian securities controls. In order that the situation may be accurately appraised, it may be mentioned that military regulations in force in the United States, British and French occupation zones require that all securities situated in these zones be deposited with designated depositories. Apparently there is no similar regulation in force in the Russian zone, and far more serious, in the Vienna zone where the more important of the securities still in Austria are probably held. The swiftest way to bring uniformity to the present confused state of security controls in Austria would appear to be through action by the

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Austrian Government. Since this is the procedure which is to be followed with regard to the foreign exchange controls, it would appear to be similarly appropriate with regard to the security controls.

The securities problem has been discussed with representatives of the Finance Division of USACA. Although the damage has probably already been done, it was agreed that it would be advisable to urge upon the Austrians the calling in of all securities which are not on deposit with the authorized banks and the prohibiting of any further dealing in securities without a special license.

This view was expressed to Minister of Finance Zimmermann and President Rizzi of the National Bank, who agreed to take the question under consideration. Subsequently the opinion was expressed by Count Hartenau of the Ministry of Finance that legislation would be required to put such a program into effect. He agreed, however, to make arrangements to have appropriate legislation introduced before the Austrian Parliament at the end of August when Parliament reconvenes after its present recess. Meanwhile, the Ministry of Finance will have time to reach an understanding with representatives of the Finance Division of USACA as to the appropriate wording of the legislation to be introduced. This entire question is complicated by the fact that the Russians are suspected of holding large quantities of Austrian and other securities in their possession which they allegedly looted in Austria during the early period after the liberation.

SEQUESTRATION

In view of the fact that Austria fought together with Germany during the war, Austria will of course not participate in reparations against Germany in the same manner as our allies. For this reason, the concept of sequestration in Austria is quite different from what it is in countries like France and Belgium. The sequestration concept as customarily applied in Austria is apparently a protective device. Thus for example, in cases where the original owner is not available, the Austrian Government may assume custody of property belonging to Austrian citizens which was taken over by the Germans under duress during the occupation. Apparently there is no authority under the present law to sequester the property of Austrian Nazis, not even those falling into the paragraph 17 categories of the Nazi Verbotsgesetz. The principal safeguard other than blocking to prevent persons in those categories from transferring their assets to safehavens appears to be a provision of the Nazi Verbotsgesetz which requires as a condition precedent to any transfer of title that a declaration be filed by the transferor affirming that he does not fall into one of the paragraph 17 categories - but this provision applies only to transfers of realty.

THE AUSTRIAN BANKING INSTITUTIONS

1. Austria is a small country about the size of South Carolina. Because of the mountainous terrain, much of Austria's land area is uninhabited. The financial heart of the country is centered in Vienna where two million of Austria's six million inhabitants are concentrated.

The following table gives a very summary picture of Austria's present banking structure:

Incorporated banks - 17 of which 9 have their main office in Vienna.
Private banks - 18 of which 13 have their main office in Vienna.
Savings banks - 172 of which 2 have their main office in Vienna.

Cooperative banks -

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Cooperative banks - 196 of which 42 have their main office in Vienna.
 Provincial cooperative banks - 1746 of which 3 have their main office in Vienna.
 Mortgage banks - 8 of which 1 has its main office in Vienna.

The majority of the above banks are local institutions which are relatively unimportant in national and international financial circles. Many of the provincial cooperative banks, for instance, which cater to the banking requirements of the smallest villages, remain open for business only a few hours during the week, in the evenings or perhaps on Sundays after church service.

Approximately 90% of the commercial banking in Austria is carried on by the Creditanstalt-Bankverein and the Laenderbank and their subsidiaries. The former is by the far the largest and most important banking institution in all Austria.

2. Denazification in the banks.

The denazification problem in Austria differs from both the collaboration problem of the liberated western European countries, and the denazification problem of enemy Germany. Whereas in the western European countries, collaborators could be dealt with as a relatively small minority of discredited traitors, in Austria the Nazis and pan-Germans constituted an important segment of the population. On the other hand, the fiction of Austrian liberation, which has been agreed to for political reasons perhaps fully justifiable in themselves, makes it inconsistent to deal directly with these Nazis and pan-Germans in the same manner as has been done in Germany. In Austria it has been assumed, rightly or wrongly, since February 1946 when the occupying powers commenced transferring the responsibility of denazification to the Austrians, that the Austrian people themselves through their recognized Government would take the necessary steps to eradicate all undesirables. The primary denazification function of the occupying powers in Austria is to see to it that this assumption becomes a reality.

The denazification picture is complicated by the division of Austria into occupation zones. Until the transfer of responsibility for denazification to the Austrians, separate denazification standards and rules were applied in each zone. In the American, British and French zones, military denazification committees carried on their functions under their own directives. In the Russian zone denazification was carried out by the Austrians under the Nazi Verbotgesetz, which was applied in that zone immediately after its enactment by the Austrian Parliament on May 8, 1945, although it was not approved by the Allied Council until six months later. In addition the Russians apparently carried out denazification on an ad hoc basis of their own, when what the Austrians had accomplished did not appear satisfactory to them.

At the present time responsibility for denazification is nominally in the hands of the Austrians. The four occupying powers reserve the right, however, to effect removals on their own authority, provided that they are carried out on a quadripartite basis through either the Denazification Committee or one of the higher quadripartite groups such as the Executive Committee or the Allied Council itself.

Denazification of the banks, apparently takes place principally in two ways. As a rule, each institution appears to have established an internal denazification committee of its own. The work of these internal committees is later reviewed, so far as the more important personnel are

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concerned, by an Austrian group known as the Ministerial Committee. The jurisdiction of the internal denazification committees, the Ministerial Committee and certain other Austrian Committees and organizations charged with denazification, not to speak of the quadripartite Denazification Committee, appears to overlap, and as a result, the denazification picture is one of confusion with no one completely satisfied with the results achieved.

Denazification of the National Bank of Austria. - The denazification of the National Bank was carried out by a special investigation group established within the Bank itself. It was discovered that of the 791 officers and staff employed by the National Bank at the time this special group carried out its investigation, only 48 had any Nazi Party affiliation whatsoever, and 44 of this number were stenographic and other minor clerical employees. Since the affiliations of these 48 employees were not considered badly incriminating (i.e. they did not fall within the paragraph 17 categories under the Nazi Verbotgesetz, although they had applied for membership in the Party or had been simple members of the Party without holding the rank of officer), they were not dismissed. Of the 300 new officers and employees hired by the National Bank since the above investigation, not one has had Nazi affiliations of any kind. In the opinion of one qualified observer, the present personnel of the National Bank represents as clean a group from the point of view of Nazi affiliations as could be found in Austria at the present time.

Denazification of the Creditanstalt-Bankverein. - As in the case of the National Bank, a special investigation group was created within the Creditanstalt. As a result of this group's activities, 24 out of 54 top executive personnel in the bank, including directors and persons authorized to sign for the bank, were dismissed. In addition 2 others were penalized by being pensioned, and 7 more had their signing powers cancelled. The findings of this special investigating group were subsequently reviewed by the Ministerial Committee which ordered the dismissal of 2 more executive personnel.

The most controversial figure in the banking field is Josef Joham, President of the Creditanstalt. The primary suspicion against him appears to revolve around the fact that he was permitted by the Germans to remain in office and exercise his functions throughout the entire occupation. Joham has been attacked as a pro-Nazi in the local Communist press, and at one time was placed under arrest by the British, only to be released a few days later. Thus far no evidence has been uncovered pointing to Joham's affiliation with the Nazi Party. On the other hand, it is known that he supplied important information to the American Intelligence Service during the war. The Joham case is apparently scheduled for formal discussion by the quadripartite Denazification Committee. The Americans, British and French are apparently not prepared to press for his dismissal, in view of the inability to find any concrete evidence against him. The Russian position remains in suspense pending the translation of the Joham file into Russian.

Denazification of the Landerbank. -

The Landerbank was investigated by the Ministerial Committee, which upon the completion of its investigation ordered the dismissal of 16 directors and other officials because of their Nazi affiliations. A routine check by a representative of the Finance Division of USACA subsequently revealed that only 12 of the 16 had been dismissed as directed. It thereupon developed that four of the directors had been allowed to

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remain in office at the personal request of the Minister of Finance, who claimed that they are essential. This case is now being investigated by the American authorities in order to determine what further action should be taken. The Treasury Department's special blocking procedure has been explained to the representatives of the economic section of AUSIOLAD and the Finance Division of USACA with the thought in mind that they may wish to recommend the special blocking of the Landerbank in the event that this should be considered desirable. The names of the four directors ordered dismissed by the Ministerial Committee and who nevertheless still remain with the Landerbank are Edmund Ackermann, Michael Dyszant, Karl Papsek and Friedrich Foessel. The grounds on which the Ministerial Committee ordered their dismissal is not yet known to the American authorities.

The present Director-General and Public Administrator of the Landerbank is a well-known socialist and anti-Nazi by the name of Dr. Landertbeumer. One of the present managing directors of the bank, Dr. Mitschfeld, was removed by the Nazis during the occupation because of his Jewish wife.

Denazification in the other Austrian banks. - There is little reliable information available at the present time regarding the denazification of the remaining Vienna banks. Theoretically, such denazification should be carried out on a threefold basis, by special investigation groups established within each of the banks, by the Austrian Ministerial Committee and finally by the quadripartite Denazification Committee. Until now, however, the Denazification Committee has confined its efforts principally to the personnel in the various government Ministries, judges, school teachers, and other government employees, on the theory that denazification here is even more important than in private enterprise.

In one of the recent quadripartite meetings a program was proposed for the processing of the principal officers and officials of the Vienna banks with regard to their Nazi affiliations. The Russian representative at the meeting took the position that all employees of the Vienna banks should be processed. When this was objected to as impractical, the Russian representative stated that he would have to clear the question with his superiors. Since then, no further progress has been made with regard to investigating the Vienna banks. The other representatives on the Denazification Committee have not pressed their Russian colleague for a clarification of his views with regard to investigating the banks, inasmuch as the Committee has more work than can be handled for the moment with the very limited personnel available for assisting in the denazification program.

Meanwhile, the Austrian Ministerial Committee has been continuing its investigations of the Austrian banks on its own initiative. It is apparently difficult to obtain a coherent picture of the results of the denazification investigations from the Ministerial Committee's reports, due to the fact that these reports indicate merely how many bank officials have been ordered dismissed by the Committee, without stating how many officials had been previously removed by special investigation groups established within the individual banks.

A complete denazification investigation of the banks in the American zone was carried out before the formal transfer of the responsibility for denazification to the Austrians. Whereas in commerce and industry in the American zone, only the top executives and officials were required

to fill out

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to fill out Fragebogen, all employees in the banks were required to fill out the denazification questionnaire. About 600 persons were dismissed from banks in the American zone because of their Nazi affiliations.

Unfortunately, the details are not readily available with regard to the denazification of the banks in the three other occupation zones. Since many of the provincial banks are controlled by the Creditanstalt-Bankverein, which has itself been denazified in the home office, it may be assumed that some action has been taken to denazify many of the provincial banks in the three other zones. Furthermore, as has already been mentioned, Austrian banking is centralized for the most part in Vienna, and presumably the crux of the problem will have been solved once the denazification of the Vienna banks has been completed.

Although on the basis of the above information, which is admittedly incomplete, the denazification of the Austrian banks would appear to be far from what is desired, in the opinion of some qualified observers it is relatively successful as compared with the results in other economic fields. In drawing conclusions, it must be remembered that denazification in Austria has been a laborious and drawn out process which is still continuing under the very general supervision and guidance of the four occupying powers.

3. Austrian banks subject to General Ruling No. 11A.

Records of the Finance Division of USACA indicate that prior to March 13, 1938 the Germans had a 25% or greater interest in the following Austrian banking institutions:

- Länderbank - approximately 33% participation.
- Bank für Kärnten - approximately 50% participation.
- Salzburger Kredit und Wechselbank - approximately 98% participation.

The representatives of the Austrian National Bank have been requested to ascertain whether the above information is accurate and if so to furnish the details regarding the interests in these institutions as of March 13, 1938. They were also requested to furnish the same information regarding any other banking institutions in which the Germans may have had a 25% or greater interest prior to March 13, 1938.

The initial reaction of the Austrian National Bank representatives was one of surprise that the Germans should have had such a large interest in the Länderbank prior to the Anschluss. They agreed to look into the entire question and promised to report the results of their findings as soon as they are obtained. A copy of cable No. 615 of June 7, 1946 to Brussels relating to the procedure for certifying dollar assets held in the names of General Ruling No. 11A banks has been furnished to AUSPOLAD by the U. S. Treasury Representative. This procedure will be explained to the Austrians as soon as they have submitted the details regarding the General Ruling No. 11A banks. The Austrians have been advised that the names of the General Ruling No. 11A banks together with the details of the German interests therein will have to be made available to the Treasury Department before the letter of assurances is accepted.

According to a report of the Finance Division of USACA, the German participation in Austrian banking enterprises capitalized at a million or more Reichsmarks increased from approximately 8% prior to the Anschluss, to approximately 83% in 1944.

4. Dollar remittances

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4. Dollar remittances through Austrian banking institutions.

Reference is made to paragraph B of War Department cable No. 84185 dated April 24, 1946 relating to dollar remittances to Austria, and particularly to the part thereof reading as follows:

"It is also assumed that steps have been taken to insure that remittances will not be paid out to undesirable persons".

The following procedure has been worked out by the Austrian National Bank to prevent the Schilling proceeds of dollar remittances from being paid over to undesirable persons. Before paying the Schilling equivalent of dollar remittances to the payee, the bank must require that the payee sign a declaration under oath, stating that he is an Austrian citizen and does not fall within the restrictions of paragraph 19 of the Nazi Verbotgesetz, i.e. the payee's accounts are not blocked because of his Nazi affiliations.

Upon inquiry at the Creditanstalt-Bankverein, through which all such remittances have been channeled to date, it developed that no remittance has as yet been refused on the ground that the payee was unsatisfactory. On the other hand, there have been cases where the recipient refused to accept the remittance and requested instead that the money be returned to the sender. The Austrian National Bank representatives expressed the opinion that the majority of such cases have undoubtedly occurred when the payee did fall within paragraphs 17 and 19 of the Nazi Verbotgesetz and therefore would not risk signing a declaration under oath to the contrary. According to the National Bank representative, the control over remittances is of dubious value in any case, since anyone including Nazis, is entitled to receive food packages. Thus the Austrian Nazi has only to write his friend or relative in the United States and request that food packages be sent instead of remittances. The Nazi gains a double advantage in this way, since the food is of far more value to him than the money ever could be under present conditions.

5. Nationalization of certain Austrian banks.

An act approved by the Austrian Parliament on July 25, 1946 provides for the nationalization of a number of Austria's basic industries. The same act provided for the nationalization of Austria's three largest banks, i.e. the Creditanstalt-Bankverein, the Landerbank and the Hypothekbank und Creditinstitut. The future status of this legislation is uncertain. It may well be that it will be recognized by the four occupying powers as an ordinary legislative act which will automatically become law in 31 days, provided that it is not unanimously vetoed by the Allied Council in the interim. However, this is not at all certain in view of the Russian objections to this legislation which nationalizes a number of properties claimed by the Russians under the Potsdam Agreement. In order to block final approval of the nationalization act, the Russians may perhaps take the position that it is constitutional legislation requiring unanimous approval by the Allied Council.

PROPOSED ADMINISTRATION OF FOREIGN EXCHANGE ACT.

The National Bank of Austria proposes to channel all foreign exchange transactions through authorized banks known as Devisenbanken. For the time being, there will be only one general license issued under the Foreign Exchange Act; this will authorize the purchase by the Devisenbank of specified currencies which the Austrian National Bank requires, such as dollars, pound sterling etc. All other foreign exchange transactions will be subject to special license.

Prior to the

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Prior to the Anschluss there were two general licenses authorizing foreign exchange transfers: one which authorized persons travelling abroad to purchase a maximum of 200 Schillings worth of the currency of the country to which they were proceeding; and the other which authorized persons in the import-export business to retain foreign currencies acquired through their export operations, provided that these were used only for imports, and provided also that the persons making use of this general license filed periodic statements with the National Bank. Because of Austria's present shortage of foreign exchange, the National Bank officials do not propose for the time being to issue general licenses of either of these types. Thus, temporarily at least, practically every foreign exchange transaction will have to be specially licensed by the National Bank, including the following:

Imports - The procedure will provide that before the National Bank will even consider an application by an importer for authorization to purchase foreign exchange, the applicant must first submit a license from the appropriate Austrian authorities authorizing the particular importation. The possibility is being considered, however, of eliminating the necessity for two licenses, one authorizing the importation and the other authorizing the sale of the foreign exchange, through the establishment of an Inter-ministerial Committee which will include a representative of the National Bank, the Ministry of Commerce, the Ministry of Agriculture, and other interested agencies, whose function it will be to determine in the light of the foreign exchange availabilities what goods are to be imported, in what quantities, from what countries, etc.

Expenses of business travel abroad - For the time being, the National Bank proposes to authorize the sale of foreign exchange only for essential business travel abroad of importance to the Austrian economy. The sale of foreign exchange for tourist travel will apparently not be authorized.

Foreign patents and government fees - The National Bank proposes to authorize the sale of foreign exchange to cover expenses abroad in the filing and servicing of Austrian owned patents and similar rights in view of the tremendous benefit to be gained against only a very small outlay in foreign exchange.

Expenses abroad of Austrian diplomatic missions.

Payment of Austrian obligations abroad arising out of international agreements relating to such international services as railways, telephone, telegraph, etc.

For the time being, the National Bank does not propose to authorize other types of foreign exchange transactions on either a special or general license basis. Exceptions may be made, of course, as for example if foreign exchange were to be required for the servicing of Austrian Government obligations incurred abroad since the liberation. Until their foreign exchange position improves, the Austrians apparently have no intention of allocating foreign exchange for the servicing of pre-liberation obligations to foreign countries and the citizens thereof. Generally speaking the picture will be one of Spartan self-denial until such time as Austria's foreign exchange position permits a more liberal attitude.

In order that the picture of the controls over foreign exchange transactions may be complete, it should be mentioned that a directive which will probably be issued in the near future by the quadripartite Finance Directorate will provide that the following applications for foreign exchange be referred to the quadripartite Foreign Exchange Committee before being approved by the National Bank:

a) Applications

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- a) Applications for foreign exchange to finance imports when the amount requested exceeds 100 thousand Schillings;
- b) Any foreign exchange applications for the exportation of capital regardless of the amount involved; and
- c) Any other type of foreign exchange application when the amount requested exceeds 10 thousand Schillings.

In addition, the directive will probably require that all proposed general licenses be referred to the quadripartite Foreign Exchange Committee. The directive will probably provide also that if the Foreign Exchange Committee does not unanimously disapprove a proposed special or general license within a specified period after it has been referred to the Committee, the National Bank may proceed to act upon it as though it had been approved.

The National Bank intends to route all applications for foreign exchange to a special section within the bank, which will make a preliminary examination to compare the statements made in the application against the following records:

- a) The supporting documents attached to the application, e.g. the import license in the case of an application for authorization to purchase foreign exchange to finance imports;
- b) The foreign exchange declarations required to be filed under the Foreign Exchange Act;
- c) Records of any previous applications; and possibly
- d) Censorship intercepts. (For reasons which will be discussed infra under censorship, the National Bank does not receive censorship intercepts relating to matters of financial and commercial interest. However, information extracted from such intercepts is to be informally made available to the National Bank in the near future.

It was suggested to the National Bank representatives that foreign exchange applications might likewise be checked against the American Proclaimed List and the British Statutory List. It was pointed out that although these lists have been rescinded, the Austrian authorities might well consider it desirable to look more carefully into a foreign exchange application in cases where it is discovered that persons involved in the transaction were on the Proclaimed or Statutory lists. A copy of the Proclaimed List has been furnished to the National Bank for this purpose.

The National Bank representatives see no necessity for checking the names appearing on foreign exchange applications against the lists of Nazis required to register under Ordinance No. 18 referred to supra. They are of the opinion that this is unnecessary, since Nazis falling within paragraph 17 of the Nazi Verbotsgesetz are disqualified from operating a business enterprise in any case, and therefore would have no occasion to file a foreign exchange application which could fall into one of the categories which might normally obtain approval, such as financing the importation of goods into Austria. The National Bank representatives expressed the view that if such a control were to be established, it would be more appropriate for the Ministry granting the basic import license to investigate whether the applicant is satisfactory from a political standpoint. They did not mention what would occur in cases such as applications for the payment of foreign patent fees, where there probably will be no other Ministry which would have occasion to pass upon the basic transaction.

This problem was subsequently reviewed at some length with representatives of the Finance Division of USACA and denazification specialists. From these discussions it developed that no centralized, alphabetical list of the registered Nazis has as yet been prepared. The local communes

where the Nazis

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where the Nazis are obliged to register under Ordinance No. 18 each have lists classified in accordance with the streets and house numbers where the Nazis live. These lists are forwarded by the individual communes to the Ministry of Interior, which is in process of preparing an alphabetical master Nazi index file from these lists. Although it is not yet feasible to have a quick routine check made, on which absolute reliance can be placed, of the former Nazi affiliations of any given individual, it apparently is possible to make at least a summary check by referring the name to the Ministry of Interior. Furthermore, as the Ministry of Interior's files become more and more complete, the results to be obtained from such a check will be more and more reliable.

The problem was raised formally by the United States Element in the quadripartite meeting of the Foreign Exchange Committee on July 26, 1946. The United States Element proposed that a paragraph be inserted in the quadripartite Finance Directorate's directive to the National Bank requiring the following:

- a) All applicants for foreign exchange be required to declare under oath whether they fall within the provisions of the Nazi Verbotgesetz and the Nationalsozialistengesetz;
- b) The National Bank be required to check with the Ministry of Interior any name appearing on foreign exchange applications when the Bank is not reasonably certain that the person named is satisfactory; and
- c) All applications on which the name of a Nazi appears be referred by the National Bank to the Foreign Exchange Committee.

The British Element objected to this proposal on the ground that it had no place in a foreign exchange directive. After extended discussion the British Element withdrew its objections and it was unanimously agreed that the French temporary chairman draft a paragraph for the next weekly meeting embodying the American proposal. Once the directive with the aforementioned paragraph is approved by the Foreign Exchange Committee, it is referred to the Finance Directorate for its final consideration and approval before being forwarded to the National Bank.

In addition to the licensing controls described above, the National Bank will also maintain a control over foreign exchange transactions through the requirement of periodic reports. Thus for instance, persons who have received foreign exchange licenses for import purposes will be required to submit evidence to the National Bank that the import transaction has in fact been completed. Similarly exporters will be required to submit to the National Bank at the time their goods leave the country a copy of the bill of lading together with a statement of the foreign exchange which is expected to be realized from the export. Thereafter, the exporter will be required to file a report with the National Bank three times a month setting forth the foreign exchange which has been realized on the exported items together with a statement of the status of such foreign exchange. Since these reports must refer to the number of the original bill of lading which was filed when the goods were first exported, it will be possible for the National Bank to keep close check on what is happening. Every few months the exporter will be required to file a report of the foreign exchange still owing to the exporter by the consignee. If the National Bank finds that the amount outstanding is excessive, it may take steps to require that the situation be corrected.

In addition to the licensing controls and reporting requirements described above, the National Bank has one other effective measure of control through surprise audits. In any case where there is suspicion that an exporter has not reported the true picture, the National Bank may send its own auditors to go through his books without any prior notice.

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NATIONAL BANK SUPERVISION OF THE AUSTRIAN BANKS

The National Bank exercises a general supervision over the Austrian banks which is based on custom as well as legal authority. All important credit operations must be reported to the National Bank. If in the National Bank's opinion an unhealthy situation is developing because of certain undesirable credit operations, this is reported to the banks together with recommendations for correcting the situation. If the banks were to disregard the recommendations of the National Bank, the latter could exert various forms of pressure on the non-cooperating banks, such as refusing to discount their paper, withdrawing their authorization to deal in foreign exchange, etc.

The National Bank also maintains the following additional controls over the Austrian banks:

- a) Annual audits. (For the moment, the National Bank's audits are confined to specific transactions. However, as soon as conditions become stabilized, it is hoped to make the periodic general audits which are authorized under the present Austrian banking laws, including audits of the securities portfolios of the banks and their customers);
- b) Control over interest rates; and
- c) Control over type of security acceptable for credit.

CENSORSHIP

Although censorship is prohibited under Austrian constitutional law, it nevertheless has been instituted since the liberation under the military authority of the occupants. At present, censorship is operated within the Austrian Ministry of Communications under the supervision and guidance of the four occupying powers.

Civil telephone, telegraph and postal communications between Austria and foreign countries are censored 100%. Internal Austrian civil communications are also censored, but to a lesser degree. Internal telegraph communications are 100% censored, whereas internal long distance telephone communications are only 50% censored and internal postal communications 10% censored.

With the exception of transactional communications, which are still prohibited absolutely, there is no restriction other than censorship on communications between Austria and the outside world other than Germany and Japan. For the time being, only personal communications are authorized between Austria and Germany. All communications of a business nature, including those seeking and furnishing business information, are still absolutely prohibited between Austria and Germany.

Although no final decision has as yet been taken, the present feeling appears to be that the ban on transactional communications between Austria and the non-German world will be lifted in the near future, probably at about the same time that the Foreign Exchange Act becomes law. The future continuation of censorship after that time is uncertain. It may well be, however, that censorship will be continued in one form or other until the end of the year.

At the present time there is no arrangement for the National Bank to use financial intercepts in the enforcement of the Foreign Exchange Act. Apparently an offer was made some time ago by the Allied censorship authorities to make available to the Austrian authorities all censorship intercepts which might be of interest to them. This offer was apparently

turned down

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turned down for political reasons, on the ground that the Austrian authorities could not in good conscience make use of information obtained in violation of the basic law prohibiting censorship.

Since the National Bank representatives have nevertheless expressed an interest in receiving for themselves intercepts relating to financial questions, it was suggested that they officially request such intercepts from the Allied censorship authorities. Meanwhile an alphabetical card index containing information extracted from Austrian financial intercepts is in course of preparation in the Finance Division of USACA. Each index card contains significant items extracted from a particular intercept, such as the amount of foreign assets held abroad by a named individual, the identity of the custodian abroad, the identity of the persons within Austria who have an interest in the assets if this is known, etc. As soon as this index is completed, it will be turned over informally to the National Bank authorities for their use in the enforcement of the Austrian financial and foreign exchange controls.

THE LETTER OF ASSURANCES

There are attached to this report as Appendix No. 6 copies of the letter of assurances and five supplementary letters which the Austrian Minister of Finance proposes to send to the Secretary of the Treasury at the conclusion of the defrosting negotiation. The proposed letters have been reviewed in detail with the Austrian authorities, and Minister of Finance Zimmermann has expressed his readiness to sign them in their present form. The letters have also been discussed at some length with representatives of the Office of the Political Adviser and the Finance Division of USACA who have similarly expressed agreement with the procedure outlined therein. It has been made clear to all concerned that these documents have yet to receive final clearance from the Treasury Department, and that until that time they should only be considered tentative proposals which the Treasury Department may wish to modify.

The letter used as the basic model for the proposed Austrian letter of assurances in the defrosting discussions with the Austrians is an adaptation of the one signed by the Czechoslovakian Minister of Finance. It was felt that this would be an appropriate model to use, not only because Czechoslovakia is a neighbor of Austria, but more important because this letter has been accepted by a Government whose foreign exchange position is not too far different from that of the Austrians. The following proposed modifications have been made to adapt the Czechoslovakian letter to the Austrian situation:

1) The reference to the prevention of enemy looting of Czechoslovakian assets in the United States (see end of first paragraph of Czechoslovakian letter of assurances) was deleted in the proposed Austrian letter in view of the extensive looting of such assets which took place in the three year interim after the Anschluss and before Austrian assets in the United States were blocked. It was felt that the Treasury Department would have no objection to such a deletion since this same clause was also omitted from the Finnish letter of assurances.

2) Inasmuch as the Austrians fought on the side of Germany and there was no Austrian Government in exile which was recognized as an ally of the United Nations, the enemy concept in Austria does not have the same connotation as in the United States and other allied countries. In order to avoid any confusion, it was considered advisable to modify the term "enemy" when used in the proposed Austrian letter by the phrase "enemy of the United States".

3) The last sentence of item 5 of the Czechoslovakian letter has been omitted from the proposed Austrian letter. It was felt that the French

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and other letters offer sufficient precedent for this omission.

4) For purposes of the proposed Austrian letter of assurances, the following language has been added at the end of item 6 of the Czechoslovakian letter for the reasons mentioned in the body of this report under subdivisions 1 and 3 of the heading "Blocking measures".

"Transfers within Austria and other internal dealings in assets of United States citizens blocked as foreign assets pursuant to the Foreign Exchange Act of _____, 1946, will be authorized upon the filing of an application requesting such action in all cases where this would not have an adverse economic effect on the Austrian economy. With reference to the Austrian Schilling Law (Schillinggesetz) of November 30, 1945, assets of United States citizens will be accorded as favorable treatment as is now or will hereafter be accorded the assets of any citizen of any other foreign country."

Because of the difficulties experienced in obtaining the implementation of similar language in the Belgian letter of assurances, the phrase "assets of United States citizens" has been substituted for "accounts of United States residents", the language used in the Belgian letter. The most favored nation commitment was further broadened in the proposed Austrian letter of assurances by the addition of a supplementary "any".

5) At the strong urging of Minister of Finance Zimmermann and President Rizzi of the National Bank, the following minor changes have been tentatively agreed to in the first and second paragraphs of item 7 of the Czechoslovakian letter of assurances as incorporated into the proposed Austrian letter:

- A) The phrase "Subject to the foregoing" in the second sentence of the first paragraph of item 7 has been deleted and replaced by the phrase "Insofar as the Austrian foreign exchange position will permit".
- B) The wording "within the limits of the resources of the Government" in the second paragraph of item 7 has been deleted and replaced by the same language quoted in A above.

Although neither of these modifications would appear to have any substantive significance, and Minister Zimmermann and President Rizzi were so advised, both felt strongly that the amended language would more accurately portray Austria's true situation in the light of the present shortage of foreign exchange. It is hoped that these changes will be acceptable to the Treasury Department in the light of the statement made in your cable No. 634 of June 11, 1946 to AUSPOLAD, Vienna that the Treasury Department is prepared to consider moderate assurances in the last paragraph of the letter of assurances.

6. Because of the special circumstances involved, with Austria under an Allied occupation, it has been considered advisable to draft a supplementary letter of assurances agreeing to an arrangement whereby all certifications of \$5000 or more will be cleared with the Finance Division of USACA before being forwarded to the United States for action by the National Bank. This procedure, which has the endorsement of both AUSPOLAD and USACA, has the advantage of serving as a check on important certifications as and when they are issued by the National Bank. This is recommended at least temporarily for two reasons:

- A) The Allied Council already exercises through the Finance Directorate a close supervision and control over the financial activities

of the Austrian

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of the Austrian Government, and the American occupation authorities would prefer to have the certification procedure fit into the established pattern; and

B) The Austrians have had almost no experience in the administration of economic warfare controls, and without some outside supervision and guidance at least in the initial stages, there is some danger that the certification procedure might degenerate into a rubber stamp process.

7) A directive to be issued in the near future by the quadripartite Finance Directorate, and which has already been referred to supra, will require the National Bank to clear with the quadripartite Foreign Exchange Committee all applications for the purchase of the foreign exchange equivalent of ten thousand or more Schillings when the purpose of the transaction is not to finance imports. The representative of the United States Element of the Foreign Exchange Committee has indicated that in view of the very limited foreign exchange available, the United States Element is prepared to urge the disapproval of any application to purchase foreign exchange for any such purpose as the payment of debts contracted abroad before the liberation, the transfer of current income payments from Austria to foreign countries, the exportation of capital, etc. He expressed the opinion that in a matter of this type the other three Elements on the Foreign Exchange Committee would probably concur with the American view. In order to work out a procedure to cover the contingency of a unanimous quadripartite veto which would make it impossible for the Minister of Finance to implement the commitments undertaken in item 7 of the letter of assurances, a second paragraph has been added to the supplementary letter referred to in 6) above, which in effect subordinates the commitments undertaken in the letter of assurances to the directives of the Allied Commission for Austria and subordinate subdivisions thereof in cases where the two are inconsistent. It was felt that this paragraph would be acceptable to the Treasury Department as falling within the spirit of the statement in your cable No. 634 of June 11, 1946 to AUSPOLAD, Vienna, that the Treasury is prepared to consider moderate assurances in the last paragraph of the letter.

8) Referring to item 3 of the proposed letter of assurances, the Austrians inquired whether the \$1000 limitation in the final sentence of the second subparagraph applies also to the first subparagraph. The Austrians desire to know for example, whether it would be necessary to obtain assurances from the French Office de Change before certifying the account of an Austrian corporation amounting to less than \$1000, if the French participation in this corporation were greater than 25%. It was stated in reply that an assurance from the Office de Change would be necessary in such a case, since as the letter of assurances is now drafted, the \$1000 limitation applies only to the second subparagraph of item 3. Confirmation of this interpretation would be appreciated. If this interpretation is correct, the Treasury Department may wish to propose a redrafting of item 3 so that the \$1000 limitation may be made applicable to both subparagraphs.

INTERPRETATION OF GENERAL LICENSE NO. 95

Among the questions of interpretation of General License No. 95 which were raised during the defrosting discussions were the following:

1) The question was asked whether the National Bank may certify the assets of Austrian Nazis. It was tentatively stated in reply that this is authorized under General License No. 95 on the assumption that the Austrians themselves will take steps to prevent the Nazis from deriving any benefit from the certification. The representatives of the National

Bank gave

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Bank gave assurances that if the certification of Austrian Nazi assets is authorized under General License No. 95, not only will the certified dollars be transferred to the National Bank as in the case of all other dollar assets, but in addition the counter value to be paid out in Schillings will be placed in a blocked account. The National Bank representatives proposed the following procedure for the implementation of this assurance: All persons applying for the certification of their assets will be required to file a declaration under oath that they are not subject to the provisions of the Nazi Verbotgesetz and related legislation. In addition the National Bank will make inquiry in the commune of the applicant's residence and/or the Ministry of Interior to check the accuracy of the above declaration. In cases where the applicant proves to be a Nazi falling within the provisions of paragraph 17 of the Verbotgesetz, the Schilling proceeds of his requisitioned dollar assets will be blocked under paragraph 19 of the Verbotgesetz.

After further discussions, it was admitted that this might not be legally feasible if the new version of the Nazi Verbotgesetz approved by Parliament on July 25, 1946 becomes law, since the blocking provision of paragraph 19 of the Verbotgesetz is eliminated in the Nationalsozialistengesetz, as the new amendment is entitled. After studying this question, representatives of the Ministry of Finance expressed the opinion that as a part of its general taxing jurisdiction, the Ministry of Finance has ample authority to ad hoc block the assets of Nazis to safeguard their being dissipated prior to full satisfaction of the special capital tax and income taxes which the Nationalsozialistengesetz imposes on "guilty" and "less guilty" Nazis. Count Hartenau of the Ministry of Finance thereupon gave assurances that the Schilling proceeds of certified dollar assets of "guilty" Nazis will be blocked at least five years and those of the "less guilty" Nazis at least three years, until the special tax obligations imposed on Nazis under the Nationalsozialistengesetz have been fully liquidated. Upon the expiration of the above time period, what remains in these accounts after satisfaction of the various tax obligations owing to the Austrian State will be freed.

Since the above assurance, which is predicated on the assumption that the Nationalsozialistengesetz, will become law after unanimous approval by the Allied Council, goes further than is required under the Nationalsozialistengesetz, it was accepted subject to approval by the Treasury Department. Count Hartenau's assurance has been confirmed in a supplementary letter of assurance the text of which has been agreed to by the Austrian authorities. Copy of this supplementary letter is attached to this report as Appendix No. 6.

2) The question was asked whether the National Bank may certify the dollar assets of a corporation whose assets have been taken over by the Russians as German under the Russian interpretation of the Potsdam Agreement, but which is deemed by the United States Government to be Austrian within the meaning of General Clark's letter to Chancellor Tsigl of July 10, 1946 (reported in cable 3387 of July 10 sent from Paris by Secretary of State Byrnes to President Truman) and also within the meaning of the Treasury Department's Public Interpretation No. 19 of February 8, 1946. This problem was explored at some length. The tentative Austrian position appeared to be that the National Bank should be permitted to certify such assets under Public Interpretation No. 19, on the understanding, or perhaps in the hope, that the National Bank could retain the dollars for itself against payment of the counter value in Schillings to the corporation. It was stated in reply that this is a question of government policy which cannot be decided on a technical level. It was pointed out, however, that the United States Government may very well wish to take the position that a corporation which has

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fallen under Russian control in the manner described above is excluded from the benefits of General License No. 95 by reason of the fact that the Russians who seized control of the corporation on the theory that it is German are now estopped from requesting certification in the name of the corporation. It was suggested that this question be reserved until such time as a certification application is filed by a corporation taken over by the Russians and that it then be raised formally through diplomatic channels. It was generally agreed that the question will be theoretical for at least another three months, and that the situation may be changed by that time.

3) The question was asked whether the National Bank of Austria may certify the assets of an Austrian corporation in which the German participation as of March 13, 1938 was 2% or less. It was stated in reply that the certification of such a corporation's assets would presumably be prohibited under paragraph (3) of General License No. 95. The Austrians indicated that such an interpretation may well disqualify from certification under General License No. 95 a substantial part of the Austrian assets in the United States. They pointed out that prior to the Anschluss it occurred quite frequently that Germans and Hungarians held small participations in Austrian corporations for investment purposes. The Austrians added that in the case of many Austrian corporations, it would be difficult even to ascertain whether there was a small German or Hungarian interest as of March 13, 1938, in view of the bearer nature of such securities.

Clarification with regard to the question would be appreciated. Although it was deemed desirable in the initial negotiations with the Austrians to give a strict interpretation regarding the certification of dollar assets indirectly held by the enemy, it would seem arguable that an Austrian corporation in which the German participation is less than 25% with the remaining interests therein pure Austrian, is not a German national within the meaning of Section 5E of the Executive Order, and therefore not a German national within the meaning of paragraph (3)(b) of General License No. 95. If this interpretation is acceptable to the Treasury Department, clarification will also be necessary as to the applicability of such an interpretation to holding companies.

CERTIFICATION LANGUAGE

The following language has been recommended for use by the National Bank of Austria in issuing certifications under General License No. 95:

The National Bank of Austria, acting upon instructions of the Ministry of Finance, certifies that no foreign country designated in the Order, or national thereof, within the meaning of General License No. 95, other than a country specified in such license or a national thereof, as defined in the license, has had any interest in the following property, rights or interests between March 13, 1938, and the date of this certification.

CONCLUSIONS

It is our view, as indicated in Vienna cable No. PL354 dated July 17, 1946 to the War Department for the attention of the Treasury Department, that the Austrians should be in a position to fulfill adequately the commitments in the letter of assurances after the Foreign Exchange Act has become law and the census of foreign exchange provided for by this Act has been initiated. If this conclusion is acceptable to the Treasury Department, it would be appreciated if General Clark

(attention AUSPOLAD)

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(attention AUSPOLAD and Finance Division of USACA), could be so advised as soon as possible together with any views which the Treasury may wish to express, particularly with regard to the text of the letter of assurances and various supplementary letters. The Treasury Department will in turn be informed when the Foreign Exchange Act has become law and the foreign exchange census under this legislation has progressed sufficiently to permit the defrosting to begin with the signing of the letter of assurances.

It may be mentioned in this connection that under Article 6 (a) of the New Control Agreement for Austria, as adopted by the Allied Council at its meeting on June 28, 1946, it apparently will not be necessary for the proposed defrosting agreement to be submitted to the Allied Council as suggested in the State Department's cable No. 637 of June 11, 1946 to AUSPOLAD, Vienna. As an agreement between the Austrian Government and one of the occupying powers, the sole requirement would apparently be that the Austrian Government inform the Allied Council of the Agreement after it has been put into effect.



Matthew J. Marks
U.S. Treasury Representative

MJM:bm

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APPENDIX No 1

Translation

FEDERAL CHANCELLORY
ref. no. 47.537-2a/46

Subject: Federal Act concerning transactions
in foreign currency (Foreign Exchange Act).

TO : The Chairman,
Allied Council for Austria.

With reference to the letter of the Allied Council of the 12th February 1946, SECA/73, I have the honour to herewith submit a Government Bill concerning transactions in foreign currency (Foreign Exchange Act), together with explanatory remarks and translations, which simultaneously is being submitted to the President of the Nationalrat.

As soon as the Bill will be enacted by Parliament I shall revert to the matter and request your approval of same for promulgation.

Vienna, 1st July 1946.

By direction of the Federal Chancellor:

sgd. He i t e r e r.

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Federal law concerning transactions in foreign currency
 (foreign exchanges law)

Parliament has passed the following bill:

This Federal law has for its object the control of all foreign currency values available and/or accruing with a view to employ the same in favour of the economic requirements of this country according to their urgency. The execution of the law is entrusted to the Austrian National Bank, whose Articles of Association and Statutes make them the official custodian and guarantor of the Austrian currency. Consequently all authorities and official units will proceed in foreign currency transactions in harmony with the Austrian National Bank, the trustee of the Federation of Austria, and will support them in every respect for enabling them to fulfill their duties.

Section I

Definitions and Notions

Art I

Definitions of the terms employed in the following:

- (1) Means of payment:
cash (paper money and coins), transfers, bills of exchange, cheques and bank drafts.
- (2) Foreign currency paying means:
means of payment expressed in a foreign currency with the exception of bills and cheques payable in Austria, and expressed in foreign currency without being provided with the clause of actual payment in foreign currency.
- (3) Claims in Austrian currency:
claims expressed in Schillings, as well as those foreign currency claims by which the creditor is not afforded the right of actually demanding payment in foreign currency.
- (4) Gold:
Fine gold and gold alloyed (bullion or semi-manufactured), as well as gold coins deprived of their legal tender or not current any more.
- (5) Austrian securities:
Securities issued by an Austrian including the respective coupons, profit participation-and renewal-certificates (talons).
- (6) Austrian foreign currency values:
Austrian securities expressed in foreign currency and payable abroad, including the respective coupons, profit participation-and renewal-certificates (talons).
- (7) Foreign currency securities:
Securities issued by a foreigner, including the respective coupons, profit participation-and renewal certificates (talons).
- (8) Foreign countries:
All territories outside of the Austrian boundaries; territories excluded from the Austrian customs regime are considered foreign territory from the angle of this Federal law.
Austrians:
- (9) Physical and juridical persons whose domicile or usual residence, seat or management are in Austria; persons who have been in Austria for over three months reckoned from the date of this law has been put in force or who reside in Austria more than three months

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after that date; Austrian branches and Austrian works of foreigners are considered Austrian irrespectively of whether they are legally independent or not, even if the seat of the manager is abroad.

- (10) **Foreigners:**
Physical persons, not Austrians, and juridical persons whose seat and/or management are abroad, foreign branches of Austrian enterprises are considered foreigners irrespectively of whether they are legally independent or not if the seat of the manager is abroad.
- (11) **Transactions:**
Purchase, sale and exchange; lending and borrowing, pledging and loaning, as well as intervening in transactions of this kind, irrespectively of whether they are carried out in the course of regular trade or privately.
- (12) **Foreign currency dealers:**
Credit institutes authorized by the Austrian National Bank to deal in foreign currency or in claims expressed in foreign currency either for account of the Austrian National Bank or for their own account.
- (13) **Licences:**
Permits in writing of the National Bank or of another Unit authorized by same.
- (2) The Austrian National Bank is entitled to ascertain in final and binding form whether a person or an object tallies with the above definitions or not, particularly whether a person is an Austrian or a foreigner. Against a decision of this kind an appeal is possible within a fortnight from delivery, which should be lodged with the National Bank. The decision is incumbent on the Federal Ministry of Finances. The appeal has no dilatory effect.

Section II Restrictions and Prohibitions

- (1) Means of payment, claims, and gold.

Art. 2

- (1) The trade in foreign currency paying means, claims expressed in foreign currency, gold and gold coins, which are not considered legal tender, i.e. official paying means, is only allowed to the Austrian National Bank and the persons (foreign currency dealers) authorized by that Bank. The authorization may be withdrawn at any moment without stating the reasons.
- (2) Beginning on the date fixed and promulgated by the Federal Ministry of Finances the Austrian National Bank will publish the rates of exchange and the prices at which foreign currency and fine gold may be exchanged against Austrian means of payment. These rates of exchange and prices are to be published in the Official Columns of the Wiener Zeitung (official Gazette). Any publication concerning the valuation of foreign currencies and of fine gold not tallying with the official figures is prohibited.
- (3) If for any foreign currency the rate of exchange is not fixed, approval must be asked for the rate of exchange on which the respective transactions are to take place.

Art. 3

A special approbation is required for disposing of:

- (1) Foreign currency payment means, excepted the case that they are sold

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to the Austrian National Bank or to a dealer in foreign currency.

- (2) Claims of a foreigner against an Austrian, irrespectively of whethe same are expressed in the Austrian or in a foreign currency.
- (3) Claims of an Austrian against a foreigner, whether in Austrian or in a foreign currency, excepted the case that the claims are sold to the Austrian National Bank or to a foreign exchange dealer.
- (4) Claims of an Austrian against an other Austrian in actual foreign currency, i.e. barring the possibility of exchange into Austrian currency.
- (5) Claims of an Austrian in Austrian currency against another Austrian in case the transaction is to be made in favor of a foreigner.

Art. 4

- (1) An approbation is required for an Austrian who within Austria wants to make payments to a foreigner, or to an Austrian in favour of a foreigner, or who is desirous of handing means of payment or gold to a foreigner, or to an Austrian in favour of a foreigner.
- (2) No approbation is required for depositing Austrian paying means at a court-of-law.

Art. 5

- (1) Paying means, gold, broken gold, and coins must not be forwarded abroad unless the transaction is officially approved of. The same applies to goods made of gold, entirely or partly, if the respective goods are - as a rule - not made of gold. The Federal Ministry for Finances is authorized to stipulate that paying means may, up to maximum defined, to taken abroad exempt of a special license, be taken abroad in tourist traffic or in the restricted intercourse in the frontier area.
- (2) Foreigners crossing the Austrian frontier are entitled to a confirmation showing the amount of foreign currency in hand, which confirmation is issued by the Austrian frontier guards, and which confers to the foreigners the right to export the same amount in foreign currency within three months exempt of any license.
- (3) Consignments addressed abroad of paying means, gold, broken gold, and gold coins must not be accepted by the railways, the post offices, the navigation companies, the aerial lines, and the motorcar and truck enterprises unless the requisite licenses of the Austrian National Bank will be produced. These licenses are to be collected, to be provided with the date and the seal of the office or firm and are to be remitted to the Austrian National Bank. The Austrian frontier guards will proceed in the same manner, collecting the licenses of the Austrian National Bank, irrespectively of whether they are entirely utilized or only partially, and they will forward same to the Austrian National Bank after having inserted the date and affixed the official seal.
- (4) Remittances abroad by way of the reimbursement service of the railways, the post office, the navigation companies, the aerial lines, and the motorcar and truck enterprises are forbidden.

Art. 6

Austrian means of payment must not be sent or imported into this country, without a special license. The Federal Ministry of Finances is authorized to renounce this license up to a certain maximum for the tourist traffic, the restricted intercourse in the frontier area as well as in other cases.

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2. Securities

Art 7

- (1) Foreign securities and Austrian title deeds expressed in foreign currency can only be disposed of on basis of an official approval unless they are sold to the Austrian National Bank or a foreign currency dealer.
- (2) The values mentioned under par.1 may only be acquired against a consideration on basis of an official approval.

Art 8

- (1) Austrian securities may only be disposed of under official approval
 - a) if the proprietor of the securities is a foreigner
 - b) if the transaction is to be in favour of a foreigner.
- (2) Purchases of Austrian securities by an Austrian from a foreigner require a special licence.

Art 9

- (1) The export of securities requires a special licence.
- (2) The stipulations of art.5 par.3 are to be applied mutatis mutandis.

Art 10

The prescriptions on securities contained in the art.7 and 8 also apply to shares of collective depots, to entries on shares accounts, and to other claims for the supply of securities.

3. Participation titles not embodied in securities.

Art 11

- (1) Disposing of participation titles in foreign companies, corporations and other enterprises as well as purchasing such titles requires an official licence.
- (2) Disposing of titles of participation in Austrian companies, corporations, and other enterprises requires a special licence if
 - a) the holder of the title is a foreigner
 - b) the transaction is to result in favour of a foreigner
 - c) the transaction is to be in favour of an Austrian, but if the company, corporation, or other enterprise holds values to dispose of which requires a special licence.
- (3) A similar licence is necessary if a foreigner desires acquiring such titles of participation.

4. Real Estate and rights and titles in regard to same.

Art 12

- A special licence is required for disposing of
- a) a real estate of an Austrian, situated abroad or of a real right of an Austrian in regard to an estate of that kind.
 - b) a real estate of a foreigner situated in Austria and of a real right of a foreigner in regard to such an estate.
 - c) a real estate of an Austrian situated in Austria or of a real right of an Austrian in regard to an estate of that kind, if the transaction is to be in favour of a foreigner.

Art 13

If the Austrian estate of a foreigner is to be disposed of by way of

a forced sale (compulsory auction) a licence is required for participation in the auction. The same applies to the foreigners desirous to acquire an Austrian estate by way of a compulsory auction. Unless the licence is produced, the bid is not to be accepted.

5. Credits, guarantees and undertakings.

Art 14

- (1) An official licence is required for granting credits to foreigners, claiming credits from foreigners, for undertaking financial liabilities of any kind towards foreigners, and for giving guarantees for foreign credits. No licence, however, is necessary for undertaking financial liabilities in connection with the imports of goods, approved of by the competent authority.
- (2) For concluding contracts between Austrians a licence is necessary in case the respective contract is to be fulfilled in actual foreign currency, in actual gold or in gold coins.

Section III

General duty of declaration and offer

Art 15

- (1) According to the instructions of the Austrian National Bank, and within a term promulgated by same, all Austrians will file declarations concerning the following values provided that they were in possession of such on the day on which the law was put into force.
 - a) paying means expressed in foreign currency
 - b) claims against foreigners
 - c) gold as per art. 1, item 4
 - d) foreign securities and Austrian foreign currency titles.
- (2) In the same manner all Austrians, acquiring without licence values as per par. 1 after the promulgation of this Federal Law, will notify the respective transactions to the Austrian National Bank within a week.
- (3) The Federal Ministry for Finance is authorized to by ordinance extend the duty of declaration also to other persons than Austrians, and also to other values than those enumerated in par. 1.
- (4) If the person subject to the duty of declaration is abroad at the time when the obligation becomes operative, the notification should be effected within 10 days after his return to Austria. Persons about to acquire the right of citizenship in Austria, are bound to make the declaration within 10 days from date of their citizenship certificate.
- (5) The values subject to notification are blocked in favour of the Austrian National Bank until surrendered or released. The Austrian National Bank is entitled to have these values deposited on blocked accounts. Released, these values are at the disposal of the proprietor in conformity with the regulations on foreign exchanges.

Art 16

- (1) The Austrian National Bank is authorized at any time to ask for the value notified or the proceeds realized abroad to be

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offered for sale and to be transferred to them or to a foreign currency dealer. They are entitled to issue detailed instructions concerning how these values are to be seized and exported abroad. Furthermore they have the right to sell or utilize themselves the values offered on account of the notifier, the proceeds resulting from the sale or utilization taking the place of the original values.

- (2) The payment of the counter-value of the values surrendered abroad cannot be claimed before the communication has arrived that the values or their sales proceeds are at the unrestricted disposal of the Austrian Bank or the respective foreign currency dealer at the address indicated.
- (3) The values surrendered are placed to account at the current business conditions and at the rates or prices promulgated. (Art 2, par.(2)) For values surrendered abroad the determining date is that of the arrival of the credit note. In case no rate or price had been promulgated the depositor is given a certificate of receipt on the values surrendered, whilst the settlement is postponed until after the publication of the rates or prices. However, loans may be granted on the values surrendered.

Art 17

- (1) Exports from Austria are to be notified to the Austrian National Bank.
- (2) The railways, post offices, navigation companies, aerial lines, motor car and trucks transport enterprises and other carriers should not accept goods for export unless accompanied by the declarations prescribed (par.1). These declarations are to be dated and provided with the seal of the office of the firm, whereupon they are handed to the Austrian National Bank.
- (3) The Austrian National Bank is entitled to stipulate detailed conditions of payment as to the sale of goods abroad or to foreigners.

Section IV

Special duty of declaration

Art 18

The Federal Minister of Finance is authorized to issue an ordinance prescribing that Austrians should notify to the Austrian National Bank according to the latter's instructions all financial liabilities or other liabilities towards foreign creditors to be indicated in detail.

Section V

Payments as per interstate clearing agreements

Art 19

- (1) If a clearing agreement is concluded with a foreign state or if a similar agreement is passed with the approval of the Federal Government, between the Austrian National Bank and the National Bank of another country, or an officially authorized

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Clearing or Compensation Unit abroad, the payments covered by that agreement must be made and accepted exclusively in the manner stipulated beginning from the date of validity of the agreement.

- (2) All payments are prohibited made in a manner differing from the mode fixed in par.1.
- (3) Claims against a Clearing office cannot be taken nor given on pledge, nor be ceded.
- (4) The Austrian National Bank will promulgate all clearing agreements, the detailed instructions relating thereto, and the date of their being put into force in the official part of the Vienna Gazette (Wiener Zeitung).

Section VI

General Regulations

Art 20

- (1) The Austrian National Bank is responsible for this law being strictly observed by all parties concerned. Consequently they are authorized to ask for information on any action, transaction or circumstance important from the foreign exchange angle which may be bound up with restrictions or prohibitions embodied in the present law or a subsequent ordinance thereto. On demand the parties concerned will submit for inspection their books as well as other documents appertaining.
- (2) The prohibitions and restrictions of this Federal Law do not apply to the Austrian National Bank.
- (3) The Austrian National Bank is entitled to concede exceptions in regard to the sections II-V of this Federal Law, as well as to issue instructions and pass agreements on the execution and the volume of the transactions of surrender. If necessary such exceptions and instructions, as well as other publications of the Austrian National Bank concerning this Federal Law and the detailed instructions thereto, will be promulgated in the official columns of the Wiener Zeitung (Official Gazette).
- (4) No claims for indemnity are admitted on account of measures taken on basis of this Federal Law, and its collateral ordinances. For amounts paid into a clearing account at the competent national bank neither the creditor nor the debtor is entitled to claim interests or any other reimbursements from that bank.
- (5) For meeting the expenses relating to foreign currency transactions, to the clerical work in connexion with requests for licences and authorizations, and to the activity in regard to interstate clearing operations, the Austrian National Bank is entitled to levy a compensation subject to the approval at the Federal Ministry for Finance.

Art 21

- (1) In case the duties put forth in the sections III and IV should be incumbent on a person legally irresponsible for his actions, then his legal representative is bound to fulfill the duties involved.

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- (2) The release of a licence for a legal transaction is not instrumental in justifying a claim on the allocation or the release of the means of payment required for carrying out the transaction.
- (3) A licence should only be used for the purpose for which it had been granted.
- (4) If values liable to declaration allocated or released by the Austrian National Bank for a specified object are not utilized for the purpose in view within the duration of validity of the purchasing or releasing licence then the Austrian National Bank is to be informed thereof without delay.

Art 22

- (1) Legal transactions contradictory to the stipulations of this Federal Law are nought. If however the licence necessary is granted ulteriorly such transactions are considered valid from the date of signature.
- (2) If a licence is required for enabling the debtor to comply with his duties, no judgment and no compulsory execution is admissible before the licence in question will have been granted.
- (3) If a performance subject to a licence is the object of a judicial plea the proceeding must be interrupted on the demand of a party until the decision of the Austrian National Bank is produced.
- (4) The stipulation that certain values may only be acquired or disposed of under licence, applies also to the acquisition or the sale by distraint or compulsory execution.

Section VII

Sanctions

1. Punishments within the competence of Public Administration Authorities.

Art 23

- (1) Whoever violates or eludes the prescriptions of this law or the collateral ordinances, as well as whoever incites other people to do so, and offers his services in connexion thereto is guilty of an infringement of the administrative prescriptions, and is punished by the local administrative authorities, or by the Federal police authorities, if within the sphere of their competence with a fine up to S 200.000.- or with imprisonment up to one year, provided that the act or the omission does not fall under the jurisdiction of the penal court of law. In case of aggravating circumstances a fine may be superimposed on the imprisonment.
- (2) Attempts are punishable too.
- (3) If public safety guards in the frontier region contact persons apparently bent on infringing the stipulations of this Federal Law, or of the ordinances issued on basis of same, and if the probability must be reckoned with that those persons will succeed in evading the punishment, the said guards are entitled to collect an adequate fine up to S 10.000.- as security against receipt. The respective amounts are remitted without delay to the competent authority.

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- (4) The term of proscription amounts to three years, whilst five years is the term after whose expiration no sentence must be pronounced any more in an administrative proceeding, and no sentence, though already pronounced, must be executed.
- (5) If a person is under a cloud of suspicions as being guilty of an administrative infringement as per par 1, and if there is danger in delay he, his house, and his luggage may be searched at any time.
- (6) The administrative infringements stated in par 1 are also punishable when committed abroad by an Austrian citizen. (As per art.1, par.(1), item 9)

2. Punishments within the competence of the courts-of-law.

Art 24

- (1) The following infringements of this Federal Law and the collateral ordinances committed on purpose are considered as offences and punished with imprisonment up to three years:
- dealing in foreign paying means, outstanding debts in foreign currency, gold (art.1, par.(1), item 4), foreign securities, or Austrian foreign currency title deeds of altogether more than S 10.000.- (art.1, par.(1), item 11).
 - disposing of values of more than S 10.000.-, or sending or taking them abroad.
 - not complying with, in due time or form, with the obligation of emitting a declaration or an offer on values of altogether more than S 10.000.-
 - in case of clearing agreements existing, making or accepting payments of altogether more than S 10.000.- in a manner different from the mode of settlement provided.
- (2) If the violator has already been sentenced by a court-of-law or by an administrative authority to an imprisonment of at least 3 months for an active or passive infringement of this Federal Law then he is considered a criminal to be punished with jail from one to five years.

Art 25

In addition to the imprisonment as per art.24 a fine is imposed amounting to the tenfold of the value at stake irrespectively of whether the object of punishment is an action or an omission.

Art 26

The sentence issued by the court-of-law for crime or offence as per art.24 par.(1) a) or b) may provide confining the culprit in a work house if the necessary legal background for a measure of this kind is available (art.1 of the Federal Law dated June 10th, 1932, Off.Gaz.167 concerning the confinement in work houses of violators of the law)

Art 27

Whoever obtains surreptitiously a licence required according to this Federal Law by giving incorrect or incomplete information is considered to have committed an offence, provided that no other reasons demand a severer punishment, and is punished with imprisonment from one month to a year, and with a fine up to S 200.000.-.

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Art 28

Foreign citizens having been sentenced for an action or omission punishable according to this Federal Law, may, in case of a crime, be banished or otherwise expelled from the territory of Austria.

Art 29

- (1) The objects referring to the action or omission punishable as per the present Federal Law as well as those used for or intended for the commitment of the violation may by verdict be declared forfeited irrespectively of to whom they belong. If the persecution or the condemnation of a specified person is not possible the council-chamber will, at the public prosecutor's demand, decide on the forfeiture in a separate proceeding. If another person (not the accused) maintains having a right or a claim on one of the objects liable to forfeiture, same is to be summoned to the main hearing as an interested party, or is to be interrogated in a separate proceeding before the final decision is taken, provided that the main proceedings are not unduly delayed thereby.
- (2) If an object declared forfeited cannot be seized the guilty party is to be sentenced, in substitution, to a fine amounting to the value involved. If the impossibility of seizing the objects manifests itself but at a later date a special verdict is to be pronounced in regard to the forfeiture replacement fine. Against this verdict the party involved may appeal within three days after receiving the respective notification. In case of judicial proceedings the appeal is decided upon by the Court of Appeal, and in case of administrative proceedings by the competent authority as per art. 51 of the Federal Law dated July 21st 1925, Official Gazette 275.

Art 30

The proprietor of the enterprise, whether a physical or juridical person, is jointly responsible for all fines, forfeiture- and forfeiture substitution punishments imposed on any of his employees according to the present Federal Law, provided that the punishable action or omission has been committed in his enterprise. If however the proprietor adduces the proof that he has done the needful for precluding the punishable deed or omission, the liability is not extended to him unless it results that he has profited by the violation.

Art 31

Bankers who have definitely been found guilty of an infringement of the present law or of the collateral ordinances may be temporarily or permanently deprived of the right to exercise the calling of a banker, the Courts-of-Law and the local authorities being bound to inform the authority, competent for the withdrawal of the trade licence, of the respective verdicts pronounced as soon as they have reached their legal maturity.

Art 32

- (1) The punishment replacing the fine accompanying the imprisonment should not exceed one year. This replacement punishment and the punishment replacing the fine imposed instead of a forfeiture should not exceed together a space of eighteen months.

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- (2) The fines, the objects declared forfeitures, and the forfeiture replacement fines are handed over to the Treasury.

4. Transitory stipulations

Art 33

- (1) The prescriptions of Section VII of this Federal Law are applicable also to current proceedings and punishable deeds committed before the new Law was put into force, provided that this does not entail an aggravation in comparison to the hitherto prescriptions.
- (2) The Courts-of-Law will hand to the competent administrative authorities all penal cases which according to the new law are considered administrative offences.
- (3) All proceedings concerning infringements of the German foreign currency law dated Dec 12th, 1938 (German official Gazette I pr. 1734) or the collateral ordinances of completion or execution (pending, actually within the judicial and administrative sphere) should be cancelled forthwith provided that no Austrian interests are at stake.

Section VIII

Final Prescriptions

Art 34

- (1) The free foreign exchange credits as well as the free RM credits converted into Schillings, which have accrued at Austrian Credit Institutes before this Federal Law became effective are subject to the restrictions on disposal stated in art 3 of this Federal Law.
- (2) All licences issued by the Austrian National Bank prior to the present Federal Law taking effect, lose their value not later than on Dec 31st, 1946.
- (3) The German foreign currency law of Dec 12th, 1938, German Official Gazette page 1734 together with all collateral completion and execution ordinances is hereby abolished.

Art 35

The execution of this Federal Law is entrusted to the Federal Ministry of Finance in harmony with the other Federal Ministries involved according to their competence.