



Treaty Series No. 7 (1955)

Exchanges of Notes

between the Government of the
United Kingdom of Great Britain and Northern Ireland
and the Austrian Government

constituting an Agreement
for the Validation in Austria of
Foreign Currency Bonds

Vienna, May 31, 1954 and
London, October 14, 1954

*Presented by the Secretary of State for Foreign Affairs to Parliament
by Command of Her Majesty
February 1955*

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**EXCHANGES OF NOTES BETWEEN THE GOVERNMENT OF
THE UNITED KINGDOM OF GREAT BRITAIN AND
NORTHERN IRELAND AND THE AUSTRIAN GOVERNMENT
CONSTITUTING AN AGREEMENT FOR THE VALIDATION
IN AUSTRIA OF FOREIGN CURRENCY BONDS**

Vienna, May 31, 1954, and London, October 14, 1954

No. 1 (a)

*Her Majesty's Ambassador at Vienna to the Austrian Minister for
Foreign Affairs*

British Embassy,

Your Excellency,

Vienna, May 31, 1954.

As your Excellency is aware, negotiations have recently taken place between the Federal Minister of Finance for the Republic of Austria and the Corporation of Foreign Bondholders of London, with a view to the conclusion of an Agreement relating to the validation in Austria of foreign currency bonds, as envisaged in Section 2 (4) of the Foreign Bond Validation Law enacted in Austria on December 16, 1953. The Federal Minister of Finance and the Corporation of Foreign Bondholders have agreed that the arrangement set forth in the Annex to the present Note should form the basis of such an Agreement.

Her Majesty's Government in the United Kingdom approve of the provisions of this arrangement, and, if they are likewise acceptable to the Austrian Government, I have the honour to suggest that the present Note and its Annex, together with your Excellency's reply to that effect, should be considered as constituting an Agreement between our two countries which shall take effect on delivery of a notification by the Austrian Embassy in London to Her Majesty's Foreign Office that all the requirements of Austrian Law for the conclusion of an international agreement have been fulfilled.

I have the honour to be,

With the highest consideration,

Your Excellency's obedient Servant,

GEOFFREY A. WALLINGER.

ANNEX

**Clauses Agreed between the Federal Minister of Finance for the Republic
of Austria and the Corporation of Foreign Bondholders**

It is agreed as follows :—

1. Except where the context otherwise requires the following terms occurring in this arrangement shall have the following meanings :—

- (a) the term "Court of Arbitration" shall mean the agency for the United Kingdom appointed pursuant to this arrangement and to Section 3 of the Law;
- (b) the term "Foreign Bonds" shall mean all securities listed in the Annex to the Law;

- (c) the term "Sterling Bonds" shall mean foreign bonds designated in sterling currency of the United Kingdom and in respect of which the principal paying agent is situate in the United Kingdom;
- (d) "Authorised Depository" shall mean the persons authorised to act as such under the Exchange Control Act, 1947;
- (e) the singular shall include the plural and *vice versa*.

2.—(1) The Austrian Federal Minister of Finance (hereinafter called "the Minister") will appoint a Court of Arbitration in the City of London to whom petitions in respect of Sterling Bonds under Section 3 of the Law may be submitted and who shall have authority to determine the validity of the bond.

(2) The Court of Arbitration shall consist of persons appointed by the Minister, one of whom shall be nominated by him, another by the Corporation of Foreign Bondholders, London (hereinafter called "the Corporation"), and the chairman nominated by the other two. A secretariat shall be attached to the Court of Arbitration.

(3) The Court of Arbitration shall hear and determine all petitions and take such evidence as it deems necessary and shall make its decisions by joint action of the two associate arbitrators if they are in agreement. If they are not in agreement they shall refer the matter to the chairman, whose decision shall constitute the decision of the Court of Arbitration.

(4) The decision of the Court of Arbitration shall be notified, not only to the petitioner, but also to the holder of the security, the trustees (if any), the paying agents for the bond and the Corporation.

3.—(1) The Secretariat of the Court of Arbitration shall also advise holders in the United Kingdom of foreign bonds, other than Sterling bonds, as to the procedure for petitions being made either to the commercial court in Vienna or to agencies established in countries other than the United Kingdom who may have jurisdiction in connection with such bonds. The Secretariat shall if so required forward petitions in respect of such foreign bonds to such court or agency with the evidence provided by the petitioner for a decision of such court or agency.

(2) Any petition delivered to the Secretariat of the Court of Arbitration within the time-limit provided by the Law shall be deemed to be within such time-limit, notwithstanding that it does not reach such court or agency having jurisdiction in the matter within such time-limit.

4. A certificate of an Authorised Depository, stating that a Sterling bond which is the subject of a petition is held by such Authorised Depository or on its behalf pursuant to Section 15 (2) of the Exchange Control Act, 1947, and that the requirements of Section 16 (1) of the said Act with respect to such bond have been complied with prior to the publication by the Paying Agents of the offers to the Bondholders under the Debt Agreements reached at the International Conference in Rome in December 1952, shall constitute conclusive evidence of the title of the petitioner to the bond under Section 5 of the Law and shall entitle the bond to reinstatement with its full rights.

5. A petition in respect of a Sterling bond, which is not held by an Authorised Depository or on its behalf pursuant to the Exchange Control Act, 1947, shall be granted if it is proved—

- (a) that the petitioner lawfully acquired the ownership of the bond, which had been produced, not later than the 1st day of January, 1945, or by an uninterrupted sequence from a party who was the owner on the 1st day of January, 1945; such sequence shall be considered interrupted if in the case of acquisition from an unauthorised party the right of ownership is based on acquisition in good faith, or

(b) that the bond was situated on the 1st day of January, 1945, outside the Austrian Federal Territory, outside Danzig or Memel, outside the frontiers of Germany as existing on the 31st day of December, 1937, outside such parts of Poland as Germany incorporated in its administration, including the so-called Government General, and outside the Czechoslovak Republic, including the so-called Protectorate of Bohemia and Moravia; proof shall not be considered to have been tendered if the holder has been deprived of the bond by any measure which is not legally valid in the Austrian Federal Territory.

6. With regard to bonds in respect of which petitions have to be submitted to a Court of Arbitration in other countries than the United Kingdom the Minister shall use his best endeavours to procure an agreement with the Governments of such countries that the evidence referred to in Clause 4 hereof shall be accepted by Courts of Arbitration in such other countries as evidence entitling the bond to reinstatement under Section 5 of the Law.

7. Any bond the subject of a petition may instead of being produced to the Court of Arbitration be and remain deposited with any Authorised Depository who undertakes not to release it except with the consent of the Court of Arbitration qualified for a decision on the petition.

8. Where a foreign bond has already been invalidated by an Austrian Court for any reason the person entitled to it may present a petition to the Court of Arbitration for a new valid security to be issued to him of the same kind and amount and if such petition is granted the production of the decision certificate by the Court of Arbitration shall constitute the title of the petitioner to the issue of such new and valid security.

9.—(1) Where a petitioner has been put to expense in connection with his petition and a decision has been made that his bond be validated the Minister will pay to him such reasonable expenses as he shall have incurred.

(2) The Minister shall pay to the Corporation all costs and expenses which it may have incurred or shall incur in connection with this arrangement or otherwise to give effect to it.

No. 1 (b)

*The Federal Minister for Foreign Affairs to Her Majesty's
Ambassador at Vienna*

Wien,

Herr Botschafter,

am 31. Mai 1954.

Ich beehre mich, den Empfang Ihrer Note vom 31. Mai 1954 zu bestätigen, welche wie folgt lautet:

[As in No. 1 (a).]

Ich beehre mich, Sie davon in Kenntnis zu setzen, dass die österreichische Bundesregierung die vorstehenden Vorschläge einschliesslich des Annexes annimmt und dass in Ihrer Note und dieser Antwortnote ein zwischenstaatliches Abkommen zu erblicken ist. Da dieses Abkommen nach

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österreichischem Recht gesetzändernd ist, tritt es erst mit dem Zeitpunkt in Kraft, in dem die österreichische Botschaft in London dem Aussenamt Ihrer Majestät die Erklärung abgibt, dass alle Erfordernisse des österreichischen Rechts für den Abschluss eines zwischenstaatlichen Abkommens erfüllt sind.

Genehmigen Sie, usw..
FIGL.

(Translation of No. 1 (b).)

Mr. Ambassador,

I have the honour to acknowledge the receipt of your Note of May 31, 1954, which reads as follows:—

[As in No. 1 (a).]

I have the honour to inform you that the Austrian Federal Government accept the above proposals including the Annex and that your Note and this reply Note should be considered as constituting an international Agreement. Since in accordance with Austrian Law this Agreement is law-altering it will take effect on delivery of a notification by the Austrian Embassy in London to Her Majesty's Foreign Office that all the requirements of Austrian law for the conclusion of an international Agreement have been fulfilled.

Please accept, &c.
FIGL.

No. 2 (a)

*The Austrian Ambassador at London to Her Majesty's Principal
Secretary of State for Foreign Affairs*

*Austrian Embassy,
18, Belgrave Square,
London, S.W. 1,
October 14, 1954.*

The Austrian Ambassador presents his compliments to Her Majesty's Principal Secretary of State for Foreign Affairs and, with reference to the Agreement constituted by the Notes exchanged in Vienna on the 31st May, 1954, between the Austrian Federal Government and the Government of the United Kingdom of Great Britain and Northern Ireland, relating to the validation in Austria of foreign currency bonds, begs to inform him that all the requirements of Austrian Law for the implementation of an International Agreement have now been fulfilled by the ratification by Austria of the said Agreement on 23rd September, 1954, and that the Austrian Federal Government will, therefore, regard the Agreement as being in force with effect from to-day's date.

The Austrian Ambassador would be grateful if Her Majesty's Principal Secretary of State for Foreign Affairs would acknowledge the receipt of this Note.

No. 2 (b)

*Her Majesty's Principal Secretary of State for Foreign Affairs
to the Austrian Ambassador at London*

*Foreign Office,
London, S.W. 1.
October 14, 1954.*

Her Majesty's Principal Secretary of State for Foreign Affairs presents his compliments to the Austrian Ambassador and has the honour to acknowledge the receipt of his Excellency's Note of to-day's date notifying him that all the requirements of Austrian Law for giving effect to the Agreement, constituted by the Notes exchanged in Vienna on the 31st of May, 1954, between the Government of the United Kingdom of Great Britain and Northern Ireland and the Austrian Federal Government relating to the validation in Austria of foreign currency bonds, have now been fulfilled and that the said Agreement will, therefore, take effect from this day's date.

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