



Treaty Series No. 71 (1938)

EXCHANGE OF NOTES

between His Majesty's Government in the United Kingdom  
and the Government of the German Reich

regarding the

APPLICATION OF TREATIES BETWEEN  
THE UNITED KINGDOM, GERMANY  
AND AUSTRIA

Berlin, May 6/September 10, 1938

*Presented by the Secretary of State for Foreign Affairs  
to Parliament by Command of His Majesty*

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EXCHANGE OF NOTES BETWEEN HIS MAJESTY'S GOVERNMENT  
IN THE UNITED KINGDOM AND THE GOVERNMENT OF THE  
GERMAN REICH REGARDING THE APPLICATION OF TREATIES  
BETWEEN THE UNITED KINGDOM, GERMANY AND AUSTRIA.

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*Berlin, May 6/September 10, 1938.*

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No. 1.

*Sir N. Henderson to the Minister for Foreign Affairs.*

Your Excellency,

*Berlin, May 6, 1938.*

WITH reference to my note No. 130 of the 2nd April, I have the honour, under instructions from His Majesty's Principal Secretary of State for Foreign Affairs, to inform you that His Majesty's Government in the United Kingdom have under consideration the position with regard to Treaties affecting Austria, in consequence of the German law of the 13th March, 1938, relating to the union of Austria with the German Reich.

2. There are certain bilateral Treaties between the United Kingdom and Austria which correspond very closely to the similar Treaties between the United Kingdom and Germany and where the latter treaties are of such a kind that their provisions can be applied to Austria as a part of the Reich without the necessity of any adaptation His Majesty's Government assume that, in accordance with the ordinary legal principles in the case of these Treaties, the Treaty between the United Kingdom and Germany may be held now to cover Austria, and the corresponding Treaty between the United Kingdom and Austria may be held to have lapsed.

3. The Treaties referred to in the preceding paragraph of this Note between the United Kingdom and Germany, which in the view of His Majesty's Government in the United Kingdom may henceforth be deemed to apply without amendment to Austria as well as to Germany, include the following:—

Anglo-German Treaty of Commerce and Navigation of the 2nd December, 1924.<sup>(1)</sup>

Anglo-German Treaty of Extradition of the 14th May, 1872.

Anglo-German Treaty of Extradition of the 17th August, 1911.<sup>(2)</sup>

Anglo-German Air Navigation Agreement of the 29th June, 1927,<sup>(3)</sup> together with Amending Agreement of the 5th July, 1930.<sup>(4)</sup>

<sup>(1)</sup> "Treaty Series No. 45 (1925)," Cmd. 2520.

<sup>(2)</sup> "Treaty Series No. 3 (1912)," Cmd. 6035.

<sup>(3)</sup> "Treaty Series No. 1 (1928)," Cmd. 3010.

<sup>(4)</sup> "Treaty Series No. 26 (1931)," Cmd. 3880.

4. The corresponding Treaties between the United Kingdom and Austria, which are assumed to have been replaced by the foregoing Treaties with Germany, are the following:—

Anglo-Austrian Treaty of Commerce and Navigation of the 22nd May, 1924.<sup>(5)</sup>

Anglo-Austrian Treaty of Extradition of the 3rd December, 1878.  
Anglo-Austrian Declaration of the 26th June, 1901,<sup>(6)</sup> amending the Extradition Treaty of 1878.

Anglo-Austrian Supplementary Extradition Convention of the 29th October, 1934.<sup>(7)</sup>

Anglo-Austrian Air Navigation Convention of the 16th July, 1932.<sup>(8)</sup>

5. Similarly, it is assumed that the Money Orders Agreement of the 27th December, 1905/25th January, 1906 (with modifications of 1913) between India and Austria is now replaced as regards Austria by the Money Orders Agreement of the 20th May/22nd June, 1880, between India and Germany.

6. His Majesty's Government in the United Kingdom will be glad if the German Government will be good enough to confirm that they concur in the views expressed in the previous paragraphs of this Note.

7. I shall have the honour to address a further note to Your Excellency in due course regarding other points affecting specific treaties arising out of the annexation of Austria by Germany regarding, in particular, the treaties to which Austria is a party, and regarding the question of the application to Austria of multi-lateral and bilateral treaties to which Germany is a party and where in the case of multilateral treaties Austria was not a party and in the case of bilateral treaties there was no corresponding treaty in the case of Austria.

I avail, &c.

NEVILLE HENDERSON.

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No. 2.

*The State Secretary to Sir N. Henderson.*

*Auswärtiges Amt,*

Herr Botschafter!

*Berlin, den 10. September 1938.*

Im Anschluss an die Verbalnote des Auswärtigen Amtes vom 30. Mai d.J. und in teilweiser Beantwortung des Schreibens Eurer

<sup>(5)</sup> "Treaty Series No. 21 (1925)," Cmd. 2411.

<sup>(6)</sup> "Treaty Series No. 13 (1902)," Cmd. 1078.

<sup>(7)</sup> "Treaty Series No. 21 (1935)," Cmd. 4954.

<sup>(8)</sup> "Treaty Series No. 7 (1933)," Cmd. 4263.

Exzellenz vom 6. Mai 1938, beehre ich mich, über die Geltung österreichisch-britischer Verträge Folgendes mitzuteilen:

(1) Die Deutsche Reichsregierung bestätigt, dass der deutsch-britische Handels- und Schiffahrtsvertrag vom 2. Dezember 1924 (Abs. 3-4 Euerer Exzellenz Note vom 6. Mai) sich auf das Land Österreich erstreckt, während der österreichisch-britische Handels- und Schiffahrtsvertrag vom 22. Mai 1924 als hinfällig anzusehen ist.

(2) Die im Abs. 5 der Note Euerer Exzellenz vom 6. Mai d.J. erwähnten österreichisch-britischen Vereinbarungen über den Postanweisungsdienst zwischen Österreich und Britisch Indien vom 27. Dezember 1905/25. Januar 1906 waren schon vor der Wiedervereinigung Österreichs mit dem Deutschen Reiche nicht mehr in Kraft, da zwischen Österreich und Britisch Indien kein unmittelbarer Postanweisungsaustausch bestanden hat, die österreichische Postverwaltung sich vielmehr für den Postanweisungsdienst mit Britisch Indien der Vermittlung der englischen Postamtverwaltung bediente.

Sobald zu gegebener Zeit der Postanweisungsdienst des Landes Österreich in den Postanweisungsdienst der Deutschen Reichspost mit Britisch Indien eingegliedert werden kann, wird ohne weiteres das Abkommen über den Postanweisungsdienst zwischen dem Deutschen Reich und Britisch Indien vom 20. Mai/22. Juni 1880 Anwendung finden.

(3) Die Deutsche Reichsregierung bestätigt ferner, dass anstelle der österreichisch-britischen Vereinbarungen über die Auslieferung von Verbrechern, nämlich:

- (a) des Staatsvertrags vom 3. Dezember 1873 zwischen der Österreichisch-Ungarischen Monarchie und dem Vereinigten Königreich von Grossbritannien und Irland wegen gegenseitiger Auslieferung von Verbrechern;
- (b) der Additionalerklärung vom 26. Juni 1901, betreffend die Abänderung des letzten Absatzes des Artikels XI des Vertrages vom 3. Dezember 1873;
- (c) des Zusatzabkommens vom 29. Oktober 1934 über die gegenseitige Auslieferung flüchtiger Verbrecher,

für das Land Österreich die entsprechenden deutsch-britischen Vereinbarungen gelten; es sind dies:

- (1) der deutsch-britische Auslieferungsvertrag vom 14. Mai 1872;
- (2) der deutsch-britische Auslieferungsvertrag vom 17. August 1911, sowie die folgenden—in der Note Euerer Exzellenz vom 6. Mai d.J. nicht angeführten—Abmachungen, nämlich:
- (3) die deutsch-britische Vereinbarung vom 10. Dezember 1928 über die Anwendung des deutsch-britischen Auslieferungsvertrages vom 14. Mai 1872 auf gewisse Mandatsgebiete und

(4) die Abrede vom 28. Februar 1933, betreffend den Auslieferungsverkehr zwischen dem Deutschen Reich und Transjordanien.

Ich benütze auch diesen Anlass, &c.

\*WEIZSÄCKER.

(Translation.)

*Ministry for Foreign Affairs,*

Your Excellency,

*Berlin, September 10, 1938.*

With reference to the Ministry's note of the 30th May last and in partial reply to Your Excellency's communication of the 6th May, 1938, I have the honour to make the following communication regarding the validity of Anglo-Austrian Treaties :—

(1) The German Reich Government confirms that the Anglo-German Treaty of Commerce and Navigation of the 2nd December, 1924 (paragraphs 3-4 of Your Excellency's note of the 6th May), extends to cover the State of Austria, while the Anglo-Austrian Treaty of Commerce and Navigation of the 22nd May, 1924, is to be regarded as having lapsed.

(2) The Anglo-Austrian Agreements (mentioned in paragraph 5 of Your Excellency's note of the 6th May) regarding Money Orders, between Austria and British India, of the 27th December, 1905/25th January, 1906, were even before the reunion of Austria with the German Reich no longer in force, since no direct exchange of money orders has existed between Austria and British India, and the Austrian post administration used the medium of the English post administration for their money order service with British India.

As soon as the money order service of the State of Austria can be incorporated in the money order service of the German Reich post with British India, the Agreement regarding Money Orders between the German Reich and British India of the 20th May/22nd June, 1880, will forthwith become applicable.

(3) The German Reich Government further confirms that in place of the Anglo-Austrian Agreements regarding the extradition of criminals, viz. :—

- (a) the State Treaty of the 3rd December, 1873, between the Austro-Hungarian monarchy and the United Kingdom of Great Britain and Ireland, regarding the Reciprocal Extradition of Criminals;
- (b) the Supplementary Declaration of the 26th June, 1901, regarding the amendment of the last paragraph of Article XI of the Treaty of the 3rd December, 1873;
- (c) the Supplementary Convention of the 29th October, 1934, regarding the Reciprocal Extradition of Fugitive Criminals;

the corresponding Anglo-German Agreements are applicable in the State of Austria; these are :—

- (1) the Anglo-German Extradition Treaty of the 14th May, 1872;
- (2) the Anglo-German Extradition Treaty of the 17th August, 1911;

and the following agreements (not mentioned in Your Excellency's note of the 6th May), viz. :—

- (3) the Anglo-German Agreement of the 10th December, 1928, regarding the application of the Anglo-German Extradition Treaty of the 14th May, 1872, to certain mandated territories; and
- (4) the understanding of the 28th February, 1933, regarding Extradition Facilities between the German Reich and Trans-Jordan.

I take this opportunity, &c.  
WEIZSÄCKER.

