

(THE PERMANENT NEUTRALITY OF AUSTRIA: 1955 - 1962)

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CURRICULUM STUDIORUM

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Pamphlet

COMPLETE TEXT OF THE AUSTRIAN STATE TREATY.....Pocket on Inside Back Cover

INTRODUCTION

With the reconstitution of Austria in 1955 as a sovereign, independent and democratic republic committed, like Switzerland, to an international status of permanent neutrality the country assumed a new role in international affairs.

Austria's international position as a permanent neutral is in several ways unique, especially in that her status is in large measure a function of the interplay of forces in the Cold War. The small Austrian state, a succession state of the former Austro-Hungarian dual monarchy, has, indeed, no tradition of neutrality. Her present central geographical location in a world still fairly polarized into two power blocs, but increasingly less so, suggests that her status of permanent neutrality is a creature of historical circumstances rather than of cold choice, and this suggestion is borne out by a study of the negotiations leading to her new international condition. Her leaders have yet to demonstrate that her distinctive neutrality is a permanent possibility in her historic, geographic and economic environment.

This thesis comprises an investigation of the theoretical foundation of neutrality and permanent neutrality as they have developed in recent times followed by a theoretical investigation of Austria's permanent neutrality and the practical manifestations of her neutrality in her foreign relations. The broader implications of her neutrality are investigated in an assessment of neutralization as a device for stabilizing international relations in other areas of the world. A brief study of other neutral states is included for purposes of comparison.

The theoretical portion of the thesis consists of an examination of neutrality in general and, in particular, an examination of the complex of three documents which together theoretically define Austria's present independence and her permanent neutrality: 1. The Austrian State Treaty signed by Austria and the four occupying powers on May, 15, 1955 which does not specifically mention permanent neutrality, but which restored Austrian independence and readmitted her as a full member to the international community; 2. The earlier Moscow Memorandum of April 15, 1955, the provisions of which were insisted upon by the Soviet Union as a precondition of their signing the Austrian State Treaty, including a provision which bound Austria to pass a constitutional law declaring her permanent neutrality and to seek to obtain international recognition and guarantees for such status, and 3. The Constitutional Law of October 26, 1955 by means of which the Austrian Parliament implements the foregoing undertaking.

The examination of the practical application of Austria's status as defined in the above documents consists of studies of the nature and consequences of her membership in the United Nations Organization, the possible influence of her economic commitments (particularly those arising from her membership in the European Free Trade Association) on her foreign policy and the practical difficulty of Austria pursuing a foreign policy, in the light of her permanent neutrality, that is not unacceptable to the Soviets while she retains her obvious predilections for a "western" form of government and social organization.

Since Austrian permanent neutrality is for her a new departure it has been thought useful to compare her status with other sometimes longer-established neutrals, both traditional and permanent, and particularly with Switzerland, in order to emphasise similarities and differences and to attempt to place her new status in better perspective.

In conclusion, Austria's pragmatic and flexible approach to her new status, combining observance of the legal requirements of her permanent neutrality with a large degree of freedom of state action exemplifying her aversion for doctrinaire rigidity, is examined. Such indications of a flexible but sincere foreign policy as are provided by her membership in the United Nations and the Free Trade Area, her reception of Hungarian refugees in 1956 and her insistence on a free expression of her views whether or not they are palatable to the blocs is thought by the writer, to augur well for the future. But the question remains for the moment open: Will Austrian neutrality become a permanent feature of International Law and practice? Will Austria have the time and opportunity necessary to establish its new status?

CHAPTER I

THE MODERN LAW OF NEUTRALITY

Neutrality signifies the legal status, with its attendant legal rights and duties, arising from the non-participation of a state in war. Although states have refrained from participation in wars throughout history, neutrality, as a clearly defined status in international law, is largely a development of the last two hundred years.¹ The historical factors responsible for the relatively slow development of the law of neutrality are to be found, respectively, in the influences of feudalism and the Church.

Firstly, under feudalism the dominant characteristic of political society was suzerainty rather than sovereignty and this had a marked influence on neutrality:

Princes bound by feudal obligations were not free, as are the governments of modern states, to choose between the alternatives of belligerency and neutrality. The most a vassal could do was to achieve a measure of abstinence from the conflict by resisting the power of his overlord. He might substitute a conflict with his lord for a conflict with his lord's enemy.²

Secondly, with its mission of peace the Church, at least until the Reformation, strove to foster a universal society in which justice might be achieved through the secular arm of the state. Since a Christian prince was bound to consider the enemies of the Church as his enemies he could not be neutral in a conflict between God and the foes of God. No Christian prince could remain honourably neutral, for example, during

1. William W. Bishop, jr., International Law: Cases and Materials, Boston, Little Brown, 1953, p. 651.

2. Philip C. Jessup and Francis Deak, Neutrality: Its History Economics and Law, Vol. 1, New York, Columbia University Press, 1935, p.5.

the crusades against the infidel. Accordingly, the conception of "just war" arose: neutrality on the part of a Christian prince would be an unconscionable breach of duty.³

During the last two centuries the evolution of neutrality has been varied, with the status assuming different forms in different historical contexts, with concomitant variations of the legal rights and duties relative thereto. Some recent authors have even suggested that in view of the United Nations Charter neutrality is obsolete, but this view cannot be accepted by the present writer. Recent developments in international organization, however, as reflected in the United Nations Charter and multilateral conventions for collective defence such as the North Atlantic Treaty (1949), indicate that the number of neutral states may be greatly reduced in any future hostilities. The legal rights and duties of those states which do remain neutral, however, should not differ substantially from the classic statement of the rights and duties of neutral powers in Hague Convention V of 1907.⁵

Oppenheim distinguished at least nine forms of neutrality including voluntary, permanent, conventional, qualified, perfect, general

3 Ibid., p. 6

4 Hans Kelsen, The Law of the United Nations, New York, Praeger, 1950, p. 108.

5 William W. Bishop, Jr., op.cit., p. 653-654. Vide Appendix 3.

6

partial, benevolent and armed neutrality. It is possible, however, to describe a state as having more than one neutral status at the same time: in the nineteenth century, for example, a state might have been both a voluntary and a benevolent neutral. In such a case the former term signifies that while the state has no binding legal commitment to remain neutral it chooses "voluntarily" to do so, and the latter term signifies that at the same time, possibly because of a treaty antedating the war, it favours one of the belligerents. Benevolent neutrality is now considered to be obsolete in international law,⁷ having arisen at a time when the legal duties exacted of neutrals were not so stringent as at present. Nevertheless, the neutrality of Portugal during the Second World War⁸ might be described as one of "benevolence" towards the Allies.

In recent decades the legal requirements devolving upon neutrals have become more stringent as is evidenced by the disappearance of "qualified neutrality" as a recognized neutral status.⁹ "Qualified neutrality" was a corrupt form of neutrality by virtue of which the neutral so designated rendered assistance to one of the belligerents as the result

6 L. Oppenheim, International Law, Vol. II, H. Lauterpacht, ed., London, Longmans, 1960, p. 661-666.

7 Ibid., p. 662-663

8 Katherine Duff, "Portugal", in The War and the Neutrals, Arnold Toynbee and Veronica M. Toynbee, ed., London, Oxford University Press, 1956, p. 338.

9 L. Oppenheim, op.cit., Vol. II, p. 663

of a treaty entered into prior to the war. In this connection, Oppenheim says:

The majority of modern writers maintained (correctly, it is believed) that a state was either neutral or not, and that it violated its neutrality if it rendered any assistance whatever to a belligerent from any motive whatever. ¹⁰

In pace with the more stringent legal duties exacted of neutrals under contemporary international law the tendency has been to distinguish only two forms of neutrality: voluntary neutrality and permanent neutrality. Since permanent neutrals are obligated to perform all the duties of voluntary neutrals and others besides, it would be appropriate to consider first the more common status of voluntary neutrality which characterizes those states which choose to remain neutral during war without having a legal commitment to do so, ¹¹ as opposed to permanent neutrality where a state has assumed an obligation to remain neutral permanently according to ¹² a multilateral treaty.

1. Rights and Duties of Voluntary Neutrals.

Legal duties of five distinct types devolve upon neutrals. The first ¹³ three types are co-relatively binding on neutrals and belligerents, whereas the final two duties enumerated are required only of neutrals themselves. The duties devolving upon neutrals are duties of (1) abstention; (2) prevention; (3) acquiescence; (4) impartiality and (5) self defence.

¹⁰ Ibid., p. 663-664

¹¹ Ibid., p. 662

¹² J.G. Starke, An Introduction to International Law, London, Butterworths, 1960
p. 100

¹³ Ibid., p. 390-391.

According to Starke's classification of the first three above-mentioned duties, the duty of a neutral may be regarded as the right of a belligerent and vice versa; in other words, these three duties are co-relatively binding on both neutrals and belligerents. The duties of impartiality and self-defence, of course, are peculiar to neutrals from their very nature. Starke correctly analyses the co-relative nature of the first three duties in the following manner.

The duty of abstention requires that the neutral state give no assistance to either belligerent in the form of troops, munitions of war, or anything that would assist the belligerent in its war effort. The belligerent state must likewise abstain from warlike acts on neutral territory, and must not interfere with the legitimate intercourse¹⁴ of neutrals with the enemy. The duty of prevention requires that the neutral prohibit such activities as the enlistment of troops in its territory for belligerent armies, and all hostile acts by one belligerent against another in territory under its jurisdiction. Co-relatively, a belligerent must prevent the ill treatment of neutral envoys or injury to the property or persons of neutral nationals within its territory or territory occupied by it. The duty of acquiescence renders it mandatory for a neutral to consent to the acts of belligerents with respect to commerce conducted by its nationals if such acts, for example the seizure by belligerents of neutral vessels carrying contraband, are recognized by international law. The belligerent, on the other hand, must acquiesce in the granting of asylum to hostile warships in neutral ports, for repairs or refueling, as prescribed by international law.¹⁵

The failure by a professedly neutral state to observe any or all

¹⁴ Vide infra, p. 7

¹⁵ J.G. Starke, op.cit., p. 390-391

of the above neutral duties would constitute a breach of the duty of impartiality, which must characterize the neutral in its relations with the belligerents:

Since neutrality is an attitude of impartiality, it excludes such assistance and succour to one of the belligerents as is detrimental to the other, and, further, such injuries to the one as benefit the other.¹⁶

An important corollary of this duty of impartiality is the duty of a neutral state to defend itself when attacked by a belligerent.¹⁷ Furthermore, it has long been held that the repulse of an attempted violation of neutral territory by a neutral state may not be regarded as a hostile act by the offending belligerent. This principle was given expression in Article X of Hague Convention V of 1907 as follows: "The fact of a neutral power resisting, even by force, attempts to violate its neutrality cannot be regarded as a hostile act."¹⁸ Such repulsion is not merely a right but also a duty since passive submission by the neutral to the dictates of one of the belligerents may be construed as a hostile act by the other as it assists the less respectable belligerent.

Thus, the duty of impartiality is not merely one of passivity, but may at times entail large-scale military action if one of the belligerents attempts to gain a military advantage by violating neutral territory. From one point of view, impartiality may be regarded as embracing

16 L. Oppenheim, op.cit., p.654 Vol. II.

17 Ibid., p. 654

18 William W. Bishop, jr. op.cit., p. 653

all other neutral duties, since its absence signifies laxness on the part of a neutral in observing those duties, resulting in an unfair advantage to one of the belligerents.

Although in its official relationships with belligerents a neutral state must perform the neutral duties outlined above, and must maintain an attitude of impartiality, or pay pecuniary damages for breach of neutrality at the suit of the offended belligerent, there are many acts which its individual citizens may perform in their private capacities which¹⁹ favour one belligerent or another. Even in its official capacity, a neutral state's intercourse with the belligerents is not unduly restricted:

Neutrality...does not involve a duty to break off all intercourse with the belligerents. Apart from certain restrictions necessitated by impartiality, all intercourse between belligerents and neutrals takes place as before, a condition of peace prevailing between them despite the war between the belligerents. This applies particularly to the working of treaties, to diplomatic intercourse, and to trade.²⁰

The citizens of a neutral state, acting privately, have wider latitude than the state itself when dealing with belligerent states. In this connection, articles VI and VII of Hague Convention V, which are still valid statements of international law, provide that a neutral state need not prevent its citizens or others from individually crossing its frontiers to offer their services to one of the belligerents, nor prevent the export to

19 J.G. Starke, op.cit., p. 390-391

20 L. Oppenheim, op.cit., Vol. II, p. 659

one or other of the belligerents of arms or munitions of war.²¹ Because neutrality entails impartiality, however, a neutral state cannot legitimately encourage its nationals to sell arms to only one belligerent, or otherwise to favour one belligerent, since this would constitute a²² hostile act of state.

With regard to the expression of opinion about the war by persons in neutral territory, or by the neutral government itself, the following statements summarize the accepted doctrine:

...neutral states are under no duty to restrain people within their jurisdiction from expressing their views concerning the conflict, even though such expression may favour or condemn a particular side in the war. On the contrary, it is the common practice of belligerents to attempt to influence neutral opinion on their behalf.²³

and

A neutral government and its officials will naturally be more guarded in expressing approval of one side or the other than its private nationals may be, but there is no reason to think that it may not speak its mind concerning the nature of the war and the manner in which it is conducted. In fact, since all nations have an equal interest in the maintenance of international law, a neutral state has a clear right to protest blatant violations of that law to the offending belligerent. The expression of opinion should, however, be consistent with the observance of international courtesies.²⁴

21 William W. Bishop, jr., op.cit., p. 653

22 L. Oppenheim, op.cit., Vol. II, p. 654

23 Morris Greenspan, The Modern Law of Land Warfare, Berkeley, University of California, 1959, p. 526

24 Ibid., p. 574-575

Accordingly, neutrality imposes a legal duty on neither the nationals nor the government of a neutral state to refrain from comment on the course of the war and the conduct of the belligerents.²⁵

Neutral duties come into existence as soon as the states concerned are aware that a state of war exists between other powers. Consequently, even though there has been no official notification of the existence of war by the belligerents to the neutral, or even though the formality of a declaration of war has been dispensed with altogether, the rights and duties of neutrals and belligerents arise as soon as there is mutual awareness of the existence of war.²⁶

²⁵ An older view, which it is submitted is now obsolete, has been cited by Colombos in International Law of the Sea, 4th ed., p. 566, where he refers to the British response to a request by the German Government to make a declaration of "benevolent neutrality" towards Germany during the Franco-Prussian War; answering for the British Government, Lord Granville said: "...A nation is either benevolent or neutral and if neutral, is bound not to concern itself with, or to express any opinion as a nation, on the justice or injustice of the war, but to conduct itself with strict impartiality between the two contending parties."

It is submitted, however, that the opinion of Greenspan, and similar opinions held by Oppenheim and Fenwick are more indicative of the accepted doctrine in modern international law. Oppenheim states at p. 655, Vol. II, "The required attitude of impartiality is not incompatible with sympathy with one belligerent, and disapproval of the other, so long as these feelings do not find expression in acts violating impartiality. Thus, not only public opinion and the press of a neutral State, but also its Government, may show their sympathy to one party or another without thereby violating neutrality." And Fenwick, at p. 655-656 of his International Law, 3rd.ed., cites approvingly a statement by President Franklin Roosevelt at the commencement of the Second World War, when the United States was still neutral, that "...Even a neutral has a right to take account of the facts. Even a neutral cannot be asked to close his mind or conscience."

²⁶ Morris Greenspan, op.cit., p. 531

There is some doubt as to whether neutrality is possible for
member states of the United Nations²⁷ when collective action is being
taken against an aggressor under the Charter.²⁸ Although the question
is not finally settled it is probable that at least those members of the
United Nations who are not called upon to take action against an agres-
sor may preserve their neutrality:

Neutrality will disappear as a permissive legal status for what-
ever members of the United Nations the Security Council "calls
upon" or "requires" in specific instances to take military or
other measures of coercion against an aggressor (arts. 41, 48).
However, in such cases the legal possibility of neutrality will
not so disappear as to other members not so designated.²⁹

Oppenheim is in agreement with the above opinion:

In principle no Member of the United Nations is entitled, at its
discretion, to remain neutral in a war in which the Security
Council has found a particular State guilty of a breach of the
peace or of an act of aggression and in which it has called upon
the Member of the United Nations concerned either to declare war
upon that State or to take military action indistinguishable from
war.³⁰

Brierly states that "all the members of the United Nations"³¹ are bound
to provide military assistance to repel aggression at the call of the
Security Council.³²

²⁷ Hans Kelsen, op.cit., p. 108

²⁸ Vide infra Chapter 5, Section 3.

²⁹ K.S. Carlston, "Neutrality", in The Encyclopedia Britannica,
24th Ed., Vol. 16, p. 262

³⁰ L. Oppenheim, op.cit., Vol. II, p. 647

³¹ J.L. Brierly, The Law of Nations, Oxford, 1955, p. 302-303

³² Kelsen's judgment that the United Nations Charter makes a neu-
tral status for members altogether obsolete appears to the writer to be too
dogmatic. Chapter VII of the Charter nowhere enjoins military action on a
member-state of the United Nations when the Security Council does not call
upon such member to act.

The penalty for the violation of the duties of neutrality is the payment of reparations by the neutral to the aggrieved belligerent. In the famous Alabama Arbitration following the American Civil War the United States was awarded the sum of \$15,500,000 in gold as compensation for the release by the British Government of the British-built vessel Alabama, which had been purchased by the Confederacy.³³ The Alabama³⁴ subsequently captured seventy United States vessels. In specific instances also, it might be suggested that the violation of neutrality by a neutral state might justify the aggrieved belligerent to take countermeasures in the form of either self defence or reprisals.

The "total" nature of modern war has led not to a revision of the obligations and rights arising from neutrality, but to considerable practical difficulty in securing the co-operation of belligerents to recognize neutral rights. This has been manifested, especially, as Oppenheim remarks in the commercial sphere where belligerents have sought to curtail the commerce of neutrals with their enemies:

... the experience of the two World Wars has shown that that substantial aspect of the traditional law of neutrality which centres around the neutral rights of commerce and intercourse generally has become obsolete to a large extent. In modern war in which the mili-

33 "The Alabama Arbitration", in L.C. Green, ed., International Law Through the Cases, New York, Praeger, 1959, p. 693

34 The ground of the Alabama decision was not that it was improper for a neutral to sell arms to a belligerent, but that it was improper to allow the fitting out and arming of a man of war within its jurisdiction, which, in effect would entail the more serious consequence that the neutral was allowing one of its ports to be used as a base of naval operations by one of the belligerents.

tary and economic aspects of the national effort are inextricably interwoven, the concessions which the belligerent is in the position to make to neutral commerce are very narrowly circumscribed.³⁵

The fact that the two World Wars were global in scope makes the plight of the small neutral all the more difficult, since the effects of belligerent action on neutral commerce were almost world-wide.

2. Permanent Neutrality

A permanently neutral state is one whose independence and territorial integrity are recognized and may be guaranteed, subject to an international agreement stating that it acceptably maintain its neutrality³⁶ according to provisions agreed upon with the recognizing powers.

In return for the guarantee of its political integrity the permanently neutral state agrees not to take up arms except in self defence. As an incident of its permanent neutrality it must refrain from any act during peace which would impair its neutrality during war. Accordingly, it must not enter into treaties of military alliance nor allow the establishment of foreign military bases on its territory, nor undertake economic obligations which would be inconsistent with the maintenance of its³⁷ neutrality on the outbreak of war. Although these requirements appear to be exacting it should be noted that Switzerland has succeeded in main-

35 L. Oppenheim, op.cit., Vol. II, p. 642

36 J.G. Starke, op.cit., p. 100

37 L. Oppenheim, op.cit., Vol. I, p. 244.

taining its permanent neutrality for almost a century and a half without substantially infringing them.

In the past the achievement of permanent neutrality has usually been by a collective international act. Since neutralization invariably rests on recognition of an international status by other states, or such recognition coupled with a military guarantee of the state's territorial integrity, there is strong authority against the proposition that a state can unilaterally announce its permanent neutrality.³⁸ Thus, Switzerland was neutralized by the Treaty of Vienna, 1815, and again in the Treaty of Versailles in 1919,³⁹ and during the Second World War both the Germans⁴⁰ and the Allies⁴¹ explicitly recognized the permanently neutral status of Switzerland in diplomatic notes. Belgium and Luxemburg were neutralized by the Great Powers according to the Treaties of London of 1831 and 1867, respectively, but ceased to be permanent neutrals at the end of the First World War.⁴² Vatican City was declared to be neutral and inviolable territory by Article 24 of the Lateran Treaty of 1929 between

³⁸ J.G. Starke, op.cit., p. 100

³⁹ J.L. Brierly, op.cit., p. 128

⁴⁰ Constance Howard, "Switzerland", in The War and the Neutrals, Arnold Toynbee and Veronica M. Toynbee, ed., London, Oxford University Press, p. 200.

⁴¹ Ibid., p. 200

⁴² J.L. Brierly, op.cit., p. 128

⁴³
Italy and the Holy See. The Lateran Treaty's provision respecting permanent neutrality is implicitly recognized by all states sending diplomats to the Vatican City, and it may thereby be said to have secured international recognition for its status.

The obligations undertaken by the guarantors of permanent neutrality vary according to whether their guarantee is one of simple recognition or of recognition coupled with a military commitment to defend the state when attacked:

La neutralité permanente d'un Etat peut être une neutralité garantie ou une neutralité simplement reconnue par d'autres Etats. La reconnaissance de la neutralité implique le devoir de ne pas la violer, la garantie entraîne celui de défendre.⁴⁴

The form in which the guarantee is couched, however, may not be so important for the maintenance of permanent neutrality as the geographic location and military vulnerability of the neutralized state. Thus, defenceless Belgium was an easy prey to aggressive powers in the First World War, while Switzerland with its impregnable natural fortifications and well-trained army was not molested in either the First or Second World War.

There are several important differences between voluntary and permanent neutrality. Permanent neutrality differs from voluntary neutrality in its duration, binding legal effect and in the more onerous duties

⁴³ L. Oppenheim, op.cit., Vol. II, p. 246

⁴⁴ Marcel Sibert, Traite de Droit International Public: Le Droit de la Paix, Vol. 1, Paris, Dalloz, p. 393

usually arising to the state so neutralized according to any special terms that may be undertaken by it in the treaty originating its status. Starke distinguishes as follows between the two forms of neutrality:

Neutralisation differs fundamentally from neutrality, which is a voluntary policy assumed temporarily in regard to a state of war affecting other Powers, and terminable at any time by the state declaring its neutrality. Neutralisation on the other hand is a permanent status conferred by agreement with the interested powers, without whose consent it cannot be relinquished. It is thus also essentially different from "neutralism," a newly-coined word denoting the policy of a state not to involve itself in any conflicts or defensive alliances.⁴⁵

The factor adding real permanence to permanent neutrality or "neutralization" therefore, is that other states have assumed a vital interest in maintaining such a status on the part of the neutralized state, and have entered into a treaty with it to that end. Accordingly, the permanently neutral state cannot relinquish its status without the consent of the other signatories to the treaty upon which its status is founded. In addition to the accepted duties assumed by voluntary neutrals, other duties may be required of permanent neutrals by the guaranteeing powers; since these duties rest on an international treaty, they might conceivably relate to many matters outside of the scope of the more transient form of neutrality.

A more controversial obligation of permanently neutral states is the obligation not to acquire new territory or to cede territory to another state without the consent of the guaranteeing states.⁴⁶ It is suggested

⁴⁵ J. G. Starke, op.cit., p. 100

⁴⁶ L. Oppenheim, op.cit., Vol. I, p. 244.

that the reason for this supposed obligation is that the guaranteeing states have undertaken to guarantee a state with specific boundaries, and any change in these boundaries, either through acquisition or cession of territory by the neutral might promote political instability and would have the effect of unilaterally changing the nature of the guarantee originally given by the guarantors. This problem, as Oppenheim mentions,⁴⁷ has excited much discussion, but it is largely academic because there are no examples which would concretely illustrate the principles advanced by publicists. There is, of course, no obligation on the part of voluntary neutrals not to enlarge or diminish their boundaries.

Although under tranquil political circumstances a permanent neutral may not relinquish its neutrality without the consent of the guarantors, it may be questioned whether the consent of the guarantors must always be obtained before the neutral may relinquish its status. If there were a vital change in contemplation of which the treaty of neutralization was signed, for instance, the neutral might conceivably be in a position legally to renounce the treaty by invoking the maxim rebus non sic stantibus. Such a change might occur if one or more of the states guaranteeing permanent neutrality disappeared as political entities, or if the stabilization which the permanent neutrality was meant to achieve were achieved by other means, perhaps by some form of world federation.

⁴⁷ Ibid., p. 244

3. Some Recent Developments Affecting the Law of Neutrality.

In concluding this summary of the law of neutrality, it is appropriate to mention some of the recent developments in politics and economics which will either incidentally or directly affect the law of neutrality.

1. Taking a long perspective of the evolution of neutrality laws, it is clear that neutrality has undergone many changes of form, but the theoretical progression has been towards construing neutral duties (and belligerent duties) more strictly. The disappearance of qualified neutrality⁴⁸ as an accepted legal status, as Oppenheim remarks, is evidence of this progression. Another evidence of change is the speculation that neutrality itself was rendered obsolete for members of the United Nations⁴⁹ Obligations because of their obligations under the Charter. Nevertheless, after an initial feeling that neutrality was obsolete for member states the view came to prevail that when sanctions or military action were undertaken those states which did not participate in the action⁵⁰ might remain neutral.

2. A change in the nature of war has affected the possibility⁵¹ of neutrality to a great extent. In an era of total war, with belli-

⁴⁸ Vide supra, p. 4

⁴⁹ Vide Supra, p. 10

⁵⁰ Vide supra, p. 10

⁵¹ Vide supra, p. 11

gerents using economic and bacteriological as well as conventional means of warfare it is becoming increasingly difficult to localize the theatre of war to include only the actual belligerents. Since there is no practical means whereby neutrals can insulate themselves against the effects of modern war, the danger of involvement is ever present and the obligation of impartiality becomes more difficult as the provocation becomes greater.

3. The socialization of more and more economies, with the accompanying nationalization of industry, will lessen neutral intercourse with belligerents since trade formerly carried on by nationals in a private capacity is not permissible if carried on by the neutral state itself.

4. The attitude of neutrality must be carefully distinguished from the legal status of neutrality, although it is possible for the two to coexist. Neutrality is an attempted abstention from, or a purported indifference to, the current power struggle between East and West. It is an attempt at achieving a military isolationism. Neutrality is thus a descriptive term used to indicate a certain state policy, and is not really a legal term at all. Neutrality, on the other hand, is the legal status arising from non-participation in war, either permanently or in a specific context.

5. There is some indication of the reappearance of the concept of just war. There is an undertone of just war in those provisions of the United Nations Charter, for example, which envisage collective military action against an aggressor state.⁵²

⁵² Vide supra, p. 10

In a just war a permanent neutral might conceivably defend its status by asserting that the long-range interests of international peace and security were promoted by the existence of its status and, after its own fashion, the permanent neutral was promoting international peace by maintaining and defending its status in an area of potential hostilities.

CHAPTER II

THE DEVELOPMENT OF SWISS PERMANENT NEUTRALITY

1. The Historical Background of Swiss Permanent Neutrality

When permanent neutrality is discussed, Switzerland is inevitably selected as the archetype and model of such neutrality, since it has preserved its status longer¹ and more successfully than any other permanently neutral state.²

Other permanently neutral states, indeed, have relinquished their neutral status after varying lengths of time, usually because they have found that their historical and geographic situation, combined with their military weakness, have made such a status unrealistic; erstwhile permanent neutrals like Luxemburg and Belgium thus have eventually sought the security that they failed to find as permanent neutrals in the mutual defence arrangements of the North Atlantic Treaty Organization.³ Switzerland alone has been able to maintain her permanent neutrality over the last 150 years. A more extended examination is warranted of the permanent neutrality of Switzerland, therefore, in any study of the historical

1. L. Oppenheim, op.cit., Vol. 1, p. 245

2. The traditional neutrality of Switzerland which dates from the peace of Westphalia in 1648 was interrupted during the French Revolution and Napoleonic Wars when the French imposed a new Constitution on the Swiss Confederation in 1798, transforming the Confederation into a "unitary" or "simple" State known as the Helvetic Republic. This state was linked to France by a military alliance which was of course, incompatible with the maintenance of neutrality. In 1814, however, Switzerland resumed her former confederal form, and in 1815 her permanent neutrality was guaranteed by the Great Powers at the Congress of Vienna.

3 Geoffrey Bruun, The World in the Twentieth Century, Boston, Heath, 1957, p. 639

development of permanent neutrality, since the possibility of maintaining permanent neutrality during the present era may be gauged and appraised in terms of the possibility of maintaining Swiss neutrality; if Switzerland is unable to maintain the status it is unlikely that any other European state can.

Swiss permanent neutrality was first established under the guarantee of the Concert of Europe at the Congress of Vienna in 1815⁴ and her permanently neutral status was reconfirmed in 1919 by Article 435 of the Treaty of Versailles.⁵

Even before her neutral policy received formal international sanction, Switzerland had a very long tradition of neutrality:

We may, perhaps, assign a beginning to Switzerland's neutral existence by dating it from the permanent peace between Switzerland and France concluded at Freiburg, November 12, 1516, since from this date Switzerland, considered as a homogeneous federal alliance, did not again take any direct part in war-like activities, as it had done in the Milan campaign undertaken for the purpose of driving France from northern Italy and which had culminated in the battle at Marignano September 14, 1515. On May 5, 1521 an offensive and defensive alliance was made with France and renewed in 1663, 1715 and 1777. On the latter occasion Swiss neutrality was expressly guaranteed by France.⁶

From 1516 until 1815 when a definitive guarantee of permanent neutrality was given to her by the Great Powers --- a period of almost exactly three centuries --- Switzerland maintained her neutrality,

4 Charles Chaumont, op.cit., p. 22

5 Ibid., p. 22

6 Gordon E. Sherman, "The Neutrality of Switzerland" Part 1, in The American Journal of International Law, Vol. 12, No. 2, issue of April, 1918, p. 241

although not without difficulty. Her neutrality was continually threat-
ened by France, despite the aforementioned Treaty,⁷ and by the Holy Roman
Empire;⁸ these frequent threats had the effect of convincing the Swiss
that for a small state located in their geographic situation, between
large potentially hostile powers, neutrality was the only safeguard.⁹

On March 20, 1815, the Congress of Vienna formulated a Declaration
of its intention to prepare "a formal statement setting forth the recog-
nition and guarantee on the part of all the Powers of Switzerland's per-
petual neutrality within its new frontiers."¹⁰ On May 27, 1815, the
Swiss Diet declared its formal adhesion to the proposal of the Congress,¹¹
and, accordingly, by Article 84 of the Vienna Congress Act of June 9, 1815,
the Great Powers acknowledged the Swiss adhesion to their plan and con-
firmed certain tentative arrangements they had made to ensure that the neu-
trality of Switzerland "shall invariably be maintained."¹²

The definitive statement on Swiss permanent neutrality, however,
was not made until November 3, 1815, after the Battle of Waterloo, when
Austria, France, Great Britain, Portugal, Russia and Prussia signed an

7 Ibid., p. 242

8 Ibid., loc.cit.,

9 Ibid., loc.cit.,

10 Ibid., p. 248

11 Ibid., p. 248

12 Ibid., p. 248

annex to the second Treaty of Paris containing a declaration of the recognition and guarantee of Swiss "perpetual neutrality:"¹³

The accession of Switzerland to the Vienna Declaration on March 20, 1815, on the part of the signatory Powers of the Treaty of Paris having been duly notified to the ministries of the Imperial and Royal courts by the Swiss Act of May 27, following, there remains no obstacle to the making of an act of recognition and guarantee of perpetual neutrality of Switzerland in its new frontiers in conformity with the declaration... Accordingly the signatory powers of the Vienna Declaration hereby set forth in the present act a formal and authentic recognition of Swiss perpetual neutrality and guarantee the integrity and inviolability of its territory within its new limits as settled not only by the Congress of Vienna but also by the Treaty of Paris of this date...¹⁴

It has been correctly remarked that the permanent neutrality of Switzerland has a different historical basis than other instances of neutralization created after the Congress of Vienna in that it was merely a crystallization "in diplomatic and lasting form" of a political attitude which had become traditional through three centuries of practice.¹⁵ The Powers which formally established the international status by means of Treaty added a guarantee, however:

...it was clearly seen that recognition would prove valueless were it not supported by an international guarantee, and one, moreover, which would not only necessarily take the shape of an international protection of Switzerland against outside aggression, but also conserve a unitary and harmonious federal administration within Swiss boundaries.¹⁶

¹³ Ibid., p. 248

¹⁴ Ibid., p. 249

¹⁵ Gordon E. Sherman, op.cit., Part II, Vol. 12, No. 3, issue of July, 1918, p. 462.

¹⁶ Ibid., p. 462

Accordingly, the international treaty giving formal sanction to Switzerland's permanent neutrality also had the effect of adding a guarantee of the frontiers of the state as they existed at the conclusion of the Treaty in 1815.

Considerable pressure was exerted by opposing sides during both World Wars to secure advantages from Switzerland for the belligerents which the Swiss considered to be inconsistent with their neutrality. At the beginning of the First World War the Swiss found themselves dependent upon the Central Powers for coal and iron and on the Allies for most other raw materials.¹⁷ In return for the raw materials needed by Swiss industry¹⁸ the belligerents extorted war material whenever they could.

Economic pressure during both Wars was aided or hindered by Swiss public opinion which veered from substantial support of Germany during the First World War to support of the Allies during the Second World War:

During the War of 1914 Switzerland was divided in sympathy; the German-speaking population sympathized strongly with Germany--- some even today sympathize in retrospect and teach their children to do so--- while the French-speaking population sympathized strongly with France. Neutrality was therefore a condition of survival. The Second World War presented a different situation; the Allies were seen to be right and the fascist powers wrong--- and in a war between right and wrong Switzerland stood neutral. The victory of the Allies was then the condition of national survival.¹⁹

17 Edgar Turlington, Neutrality, Its History, Economics and Law, Vol. III, p. 132-133

18 Ibid., p. 132-133

19 Christopher Hughes, op.cit., p. 94

In the light of the sympathies aroused for opposing sides in the First World War, it is not difficult to conceive that the abandonment of neutrality by the predominant German element of Switzerland and the proposal to form a military alliance with the Central Powers would have led to a Civil War with the French-speaking and Italian-speaking Swiss opposing the German Swiss. Such a Civil War might well have led to the disappearance of Switzerland from the map of Europe. Thus, in a very vital sense, as Mr. Hughes mentions above, neutrality was a "condition of survival."

Swiss permanent neutrality might well have been extinguished in the 12 years following 1939, with conjectural results, had the Swiss accepted one of several invitations tendered them to join military alliances. Invitations were received by the Swiss in 1939 to join the Allies, in 1940 to become a partner of Germany; again in 1944 to join the Allies and in 1951 to become a member of the North Atlantic Treaty Organization. ²⁰

During the Second World War the Germans sought to extend the law of neutrality beyond official acts of state to cover also expressions of individual opinion. Extensive criticism of the Nazi regime by German-language newspapers in Switzerland was deeply resented by the authorities in Berlin, prompting the suggestion that even the expression of hostile opinion was contrary to neutrality:

²⁰ John Gellner, "There is No Such Thing as Neutrality," in Saturday Night, Vol. 76, No. 25, Whole No. 3406, issue of December 9, 1961, p. 14

The German papers declared that criticism of Nazi Germany in the Swiss papers and the harbouring of Jews, Marxists, and other opponents of the National Socialist regime were not consistent with the Swiss Government's declared policy of neutrality. In particular, an article by Beckhoff in the January, 1939 issue of the Nationalsozialistische Monatshefte extending the concept of neutrality beyond the acts and pledges of the Government to cover the attitudes of private individuals and institutions, led the Swiss Government to fear that if the Swiss did not accept this extended concept of neutrality (Volksneutralitat) the Germans might feel themselves free to disregard the assurances which they had given to Switzerland to respect her neutrality in all circumstances.²¹

Nazi Germany was forced to endure continued criticism by the Swiss, however, because the efficient Swiss army and the natural fortifications of Switzerland made it impractical to try to subjugate the Swiss by force of arms.²² As in the First World War Germany exerted economic pressure to compel the Swiss to provide the Axis Powers with needed materials and to force Switzerland into closer economic relations with Germany.²³ After the collapse of France, Germany controlled all access routes to Switzerland and could thus exert pressure on the Swiss by cutting off their external sources of supply. In return for a pledge to supply Germany with war materials, the Germans provided the Swiss with coal and iron needed for Swiss industry. The British objected and tightened their blockade against Switzerland, since all goods shipped to the Swiss had to pass through Axis territory and could thus be intercepted by the enemy. Finally,

21 Constance Howard, op.cit., p. 205-206

22 Ibid., p. 201-203

23 Ibid., p. 217

however, the British agreed to allow the Swiss to import essential commodities when her stocks did not exceed a two months' supply.²⁴

At the end of the War, the Soviet Union accused Switzerland of helping Germany and pursuing a "pro-Fascist policy." Relations between the Soviet Union and Switzerland were unsatisfactory for some time, especially when the Soviet Union intimated that Switzerland must expect to be punished by the United Nations for abetting Germany during the War.²⁵

2. The Present Possibility of Swiss Permanent Neutrality.

An assessment of the possibility of permanent neutrality in a contemporary setting, whether such a status is attempted in Austria, Laos, West Berlin or elsewhere, inevitably requires an examination of the feasibility of Swiss permanent neutrality since the Swiss status has been longest and most firmly established and is generally accepted by the international community: if Swiss permanent neutrality is no longer feasible, there is little likelihood of other permanently neutral states continuing to maintain their international status. It is especially noteworthy that the most recently established permanent neutral, Austria,²⁶ conceives her status as analogous to that of Switzerland and that there are geographical and political similarities between the two small mid-European states.

Among the political and economic developments that might

²⁴ Ibid., p. 217

²⁵ Ibid., p. 230

²⁶ Bruno Kreisky, "Austria Draws the Balance", in Foreign Affairs, Vol. 37, No. 2, issue of January, 1959, p. 274-275

endanger Swiss permanent neutrality there may be mentioned the so-called "polarization" of political power implicit in the present East-West tension, as well as the need for Switzerland to be a member of a trading association of European states (which might entangle her politically as well as economically in the affairs of other states), and the recent development of a mobile Swiss army of a type that might be integrated into a multi-state western European nuclear-armed force. These elements, which are both internal and external, cannot all be controlled by Switzerland alone: economically she forms part of a larger complex, for instance, and she has a vested interest in the prosperity of other members of the complex which may occasionally prompt her to make political decisions to alleviate external economic pressures. Such decisions may or may not be consonant with her permanent neutrality. The polarization of political power, which might present her with the stark and unpalatable alternative of alignment with either the western democracies or the communist states in a crisis and the consequent abandonment of her neutrality is also beyond her control, but the recent defection of Albania from the Soviet camp and the long time defection of Yugoslavia, as well as the continued strained relations between the Soviet Union and China, indicate that the supposed polarity is not nearly as monolithic as a cursory examination might indicate.

It may be said, in connection with possible Swiss associate membership in the European Economic Community, that the continuing expansion of this trading association will not only confer benefits on member states, its tariff walls will impose burdens on non-member states by

reducing the possibility of commercial relations between those within the "market" and those outside. One commentator has spoken of the relationships of Switzerland, Sweden and Austria to the European Economic Community as follows:

Whether the three neutrals can afford to remain outside such a large and thriving market, in the event that their applications for limited membership are refused, is a question that is getting close attention.

The consensus, judging by official statements, is that the neutrals still can afford to choose. Despite the powerful attraction of the Common Market, it is felt that exclusion from membership is not too high a price to pay, if necessary, for continued neutrality.²⁷

Although the three neutrals referred to are members of the looser and less²⁸ politically-oriented European Free Trade Association, it is noteworthy that one of the weaknesses of the Association, in contrast with the European Economic Community, is that its members do not carry on a significant proportion of their total external trade among themselves; Switzerland, for instance, took only about one-tenth of its total imports from member²⁹ states of the association, in 1958, and the proportion has not increased appreciably since then. Consequently, the exclusion of Switzerland from the European Economic Community comprising the larger commercial and industrial states of western Europe except Great Britain, will be more economically disadvantageous than her membership in the European Free Trade Association will be economically advantageous. The difficulty

²⁷ Ronald Anderson, "Can European Neutrals Afford Luxury of Aloofness from Six?" in The Globe and Mail, Toronto, issue of 6 April, 1962.

²⁸ F. V. Meyer, The Seven, London, Barrie and Rockliff, 1960, vii.

²⁹ Ibid., p. 121

about a permanently neutral state seeking full membership in the Community, of course, is in the ultimate possibility that a political federation will unite its member states and thus make permanent neutrality for a member state an impossibility; some writers even conjure up the image of a renascent Holy Roman Empire,³⁰ albeit fancifully.

In contrast with their relatively small export trade among themselves, the European neutrals, including Switzerland, carry on a substantial trade with members of the European Economic Community. In 1961, for example, Switzerland, Austria, Sweden and Finland imported goods worth almost 4 billion dollars from the European Economic Community.³¹ In the same period, the favourable trade balance of the Community with these states was 1 billion dollars.³² It would therefore appear essential that some form of economic association between the members of the European Economic Community and the European Free Trade Association be forged in order to enable members of the latter group to trade with the Community without undue tariff discrimination. One of the original purposes of the European Free Trade Association, indeed, was to form a trading association that might be linked economically with the Community without accepting the political commitments or the institutions of the Community.³³ A major difficulty barring such an economic understanding between the two

³⁰ Ibid., p. 51

³¹ "Austrian Foreign Minister Dr. Bruno Kreisky declares: "The Neutrals Are an Economic Power," in Austrian Information, New York, Austrian Information Service, Vol. 15, No. 2, issue of January 31, 1962, p. 1.

³² Ibid., p. 1

³³ John Pinder, Britain and the Common Market, London Cresset, 1961, p. 98-99

groups has been the attitude of France, which considers that there is no real justification, in present day circumstances, for the neutrality of Switzerland and Sweden, and opposes their admittance as associate members of the Community enabling them to participate economically in the trade benefits of the Community without accepting concomitant political responsibilities.³⁴

Accordingly, Switzerland is confronted with the difficulty of maintaining her economic equilibrium when much of her trade is carried on with states which are members of a trading bloc that may erect large tariffs against outsiders. If her economic prosperity became jeopardized as a result, she might have to choose between finding alternative markets (which would be difficult), or abandoning her permanent neutrality and seeking full membership in the Community. There is however, no immediate danger of Swiss economic collapse, and it is quite possible that an arrangement may be arrived at which will enable Switzerland to share in the prosperous economic relations of the European Economic Community without forsaking her neutrality, but there are imponderables in the situation (such as the future attitude of the French Government) which makes an accurate forecast impossible at the present time.

The post-war era has been a time of ferment and realignment in the military as well as in the economic spheres in Europe, with military alliances like the North Atlantic Treaty Organization and the Eastern

³⁴ Ibid., p. 100

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European Mutual Assistance Treaty³⁵ being formed as well as such organizations as the European Economic Community and the European Free Trade Association. In either the military or the economic areas of inter-governmental cooperation, the neutral states have had to proceed warily in order to avoid entanglements which might adversely affect their competence to remain neutral should war break out. In either area the benefits secured by treaty are obtained at the expense of commitments to non-neutral states which might compromise neutrality in the opinion of outsiders --- especially when the ideological rift between the western democracies and the communist states is fairly well defined (but by no means monolithic). It is clear that a neutral cannot enter a military alliance, but short of this it might compromise its neutrality by making unilateral military arrangements of a suspicious nature. Switzerland, for example, has recently exhaustively revised its entire military thinking³⁶, and the revision has elicited protests from the Soviet Union.

Switzerland does not have a professional army, but relies on well-trained civilian reservists estimated to number roughly 500,000³⁷ men. Intent wholly on defending her permanent neutrality, Switzerland has hitherto depended upon static defences such as troop concentrations³⁸ in strategically important locations, airfields and fortifications.

35 This Treaty is more commonly known as the Warsaw Pact.

36 George A. Coddington, jr., "The New Swiss Military Capability," in Foreign Affairs, Vol. 40, No. 3, issue of April, 1962, p. 493.

37 Ibid., p. 490

38 Ibid., p. 491

However, in an era of nuclear weapons which could quickly demolish such static defences, the small cadre of Swiss professional army officers realized that a reappraisal of traditional military thinking must be made.

The considerable danger inherent to her neutrality in the new Swiss military concept is evident from the following analysis:

Following World War II, the real danger was that Switzerland might become implicated in the East-West world conflict. Given the immense armaments of both sides, Switzerland could not hope to defend itself with its own military forces; only as a cooperating ally of one side or the other might it influence the outcome or even make a significant contribution. Although no responsible Swiss official has said so in as many words, the nature and philosophy of the Eastern bloc, alien to all Switzerland stands for, evidently makes it the only real danger.

The reorganization plan drawn up by the group of officers and submitted to the Federal authorities aimed essentially at creating a modern mobile army, equipped with nuclear weapons and able to coordinate its activities with an ally in case of attack.³⁹

In the light of the above analysis, it may be said that Swiss permanent neutrality rests on a rather precarious foundation if the conditions giving rise to the above evaluation remain valid into the indefinite future. A military organization which is contingent on the co-operation of allies for its effectiveness is bound to arouse doubts about the genuineness at permanent neutrality when those allies could only be the western democracies. International power politics should not be the subject of over precise doctrinal refinement, however, since expediency rather than purely doctrinal considerations usually determines what is possible in any given case: Switzerland will be able to maintain her

³⁹ Ibid., p. 491-492

permanently neutral status as long as she provides what the Soviet Union considers to be a useful example of a western state remaining aloof from military alliances with other western states. Permanent neutrality should be defined with a certain amount of breadth, but it is clear at the same time that it will permit no overt military association with other states.

The judgment that Swiss or other varieties of neutrality are no longer possible,⁴⁰ however, assumes a rigidity in the present international situation that does not exist. If recent diplomatic history exhibited a choice between two broad foreign-policy alternatives only, then it might be necessary to despair of the possibility of maintaining permanent neutrality as an acceptable international status. However, to aver that there are only two alternatives is grossly to oversimplify a complicated situation.

The Foreign Minister of the most recently established permanent-⁴¹ ly neutral state, Dr. Bruno Kreisky, has spoken of the dynamic process away from a polarized world evident in recent years:

In the recent past, it was the process of polarization which overshadowed all other developments. For some time, however, there has been evidence of another, simultaneous process which, in a period of

⁴⁰ John Gellner, op.cit., p. 15

⁴¹ Dr. Kreisky, a social democratic member of the Austrian coalition government, was imprisoned by both the Dolfuss regime and by the Nazis. As Foreign Minister of Austria he has emphasised that Austria is "neutral but committed" to the principles of western civilization. He has sought closer ties between the European Free Trade Association, of which Austria is a member, and the European Economic Community and autonomy for the German-speaking population of the South Tyrol.

relative stability and peaceful progress, might soon occupy the centre of the political stage: it is the crystallization of several political and ideological centres which may well be destined to supplant the former clear-cut pattern of East versus West. Matters would then have progressed beyond the stage where the political problems besetting the world today can be exclusively seen in 'oversimplified alternatives'.⁴²

The following assessment correctly emphasises the centrifugal tendencies in the communist world referred to above by Dr. Kreisky, which will help to make permanent neutrality a continuing possibility:

...relations between Moscow and Tirana, in so far as they still exist, are not exactly based on proletarian solidarity, nor can Sino-Soviet relations be defined by any stretch of the imagination as either close or friendly; Italian and French Communists have engaged in ideological controversy that reflects disagreement on basic tenets of belief, and M. Sékou Touré, guided presumably by the principles of complete equality, mutual advantage and comradely assistance (to quote the 1960 declaration of Communist parties), gave the Soviet ambassador just 48 hours to leave Guinea. It is a list that could be prolonged (Yugoslavia, for one, has not been mentioned), and it shows clearly that an entire era in world Communism has come to an end.⁴³

The foregoing assessment supports the conclusion that it is more possible for a permanent neutral such as Switzerland to accommodate its policies among the communist states themselves than it was when they still had a large measure of "proletarian solidarity."

The significance of a diplomatic situation in which there are notable differences in policy among Belgrade, Moscow and Peking as well as among Paris, Bonn, London and Washington is that a small state like

⁴² Dr. Bruno Kreisky, "Austrian Neutrality" an address delivered in New York before the United States, Austrian Chamber of Commerce reported in Austrian Information, New York, Austrian Information Service, Vol. 13, No. 15, issue of October 29, 1960, p. 1

⁴³ Walter Z. Laqueur, "The End of the Monolith: World Communism in 1962", in Foreign Affairs, Vol. 40, No. 3, issue of April, 1962, p. 360-361.

Switzerland attempting to preserve an international status of permanent neutrality will have a greater opportunity to do so. The solidarity that must exist among members of a "bloc" in order to exert concerted pressure on smaller states and thus achieve foreign policy objectives is now absent. When there are differing policies among several states, astute diplomacy may succeed in balancing pressure from one state or sector against pressure from another and thus maintaining some form of equilibrium, as the Swiss have done in the past during wars involving their larger neighbours. Thus, permanent neutrality need not be sacrificed if the present lack of accord continues.

The comparatively recent realignment of states, even if it is not enduring and is subject to the defections and shifts noted above, has led one observer, at least, to asseverate that permanently neutral states may play their own distinct role in the diplomatic history of our time:

In this new balance of power system, permanent neutrality has regained its place. Since they are legally obliged not to participate in future armed conflicts permanently neutral states are outside this equilibrium; their weight does not count in the scales. But in an atmosphere of distrust their task is to facilitate contacts between the opposing blocs and to work for widely acceptable compromise solutions. Together with other uncommitted nations, differently designated, they represent today a growing, though unorganized, influence in world affairs that one day may well change the bipolarization of the world into multipolarization.⁴⁴

⁴⁴ Karl Zemanek, "Neutral Austria in the United Nations," in International Organization, Vol. 15, No. 3, Summer, 1961, p. 409. Mr. Zemanek's judgment that permanently neutral states are "outside this equilibrium" is not altogether valid. The degree of pressure exerted by the great powers on a permanent neutral is relatively less than the pressure exerted on other states but Switzerland was exposed to much pressure by France, England and Germany before and during the Second World War, Vide Constance Howard, "Switzerland", op.cit., passim.

The permanently neutral states have been hampered from assuming such a role thus far, because they are all viewed with suspicion by Moscow on account of their cultural affiliations with the western democracies, and their moderate "bourgeois" governments. There is no indication that Moscow or Peking would accept them as mediators, even if their offices were proffered and they were willing to assume the role of intermediary between the Great Powers, which is also highly doubtful. Any such role would have to be managed with great delicacy if the permanent neutral were to retain the goodwill of all states involved, upon which, in part, its status rests.

The cleavages that exist in spite of the supposed adherence of members of a "bloc" to a common doctrine illustrate that ideology has not replaced vital national interest in international relations, and that when a state conceives its vital interest to be of paramount importance, ideology may be interpreted flexibly in order to supply a justification for a preferred line of action. When a number of states re-interpret Marxism to agree with their immediate political objectives and those objectives clash, it is hardly surprising that the result is not infrequently major contradictions in the Marxist doctrine accepted by various supposedly orthodox Marxist states.

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45 For an interesting study of how Mr. Khrushchev has re-edited Soviet history in order to rationalize his repudiation of Stalin and thus lay the foundation for a different domestic and international policy vide "The New Gospel According to Khrushchev," by Bertram D. Wolfe, in Foreign Affairs, Vol. 38, No. 4, issue of July, 1960, p. 576.

CHAPTER III

THE RECONSTITUTED AUSTRIAN REPUBLIC

1. Historical Background

The small Austrian state, as it exists in its present form, has had a disturbed continuity of less than fifty years (the continuity being broken between the years 1938-1945 when Austria was a Land of the German Reich) and it is essential to survey its development from 1919 if the political conditions upon which the status of permanent neutrality was imposed are to be appreciated, and the possibility of Austria successfully pursuing the exacting diplomacy of a permanently neutral state is to be assessed in the light of its constitutional development and political history.

The Republic of Austria as constituted on the dismemberment of the Austro-Hungarian Empire by the Treaty of St. Germain of September 10, 1919,¹ between Austria and the Allied and Associated Powers, was only a small German speaking segment of the formerly rich and influential dual monarchy. The territory now comprised in Czechoslovakia, Hungary and Yugoslavia as well as large segments now inside the Polish and Rumanian frontiers became parts of newly independent states according to the terms of the Treaty.

The changes wrought by the Treaty were so extensive, indeed, that the Austrian Supreme Court has held that the international juridical

¹ Herbert Wright, "The Legality of the Annexation of Austria by Germany," in The American Journal of International Law, Vol. 38, No. 4, issue of October, 1944, p. 621

personality of the reconstituted state of 1919 was altered fundamen-
tally,² the Austrian Republic being a new and distinct state and not the legal "successor" of Austria-Hungary. Thus, the Republic of Austria would not succeed as a matter of course to the rights and obligations possessed by the former Empire under international treaties.

The inauspicious future confronting the new Republic has been summarized as follows:

The collapse of the Austro-Hungarian economic unit left the new republic facing a very serious economic situation. The newly drawn frontiers with Hungary, Yugoslavia and Czechoslovakia were all sealed. The new truncated Austria had to endure the severance at one blow of all her former sources of raw materials as well as of her principal export markets. Not only was there a shortage of food, but in addition Austrian industry was cut off from all its most important former customers. In place of the natural economic unit that had existed in pre-war days there grew up a complex of tariff walls and trade restrictions, and the onerous task of putting the newborn republic on a firm political and economic basis was not made any easier by the emergence of totalitarian regimes in two of its neighbours, Germany and Italy.³

In the ensuing period of economic unrest Austria underwent also a period of political turbulence mostly caused by the acts of the Austrian National Socialists culminating in the forced appointment of Dr. Arthur Seyss-Inquart, a prominent Nazi and leader of the German-Austrian Volksbund, as Chancellor of Austria on March 12, 1938.⁴ This occurred

² Ignaz Seidl-Hohenveldern, "Relation of International Law to Internal Law in Austria," in The American Journal of International Law, Vol. 49, No. 4., issue of October, 1955, p. 452.

³ Federal Press Service, Austria: Facts and Figures, Vienna, 1959 p. 10

⁴ Herbert Wright, op.cit., p. 633

shortly after Adolf Hitler, the German Chancellor, had issued an ultimatum to the preceding Austrian Government demanding the installation of Seyss-Inquart with the threat of a German invasion of Austria as the alternative.⁵

After the new National-Socialist Government assumed power, constitutional provisions were enacted to effect a political union of Austria with Germany:

On the morning of Sunday, March 13, 1938, the Seyss-Inquart Government "resolved" a Federal Constitutional Law, proclaiming (Art.1) that "Austria is a state (Land) of the German Reich" and providing (Art.2) for a plebiscite on April 10, 1938, on reunion with the German Reich.⁶

The Anschluss thus promoted was in contravention of both the Treaty of Versailles and the Treaty of St. Germain which respectively forbade Germany and Austria to alter the independent status of the newly constituted Austrian republic. Article 80 of the Treaty of Versailles provided:

Germany acknowledges and will respect strictly the independence of Austria within the frontiers which may be fixed in a Treaty between that State and the Principal Allied and Associated Powers; she agrees that this independence shall be inalienable, except with the consent of the Council of the League of Nations.⁷

Article 88 of the Treaty of St. Germain provided:

The independence of Austria is inalienable otherwise than with the consent of the Council of the League of Nations. Consequently Austria undertakes in the absence of the consent of the said Council to abstain from any act which might directly or indirectly or by any

5 Ibid., p. 632

6 Ibid., p. 633

7 Ibid., p. 621

means whatever compromise her independence, particularly, and until her admission to membership of the League of Nations, by participation in the affairs of another Power.⁸

According to these international treaties, therefore, there could be no alienation of Austrian independence without the consent of the League Council. No such consent was obtained at the time of the German annexation of Austria and there are consequently strong grounds for regarding that annexation, in strict law, as a nullity.⁹ However, the German Reich assumed de facto authority, throughout Austria whatever the position was at international law. The overwhelming responsibility for the breach of the foregoing treaties lies with Germany since she was the main initiator of the "Anschluss" proposal for union, and presented the ultimatum to the Austrian Government to install a puppet regime which, backed by a large German force along the common frontier was all but
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irresistible.

During the Second World War the foreign ministers of the United States, the United Kingdom and the Soviet Union, meeting in Moscow, issued the "Moscow Declaration" on November 1, 1943 declaring that the three associated governments:

are agreed that Austria, the first free country to fall a victim to Hitlerite aggression, shall be liberated from German domination.

They regard the annexation imposed on Austria by Germany on March 15, 1938, as null and void. They consider themselves as in no way bound by any changes effected in Austria since that date.

8 Ibid., p. 621

9 Ibid., p. 622

10 Ibid., p. 623

They declare that they wish to see reestablished a free and independent Austria and thereby to open the way for the Austrian people themselves as well as those neighbouring states which will be faced with similar problems, to find that political and economic security which is the only basis for lasting peace.

Austria is reminded, however, that she has a responsibility, which she cannot evade, for participation in the war at the side of Hitlerite Germany, and that in the final settlement account will inevitably be taken of her own contribution to her liberation.¹¹

The Moscow Declaration was important in that it expressed a common determination on the part of the Allied powers to reconstitute Austria as a separate political entity on the termination of war. Although according to the international treaties mentioned above the necessary consent of the League Council had not been obtained for the annexation of Austria by Germany, it would be oversimplifying the matter to regard Austria's constitutional status after the Anschluss only in the light of international law. The question of her precise constitutional status was one of mixed political policy and law. It is notorious that many conquests and usurpations of national sovereignty which initially were in breach of international law have ultimately been sanctioned when it became obvious that there was no possibility of a restoration of the status quo ante. Legally and morally Austria lost her sovereignty wrongfully. In the light of the Kellogg-Briand Treaty for the renunciation of war and the Covenant of the League of Nations the conquest of other states by the Axis Powers was equally illegal. The illegality of the annexation of Austria would have had, of course, no practical consequences if the Axis Powers had won the war. However, when the Allied Powers were

¹¹ Ibid., p. 635

victorious the manner in which Austria was annexed enabled them to disregard any argument that might then be made by Germany that Austria was an integral part of the German Reich. Having ignored the procedural requirements provided by international treaties for a change in Austria's status --- namely, obtaining the consent of the Council of the League of Nations--- Germany was now estopped from even arguing that Austria had been lawfully absorbed. When the Austrian State Treaty was finally concluded¹² in 1955, it made provision for formal recognition by Germany of Austria's independence¹³ when a German Peace Treaty is signed. The Treaty also included a strict prohibition of "Anschluss", or "political¹⁴ or economic union with Germany in any form whatsoever."

It is submitted that the Canadian appraisal of the International status of Austria between the Anschluss of March 13, 1938 and the termination of hostilities in Europe is legally sound. Canada supported the¹⁵ Moscow Declaration of 1943. Accordingly, after the establishment of a provisional Austrian Government in 1945 under Dr. Karl Renner, the Canadian Government made a statement on January 30, 1946 in which it "noted with satisfaction the steps which had been taken in Austria and

12 "State Treaty for the Re-Establishment of an Independent and Democratic Austria", in The American Journal of International Law, Vol. 49 No. 4, issue of October, 1955, p. 162-191. (Hereinafter cited as Austrian State Treaty.)

13 Austrian State Treaty, Article 3, p. 163

14 Austrian State Treaty, Article 4, p. 163

15 Queen's Printer, Report of the Department of External Affairs, 1949, Ottawa, Department of External Affairs, 1950, p. 23

which had resulted in the establishment of an autonomous Austrian State¹⁶ and an independent Austrian Government."

At the same time, the Canadian Government declared that it had never recognized the de jure sovereignty of Germany over Austria, although it had recognized the de facto absorption of Austria by Germany¹⁷ after March 13, 1938. Consequently, Canada was never at war with the political entity of Austria, nor with any Austrian predecessor of the then (1946) Austrian Government, presumably because when Nazi Germany absorbed Austria in 1938 the acts of state of the German Government could in no way be attributed to the Austrian state which had ceased to have separate existence at the time. Thus, the absence in 1946 of an Austrian Peace Treaty was not thought to be an impediment to the re-establishment of diplomatic relations between Austria and Canada since the two¹⁸ states had never been at war.

¹⁹As mentioned above, the Austrian Supreme Court has ruled that the juridical personality of the Republic of Austria is distinct from that of the Austro-Hungarian Empire. The Austrian State Treaty, however, indicates that the reconstituted Austria of 1955 is identical with the²⁰ Austrian Republic of 1919. One important provision of the Treaty re-

16 Ibid., p. 23

17 Ibid., p. 23

18 Ibid., p. 23

19 Vide supra, p. 38

20 Josef L. Kunz, "The State Treaty With Austria" in The American Journal of International Law, Vol. 49, No. 4, issue of October, 1955, p. 541

quires Austria to maintain the Austrian Law of April 3, 1919, thus recognizing the continuity of the present state with pre-Anschluss Austria.²¹ As one jurist expresses it, "The treaty recognizes Austria's extinction in fact between March 13, 1938, and May 8, 1945, and yet recognizes her identity and continuity."²²

In 1945 Austria was occupied by American troops and a provisional coalition government, including communists, was formed with Dr. Karl Renner as president. The country was divided into five zones of military occupation under the administration of France, the United States, the Soviet Union and the United Kingdom, respectively, with the fifth zone, comprising Vienna and its environs, under joint administration. The situation at the end of the War has been summarized as follows:

An independent government was set up under a coalition cabinet, but a peace treaty had failed to materialize by the spring of 1950 largely because of dissension between the Western powers and Russia as to what constituted German-owned assets, which Russia claimed as reparations payments. Austrian economy had been shattered by the war; its recovery was blocked by the deterioration of trade between Western and Eastern Europe and by continued division into separate occupation zones.²³

The Soviet occupation forces, in fact, immediately upon their entry into their sector of occupation had begun the systematic dismantling of factories which they sent to the Soviet Union as reparations. Their conduct in this respect was an item of controversy at the Potsdam Confer-

21 Austrian State Treaty, Article 10 (2) p. 165

22 Josef L. Kunz, op.cit., p. 541

23 "Austria" in The Columbia Encyclopedia, 2nd.ed., New York, Columbia University, 1950, p. 125

ence in the summer of 1945:

The Russians carried all manner of equipment and reserve stocks from their occupation sector of Austria on the ground that it had belonged to the Germans and was thus legitimate reparation from Germany. This pillaging was resisted by the British and Americans at the Potsdam Conference because they saw that it would necessitate financial aid to Austria before a healthy economy could be restored to the country. Finally, President Truman and Prime Minister Attlee agreed that the Russians might seize former German assets in their zones as reparations from Germany, possibly because they considered the Russians would take them with or without permission.²⁴

The principal obstruction to the conclusion of the Austrian State Treaty was Soviet intransigence on exactly what constituted legitimate reparations.²⁵ Some 300 meetings in London, Moscow, New York and Paris attended by the foreign ministers of the four occupying powers long failed to reach an agreement on the Treaty.²⁶ The Treaty was finally signed on May 15, 1955, in Vienna by the occupying powers and an Austrian delegation headed by the then Austrian Chancellor Dr. Julius Raab.²⁷ Western solidarity in promoting the Treaty was one of the main factors leading to its eventual conclusion.²⁸ The Soviets were disconcerted, as Sir

²⁴ Herbert Feis, Between War and Peace: The Potsdam Conference, Princeton, N.J. Princeton University Press, 1960, p. 276-277

²⁵ "Austria" in The Columbia Encyclopedia, p. 125

²⁶ Federal Press Service, op.cit., p. 13 How disinclined Moscow was to arrive at a settlement of the Austrian issue may be gauged from the fact that when, in 1953, Austrian Foreign Minister Karl Gruber approached Soviet Foreign Minister Molotov through Premier Nehru of India in an effort to conclude the Austrian State Treaty in exchange for an Austrian promise of "absolute neutrality" between East and West, the Soviets would not entertain the proposal, vide David J. Dallin, Soviet Foreign Policy After Stalin, Philadelphia, Lippincott, 1961, p. 248

²⁷ Josef L. Kunz, op.cit., p. 535

²⁸ Sir Anthony Eden, Full Circle: The Memoirs of Sir Anthony Eden, London, Cassell, 1960, p. 290. Sir Anthony's opinion that at this time the Russians were anxious to present a "reasonable countenance to the world should not be taken as implying that the Soviet attitude was wholly conciliatory to the West. On the same day that the Austrian State Treaty was signed the Warsaw Pact, which was calculated to impress the West with Communist solidarity and firmness, was also signed, vide David J. Dallin, op.cit., p. 247

Anthony Eden recounts, in his Memoirs, by the Western offer to conclude the Treaty on the terms proposed by the Soviets themselves:

The efforts of the Western powers at the Berlin Conference where Austria had been last discussed, had been closely co-ordinated and well worked out. Despite some difficult periods, we managed always to keep in line. Yet at the time the exercise appeared to be without reward. In fact this was not so. The Soviets had overplayed their hand in their treatment of Austria. Sympathy for the Austrian position was almost universal wherever even the bare facts were known. I do not suggest that this was decisive in bringing the Soviets to modify their policies towards Austria: I do not think it was, but I am sure that it had an influence. By this time, the Russians were anxious to present a reasonable countenance to the world. Its expression could not seem sincere, even to those ready to smile back, while Austria was occupied by foreign troops and the Western offer to accept the Soviet terms was ignored. Here we see the long-term good effects of Western unity, firmness and reasonableness, quite as important in their way as the examples of failure to give determined support to each other at critical times, which we were later to experience.²⁹

As Sir Anthony suggests, the change in the Soviet attitude was probably prompted more for its propaganda effect in other parts of the world than by the hope of securing any sympathy from Austria itself, since the number of Communists in Austria itself was quite small.³⁰

2. Collateral Provision Respecting Permanent Neutrality

The Austrian State Treaty is interesting principally for itemizing the conditions upon which Austrian independence was restored; there is no mention of permanent neutrality in the Austrian State Treaty itself. In order to understand the present international status of the country

²⁹ Ibid., p. 290

³⁰ Bruno Kreisky, op.cit., p. 270

resort must be had to the Moscow Memorandum of April 51, 1955,³¹ The Austrian State Treaty of May 15, 1955 and the Constitutional Law of October 26, 1955,³² which complex of three documents together define the status of the reconstituted Austrian republic.

On April 15, 1955, exactly one month before the Austrian State Treaty was signed, by a collateral agreement signed by Austria and the Soviet Union in Moscow the Austrians undertook to become a permanently neutral state.³³ By this agreement, signed on behalf of Austria by Austrian Chancellor Julius Raab³⁴ and for the Soviet Union by Foreign Minister V.M. Molotov, Austria agreed to join no military alliances, permit no military bases on its territory and to "make a declaration in a form which will obligate Austria internationally to practice in perpetuity a neutrality of the type maintained by Switzerland."³⁵

The Austrian Federal Government, in furtherance of the provisions

31 "Memorandum Concerning the Results of the Conversations Between the Government Delegation of the Republic of Austria and the Government Delegation of the Soviet Union," in The American Journal of International Law, Vol. 49, No. 4., issue of October, 1955, p. 191-194. (Hereinafter cited as Moscow Memorandum.)

32 Dr. Leopold Werner and Dr. Hans Klecatsky, Bundesverfassungsgesetz, Vienna, Man'sche Verlags und Universitätsbuchhandlung, p. 61.

33 Moscow Memorandum, Article 1, p. 191

34 Mr. Raab, the ex-leader of the People's Party, was Chancellor of Austria from 1953 to 1960. He has always been strongly Catholic and Conservative. An engineer by profession, he organized units of craftsmen and engineers into the Christian Social Artisan's League. He was succeeded as Chancellor in February, 1960, by Dr. Alfons Gorbach, the present incumbent, who is also a member of the People's Party.

35 Moscow Memorandum, Article 1, p. 191

contained in the above Memorandum, passed legislation adopting permanent neutrality as part of its constitutional law on October 26, 1955.³⁶ In order to properly appreciate the alteration in Austria's political status which occurred in 1955 recourse should be had to all three of the above documents, which should be read conjointly, because each of them is complementary to the other. The Austrian Peace Treaty is the international convention which reconstitutes Austria as an independent state, however, it is silent as to permanent neutrality; the Moscow Memorandum, which antedates the State Treaty obligates Austria to make a collateral declaration of permanent neutrality and the Constitutional Law implements the undertaking in the Memorandum.

Part of the price exacted by the Soviets in return for their consent to sign the Austrian State Treaty, as recited in the Moscow Memorandum, included the delivery to the Soviet Union of one million tons of crude oil annually for a period of ten years, or a total of ten million tons.³⁷ For the return to Austria of certain of the "German assets" appropriated by the Soviet Union in Austria, Austria agreed to pay to the Soviet Union the equivalent of \$150 million United States dollars in Austrian goods within a period of six years of the signing of the Treaty.³⁸ The Soviet Union was to receive 100 per cent of the assets of the Danube Shipping Company located in Eastern Austria.³⁹ It was provided in

³⁶ Dr. Leopold Werner and Dr. Hans Klecatsky, op.cit., p. 61

³⁷ Moscow Memorandum, Part III, section II, article 1, p. 193

³⁸ Moscow Memorandum, Part III, section I, article 1, p. 192-193

³⁹ Moscow Memorandum, Part III, section III, p. 193-194

the Memorandum, however, that on a payment of two million dollars to the Soviet Union all properties of the aforementioned Company would be returned to Austria.⁴⁰ In addition, further economic obligations were incurred by Austria in the form of concessions of leaseholds to oil fields and oil exploration rights to the Soviet Union in specified areas of Austria as outlined in lists appended to the Treaty.⁴¹

Austrian economic commitments under the Treaty were alleviated to some degree as the result of discussions held between Austria and the Soviet Union in 1958. As a result of these discussions "the Soviet Union agreed to ship an annual 500,000 tons of Soviet oil--- the equivalent of half the scheduled Austrian oil deliveries from 1958-59 to 1964-65--- to Austria. This amounts to an indirect reduction of Austria's Treaty obligations by roughly 1,500 million schillings."⁴²

Onerous as were the economic obligations of Austria under the Austrian State Treaty the Treaty laid the foundation for the future economic prosperity of Austria by transferring to her the estates, forests, mines, industrial plants, transportation system, and especially, the oil fields which were under the control of the Soviet Union in 1955.⁴³ The British, Americans and French renounced all claims to former German assets

⁴⁰ Ibid., p. 194

⁴¹ Austrian State Treaty, Lists, No. 1-5, p. 172-176

⁴² Federal Press Service, op.cit., p. 74. The amount quoted is equivalent to 60 million dollars.

⁴³ Ibid., p. 73

in favour of Austria in their respective zones of occupation.⁴⁴ Economic stability had been promoted since 1951 by the stabilization of Austrian currency through the regulation of bank credit, the progressive raising of the Bank Rate and a realistic valuation of the Austrian unit of currency, the schilling, at 26 schillings to the American Dollar which reflects the parity of its purchasing power.⁴⁵

Austrian economic recovery from the initial post-war inflation was assisted by foreign aid, mainly American and British, between 1945 and 1948 to the amount of 379 million dollars, and Marshall Plan aid from January 1, 1948 to March 31, 1955, when it was terminated, to the extent of 962 million dollars.⁴⁶ The encouraging and sustained economic recovery of Austria since the war has provided the internal stability without which the preservation of her permanent neutrality would not be possible.

3. Military Provisions in the Treaty

One of the most important results of the Austrian State Treaty was the withdrawal of all occupation forces in Austria "within ninety days of the coming into force of the present Treaty."⁴⁷ This provision ensured that Austria would not become another ideologically divided state like

⁴⁴ Austrian State Treaty, Article 22 (11), p. 172

⁴⁵ Federal Press Service, op.cit., p. 73

⁴⁶ Ibid., p. 70-71

⁴⁷ Austrian State Treaty, Article 20 (3), p. 169

Germany or Korea, and made a unified Austrian state possible.

Foreign Minister V.M. Molotov had previously proposed to "delay the complete withdrawal of the troops of the four powers until the conclusion of a peace treaty with Germany."⁴⁸ This was not acceptable to the Austrians, however, and Mr. Molotov did not press the proposal, insisting only on a firm guarantee against another Anschluss⁴⁹ which was incorporated in the Treaty as Article 4.⁵⁰

Presumably to prevent a resurgence of Nazi influence and to safeguard the Austrian Forces from fascism, Article 12 provided that Austrian nationals who had served in the German Armed Forces in the rank of colonel and above from March 13, 1938 to May 8, 1945, members of Nazi Organizations, persons not of Austrian nationality or Austrian nationals who had been German nationals before March 13, 1938 would in no case be permitted to serve in the Austrian Armed Forces.⁵¹

Article 13 expressly prohibits construction of or experimentation with atomic weapons or other weapons adapted to mass destruction and defined as such by the appropriate organ of the United Nations, and, ex abundantia cautela, submarines or other submersible craft, sea mines, motor torpedo boats, guns having a range of more than 30 kilometers and

⁴⁸ Bruno Kreisky, op.cit., p. 272

⁴⁹ Ibid., p. 273

⁵⁰ Austrian State Treaty, Article 4, p. 163

⁵¹ Ibid., Article 12, p. 165-166

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poison gases.

By Article 14 Austria undertook to place all war material of Allied origin located in Austria at the disposal of the Allied or Associated Power concerned, and to destroy all excess materiel of German or non-allied origin as well as all German or Japanese blueprints, prototypes, experimental models and plans in so far as they relate to modern war materiel. It was also agreed by this Article not to manufacture any war materiel of German design, nor to acquire or possess, either publicly or privately, any war materiel of German origin or design except that the Austrian Government may use restricted quantities of German war materiel remaining in the country after the Second World War for the cre-
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ation of its armed forces.

Article 15 obligates Austria to cooperate with the Allied and
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Associated Powers to prevent German rearmament outside German territory,
and the following Article requires her to refrain from acquiring or manu-
facturing civil aircraft of German or Japanese design or which embody
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major assemblies of German or Japanese design.

In Article 18, the Allied and Associated Powers agree to repatri-
ate to Austria as soon as possible and at Austrian expense, Austrian

52 Ibid., Article 13, p. 166

53 Austrian State Treaty, Article 14, p. 167

54 Ibid., Article 15, p. 167

55 Ibid., Article 16, p. 167

56

prisoners of war incarcerated by the Allies.

The above military and air clauses continue in force, according to Article 17, until modified in whole or in part by Austria and the Allied and Associated Powers or, after Austria becomes a member of the United Nations, by agreement between Austria and the Security Council.⁵⁷ This latter provision makes no practical difference in the procedure affecting the Treaty (except, possibly, by giving China a veto over its modification) since all four signatories other than Austria are members of the Security Council and could veto any unacceptable proposal for modifying the aforementioned military and air clauses by virtue of Article 27⁵⁸ of the United Nations Charter.

The Austrian State Treaty, along with the Constitutional Law of October 26, 1955, emphasises that neutralization and demilitarization are entirely distinct. Nowhere in the Treaty is the unilateral disarmament of Austria required, although there is a limitation on the type of rear-⁵⁹mament permitted. Article 14, indeed, envisages the creation of an Austrian Armed Force, utilizing German war materiel in part for equipping the Force. By implication, Article 12 also envisages the creation of an Armed Force since it prohibits certain categories of potential recruits

⁵⁶ Ibid., Article 18, p. 168

⁵⁷ Ibid., Article 19, p. 168

⁵⁸ "Charter of the United Nations," in International Law, by Charles G. Fenwick, Article 27, p. 693-694. (Hereinafter cited as United Nations Charter.)

⁵⁹ Austrian State Treaty, Article 13, p. 166

from joining such a Force. The creation of an Armed Force is required to perform one of the paramount duties of a permanently neutral state, namely, self defence in any war that might break out among foreign powers.⁶⁰

In view of the relative military weakness of Austria, it might well be asked what constructive role her army might play in any impending hostilities. A pronouncement on this matter by the Austrian Foreign Minister, who participated in the negotiation of the Austrian State Treaty, is instructive in this respect and worthy of being quoted in extenso:

Immediately after the conclusion of the Austrian State Treaty, Austria took the necessary measures to ensure that the Allied troops would leave no "military vacuum" when they withdrew. Here Austria followed the example of Sweden and Switzerland, both of which hold to the view that military non-alignment necessarily involves the creation of a certain military potential commensurate with the country's strategic position, but not, of course, exceeding its economic resources. Austria has no illusions on this matter. Needless to say, a country with 7,000,000 people and a G.N.P. of 4.6 billion can never create a formidable military establishment. However, such measures as Austria did take have proved beyond doubt that it is a country that means to defend its territory. The simple fact of being legally in the right has never in history saved any country from having its neutrality violated by another country which has determined on that course. At no time have we been in any doubt that Austrian neutrality is only a function of an international equilibrium, and that it would be in grave danger whenever this equilibrium was disturbed. It follows, then, that Austrian foreign policy must always aim to help maintain the balance of power by contributing in all ways possible toward lessening international tensions.⁶¹

There is an underlying pessimism in the above analysis of Austria's international position in that it indicates that in the event of one bloc achieving a significant preponderance of military power, Austria

⁶⁰ L. Oppenheim, op.cit., Vol. 11, p. 654

⁶¹ Bruno Kreisky, op.cit., p. 276-277

would no longer be able to maintain her permanent neutrality. Perhaps rightly, the analysis discloses that in the mid-twentieth century the international community is still ruled by the balance of power rather than any idyllic rule of law, and that the policy which a state may follow depends on its capacity to defend that policy by force, alone or with the assistance of allies. Notwithstanding the foregoing, Switzerland has been able to withstand external pressure during two World Wars and her permanent neutrality is still universally respected as is evidenced by the fact that in the Moscow Memorandum the Soviets held⁶² up Swiss neutrality as a model for the proposed Austrian status.

4. Political and Territorial Clauses of the Treaty

By Article 1 of the Treaty the four powers recognize Austria's⁶³ re-establishment as a "sovereign, independent and democratic state." It is almost redundant to say that any treaty associated with a status of permanent neutrality must be predicated on the independence of the neutralized state. Without independence such a neutralized state would lack the freedom from foreign domination which alone makes such a status meaningful. Austria must therefore possess sufficient "competence" to avoid external entanglements that would compromise her neutrality by subjecting her to the fiat of a foreign power or powers. The express recognition of her independence and sovereignty in Article 1, therefore,

⁶² Moscow Memorandum, Part I, article 1, p. 191

⁶³ Austrian State Treaty, Article 1, p. 163.

is not a mere clause de style, but provides on the part of the four occupying powers the essential recognition of the required competence on the part of Austria to enter into such a status. Although the Article does not expressly refer to permanent neutrality, it lays the essential foundation for permanent neutrality.

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Article 2 of the Treaty, entitled "Maintenance of Austria's Independence" comprises a joint declaration by the Allied and Associated Powers "that they will respect the independence and territorial integrity of Austria as established under the present Treaty." Nowhere in the Treaty is there any military guarantee of Austria's frontiers. However, Article 2 should be read along with Article 5 of Part I of the Moscow Memorandum⁶⁵ which imposes on Austria the duty of seeking to obtain from the four Allied and Associated Powers a "guarantee" of the integrity and inviolability of Austrian State Territory. In its official note recognizing the new Austrian status the United States gave no military guarantee to Austria.⁶⁶ Mr. Khrushchev, however, on behalf of the Soviet Union, has intimated that the Soviets consider they have given a military guarantee to Austria.⁶⁷ The conclusion of the Austrian State Treaty and the esta-

⁶⁴ Ibid., Article 2 p. 163

⁶⁵ Moscow Memorandum, Part I, Article 5, p. 192

⁶⁶ U.S. Government Printing Office, "Austrian Neutrality: Note From the Secretary of State to the Austrian Ambassador, December 6, 1955" In American Foreign Policy, 1950-1955: Basic Documents, Vol II, 1957 Washington, D.C., p. 1777-1778

⁶⁷ John Gunther, Inside Europe Today, New York, Harper, 1961, p. 182

blishment of the status of permanent neutrality were not predicated on the giving of a military guarantee to Austria by the occupying powers, however,⁶⁸ and perhaps the rather incoherent situation concerning military guarantees of territorial integrity is academic in the light of the present European situation. A military guarantee from either bloc would make no substantial difference to Austria in the event of a European War.⁶⁹

On the question of a military guarantee a leading Austrian international lawyer has said the following:

The Austrian Parliament and the governments of the Union of Soviet Socialist Republics, the United Kingdom, the United States of America and France have agreed with the measures concluded in the Memorandum of Moscow except the guaranty of Austrian neutrality, a question which is not yet clarified.⁷⁰

The Austrians themselves have intimated that they do not desire the military guarantee of the Soviet Union.⁷¹ The undesirable feature of any such guarantee, of course, is that it supplies a pretext for intervention by the guarantor which may be used unscrupulously for the strategic military advantage of the latter. For this reason, Switzerland has consistently

68 U.S. Government Printing Office, "Report of the Secretary of State to the President," loc.cit.

69 Austrian Federal President Dr. Adolf Schaerf has constantly reiterated that the Austrians themselves are the only persons competent to interpret the meaning of their neutrality and that --- contrary to a misconception that exists even in Austria--- Austrian permanent neutrality is not guaranteed by any foreign power, vide "Austrian Press Comments on 'Revaluation (sic) of Neutrality' " in Austrian Information, New York, Austrian Information Service, Vol. 15, No. 1, issue of January 13, 1962, p. 2.

70 Alfred Verdross, "Austria's Permanent Neutrality and the United Nations Organization," in The American Journal of International Law, Vol. 50, No. 1, issue of January, 1956, p. 61

71 John Gunther, Inside Europe Today, loc.cit.,

refused proffered military assistance in time of war, preferring to await a violation of her borders and then, presumably, calling upon protectors of her own selection.⁷² It seems rather obvious that any other course would be provocative and would, in time of war, breach the neutral's duty of impartiality toward the state not selected as a protector unless there were an outright violation by such state of the neutral's territory.

⁷² Constance Howard, op.cit., p. 201

CHAPTER IV

AUSTRIA'S PERMANENT NEUTRALITY

Austria's permanent neutrality is founded on a complex of three documents. The Moscow Memorandum of April 15, 1955, recited the agreement arrived at between Austria and the Soviet Union that the former would assume a status of permanent neutrality, similar to Swiss permanent neutrality, when it regained its international competence. The Austrian State Treaty of the following month was itself silent as to permanent neutrality, but restored the sovereignty and political competence essential to Austria if she were to assume such a status. Finally, the Federal Constitutional Law of October, 26, 1955 enacted a domestic law evidencing the intention of the Austrian government to adopt permanent neutrality, and the recognition of this enactment by other states in diplomatic notes founded¹ Austrian permanent neutrality in international law.

The statement that Austrian Permanent neutrality was "set forth² in the 1955 State Treaty" which is sometimes made is not accurate. No mention whatever is made in the Austrian State Treaty of permanent neutrality although in Article 2³ the four occupying powers conjointly agree to respect "the independence and territorial integrity of Austria under the present Treaty." This is not an uncommon provision in treaties even

¹ For the text of the Moscow Memorandum and the Austrian State Treaty vide Appendices I and II and the pocket on the inside back cover, for the text of the Federal Constitutional Law of October 26, 1955, vide infra, Section 1.

² Queen's Printer, Report of the Department of External Affairs, 1956, Ottawa, Department of External Affairs, 1957, p. 18. The statement is made in the Text of the Annual Report of the Department of External Affairs.

³ Austrian State Treaty, p. 163

where no status of permanent neutrality is conferred. The Treaty of Versailles for example, provided in Article 80 that Germany would "respect strictly" the independence of Austria within defined frontiers, but no neutral status was thereby conferred on Austria.

In accordance with the Austrian pledge to enact a municipal constitutional statute declaring her permanent neutrality, given at Moscow,⁴ Austria enacted a constitutional law on October 26, 1955⁵ setting forth the conditions she would strive to observe as a result of her new international status. This unilateral municipal law conferred an internationally recognized status of permanent neutrality upon Austria only when the four signatory powers and other states signified their acceptance of the newly-proclaimed status in diplomatic notes.⁶ The four occupying powers and a large number of other states, including Canada, have recognized Austria's permanent neutrality. Thus, it cannot be said that Austrian permanent neutrality was created by unilateral constitutional action.

The Austrian Constitution of 1945, is, as Article 1 of the Proclamation of April 27, 1945⁸ recites, modelled on the Austrian Federal Constitution of 1920.

4 Moscow Memorandum, Part I, articles 1 and 2, p. 191

5 Dr. Leopold Werner and Dr. Hans Klecatsky, op.cit., p. 61

6 Josef L. Kunz, op.cit., p. 538

7 Queen's Printer, Report of the Department of External Affairs, 1956, p. 18.

8 Dr. Leopold Werner and Dr. Hans Klecatsky, op.cit., p. 18

Section 2 of the Proclamation of April 27, 1945 provides that constitutional laws enacted subsequent to the Anschluss of 1938 are null and void.⁹ Austria has one of a number of state constitutions which adopts as valid in internal law the general rules of international law; Article 9 of the Constitution reads "the generally recognized rules of international law are valid as integral parts of Austrian Federal Law."¹⁰

1. Enactment of the Constitutional Law

According to Article 44 of the Constitution,¹¹ the enactment of a constitutional amendment requires a two-thirds majority vote by the Nationalrat with at least half the representatives present when the vote is taken. The Nationalrat is the Austrian Parliament's lower house and is composed of 165 representatives elected by universal suffrage in 25 constituencies according to the proportional representation system.¹²

The brief constitutional law relating to permanent neutrality was enacted by the Nationalrat on October 26, 1955,¹³ and reads as follows:

Federal Constitutional Law of October 26, 1955,
BGBl. No. 211, Concerning Austrian Neutrality

9 Ibid., p. 18

10 Ibid., p. 72

11 Ibid., p. 144

12 Federal Press Service, op.cit., p. 16

13 Dr. Leopold Werner and Dr. Hans Klecatsky, op.cit., p. 61

The Nationalrat has decided:

Article 1

(1) With a view to preserving an independent foreign policy and the inviolability of her territory, Austria of her own free will hereby declares her permanent neutrality which she is resolved to maintain and defend with all the means at her disposal.

(2) To this end, Austria will henceforth refrain from joining any military alliances and will not allow the maintenance by a foreign power of any military bases on her territory.

Article 2

The Federal Government is entrusted with the execution of this Federal Constitutional Law.¹⁴

Although the law was adopted by a large majority in the "Nationalrat" there were 17 dissentient voices:

La loi fut adoptée à une forte majorité, composée des populistes, des socialistes et des communistes, seuls les 17 indépendents (néo-nazis pour la plupart) ayant voté contre. Ces derniers, tout en approuvant le principe de la neutralité, refusaient d'admettre la formule déclarant que l'autriche "proclame librement sa neutralité", alors que, d'après eux, cette neutralité aurait été imposée par le gouvernement soviétique comme condition de l'acceptation finale par lui de traité d'Etat Autrichien.¹⁵

It is worthy of note that in the succeeding election of 1956 the number
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of independents dropped to six. The contention of the independents that the Soviets insisted on permanent neutrality as an indispensable preliminary condition before they would sign the Treaty appears to be

¹⁴ Ibid., loc.cit.

¹⁵ Charles Chaumont, "Nations Unies et Neutralité", in Recueil des Cours, 1956-1, Académie de Droit International, Vol. 89, Leyden, Sijthof, 1957, p. 28.

¹⁶ Federal Press Service, op.cit., p. 61

well founded,¹⁷ but there are also grounds for believing that despite this pressure the Austrians desired the status for reasons of their own.¹⁸ After the elections of 1956, the newly-assembled Austrian Government formed as usual, of a coalition between the Socialists and the People's Party, devoted its first sessions to the formation of an Austrian Army the main function of which was to be the maintenance of permanent neutrality¹⁹ by force, if necessary.

It should be added that even if the contention of the independents that Austrian agreement to permanent neutrality was the result of Soviet pressure were true it would have no legal effects on the validity of the status afterwards created; the only duress recognized by international law as sufficient to vitiate an international agreement appears to be physical coercion directed against the negotiator of such an agreement to forcibly induce his consent.²⁰ Although there is evidence of moral duress by the Soviets, in so far as they insisted on permanent neutrality as a prerequisite to the signing of the Treaty,²¹ there is no evidence of physical duress.

¹⁷ Vide infra, p. 65 ff.

¹⁸ Vide infra, p. 65 ff.

¹⁹ Federal Press Service, op.cit., p. 14

²⁰ L. Oppenheim, op.cit., Vol. 1, p. 891

²¹ Vide infra, p. 65 ff.

2. The Berlin Conference of 1954.

Evidence of moral duress to induce Austria to accept permanent neutrality exists in statements made at the Berlin Conference of early 1954 when the prospect of the neutralization of Austria was first broached by Mr. Molotov, the Soviet Foreign Minister.²² On the invitation of the four occupying powers, the Austrian Foreign Minister headed an Austrian delegation to the Four-Power Conference convened in Berlin in January, 1954, to discuss the Austrian State Treaty among other matters.²³

While requesting consideration for less harsh terms in Article 35 of the draft Treaty,²⁴ which required Austria to pay 150 million dollars for the return to her of "German war assets" then in the possession of the Soviet Union, the Austrians were nonetheless willing to accept the Treaty as it stood if they could thereby effect their independence and have their sovereignty restored. In this connection the Foreign Minister, Dr. Leopold Figl, said:

Austria's only desire is to recover as soon as possible her full freedom and sovereignty. In spite of all obstacles, she has furnished proof of her will and ability to live, as never before in the history of the Republic. We therefore accept every term of the present draft of the State Treaty which would secure Austria's independence, freedom and sovereignty in every respect.²⁵

22 U.S. Government Printing Office, "Agenda Item 3; The Austrian State Treaty," in Foreign Ministers Meeting: Berlin Discussions, January 25--- February 18, 1954, Washington, Superintendent of Documents, 1954, p. 233-234.

23 Ibid., p. 175

24 Ibid., p. 177-178

25 Ibid., p. 178

The British, French and American delegations headed by their respective Foreign Ministers eagerly urged the conclusion of the State Treaty, which, they considered, could be accomplished at the Conference without further delay. This feeling was evinced in statements on February 12, 1954 by
 26 27 28
 Mr. Eden and Mr. Dulles and on the following day by Mr. Bidault.

The acceptance by Austria and the Western Powers of the Soviet terms for the Austrian State Treaty left the Soviet delegation in a quandary. For reasons best known to themselves the Soviets did not wish immediately to conclude the treaty. With the unreserved acceptance of their terms by the other States at the Conference, however, there seemed to be no means of procrastinating further. Nevertheless, Mr. Molotov devised the means; he insisted on three new terms before the Soviets would sign the Treaty.

On February 12, 1954 Mr. Molotov, on behalf of the Soviet Union, proposed: 1. to insert an additional article in the Treaty which would provide that Austria would neither enter into military alliances with other States nor allow the establishment of foreign military bases on territory: 2. to postpone the withdrawal of troops of the four powers from Austria pending the conclusion of a German Peace Treaty in order to prevent " a new Anschluss", and 3. "To instruct the Deputy Ministers of Foreign Affairs to consider the question of Trieste in connection with the proposal of the Soviet Government that the city of Trieste and the territory adjacent

26 Ibid., p. 180

27 Ibid., p. 184

28 Ibid., p. 194

to it shall not be used as a military base."²⁹

Mr. Molotov's second and third proposals had the effect of making the consummation of the Austrian State Treaty contingent on the international situation in Germany and Trieste, respectively, and imported matters which were really extraneous to the Austrian situation into the Treaty negotiations, as Mr. Bidault pointed out.³⁰ The French Foreign Minister mentioned that there already existed an Article in the draft Treaty in which Anschluss was prohibited, and he averred that the connection of the Austrian situation with situations in other parts of Europe was unwarranted. He said:

By expanding and pursuing his idea of linking the State Treaty with a number of questions which have nothing to do with it, Mr. Molotov has, for the first time, made it perfectly clear that, in his view, the restoration of Austrian independence and sovereignty must be made³¹ dependent upon the previous conclusion of a peace treaty with Germany.

Mr. Dulles, the American Secretary of State, referred several times to the Soviet proposal of neutralization, saying that the forcible imposition of neutralization on Austria would severely reflect on the sincerity of the Four Powers in purportedly re-establishing Austria as the "sovereign and independent"³² State proclaimed in the draft Treaty. Since his words constitute the initial American impression of the Soviet "neutralization" proposal, they are worthy of being quoted in extenso:

29 Ibid., p. 233-234

30 Ibid., p. 193

31 Ibid., p. 193

32 Ibid., p. 190

A second major and related change in the Treaty is proposed by the Soviet Union in terms of subjecting Austria to neutralization."

A neutral status is an honorable status if it is voluntarily chosen by a nation. Switzerland has chosen to be neutral, and as a neutral she has achieved an honorable place in the family of nations. Under the Austrian State Treaty as heretofore drafted, Austria would be free to choose for itself to be a neutral state like Switzerland. Certainly the United States would fully respect its choice in this respect, as it fully respects the comparable choice of the Swiss nation.

However, it is one thing for a nation to choose to be a neutral. It is another thing to have neutrality forcibly imposed on it by other nations as a perpetual servitude.

A state subjected to such imposed neutralization is not in fact a sovereign and independent state. Such a demand makes a mockery of the language which the Soviet proposal retains "Austria shall be reestablished as a sovereign, independent and democratic state."³³

Mr. Molotov apparently construed the above statement by Mr. Dulles as indicating that the Americans were not opposed to the neutralization of Austria.³⁴ In order to clarify the American position, therefore, Mr. Dulles said:

The Soviet Foreign Minister referred to the question of the so-called neutralization of Austria and indicated that I had agreed with, or was not strongly opposed to, the Soviet position in that respect. I think that the Soviet Foreign Minister must have misunderstood me or perhaps I did not make my position sufficiently clear.

What I said, as shown by my notes, is this:

"A neutral status is an honorable status if voluntarily chosen by a nation. Under the Austrian State Treaty as heretofore drafted, Austria would be free to choose for herself to be a neutral nation. Certainly, the United States would fully respect Austria's choice in this respect."

³³ Ibid., p. 190

³⁴ Ibid., p. 206

However, I went on to say that it is one thing for a nation to choose to be a neutral, and it is another thing to have neutrality forcibly imposed on it by other nations as a perpetual servitude.³⁵

Referring to the Soviet proposal to neutralize Austria, Mr. Bidault said:

The Soviet delegation has introduced a new condition by applying to the Austrian Treaty a clause it put forward in relation to Germany, which would prohibit Austria from joining any coalition or military alliances.

I have already expressed my views on the inadvisability of a clause of this kind in any treaty intended to restore the independence of a democratic state. It is useless to speak at great length on this point either for the moment, since my Soviet colleague's proposal, as he himself admits, is not intended to permit of the restoration to Austria of complete independence after the conclusion of the Treaty.³⁶

While not referring expressly to the Soviet proposal concerning neutralization, Mr. Eden felt that the new Soviet proposals, taken as a whole, were unacceptable:

It seems to me, therefore, that the Soviet proposals, taken individually or as a whole, leave little hope for the early conclusion of the State Treaty. On the other hand, the French Government, the Government of the United States and my own Government, have offered to agree to everything which the Soviet Government asked for during the long years of negotiation before we met here in Berlin. I would ask Mr. Molotov if he cannot now withdraw these new demands and obstacles and accept the Treaty, which we are ready to sign. We had every reason till last Friday to think it would be acceptable in this form to the Soviet Union also.³⁷

On behalf of Austria Dr. Figl also rejected the additional demands:

...acceptance of the additional demands made by the Soviet delegation on February 12, would deprive us of the most essential advantage of the treaty, that is, the withdrawal of all foreign troops in Austria.

35 Ibid., p. 206

36 Ibid., p. 192-193

37 Ibid., p. 203

The Austrian Federal Government has empowered me to state formally that it can consequently not agree to any amendment of the present draft treaty.³⁸

The reason given by Mr. Molotov for the failure to conclude the Austrian State Treaty at the Berlin Conference was the Soviet fear of a re-birth of German militarism with Austria either reunited politically with Germany or participating as ally of Germany in another war.³⁹ This would explain his proposals to prevent another "Anschluss" by maintaining occupation troops in Austria until the conclusion of the German Peace Treaty and his desire to neutralize the country, presumably, at least in part, to provide some insurance against Austria becoming a military ally of Germany if such a German Peace Treaty were concluded. Referring to the projected European Defence Community, which had not materialized, Mr. Molotov said in his closing statement.

The problem of the State Treaty with Austria might have been decided at this very Conference. For the time being this was prevented by the existence of the above-mentioned plans, which help to increase the danger of German militarism. Nevertheless, the Soviet Government would like to express its confidence that there is a full opportunity to have the problem solved in the nearest future.⁴⁰

In a tripartite communiqué issued by the three Western Foreign Ministers on the day following the conclusion of the Conference, an explicit reference was made to the new Soviet proposals for additional provisions in the Treaty:

38 Ibid., p. 201

39 Ibid., p. 215

40 Ibid., p. 215

The three Western Ministers did their utmost to secure agreement on the Austrian State Treaty. They accepted the Soviet version of all the remaining disagreed articles. The Austrian Foreign Minister, who was present at all the discussions on this question, declared himself ready to sign the Treaty in this form. The Soviet Foreign Minister, however, insisted upon adding new provisions to the Treaty. The effect of these would have been to leave foreign troops in Austria for an indefinite period after the entry into force of the treaty and to impair Austria's right to play her full part in international life.⁴¹

Initially, then, and to sum up, there was unanimous Western and Austrian opposition to the Soviet proposal to neutralize Austria. The opposition to neutralization, particularly as voiced by Mr. Dulles⁴² and Mr. Bidault⁴³ rested on the ground that it was not proper, as the Soviets were proposing to do, to seek forcibly to impose neutralization on Austria as a prerequisite to the signing of a treaty at all. This appeared to be particularly unreasonable in the light of the fact that the Western Powers were ready and willing to agree to the Soviet version of all hitherto disputed Articles in the draft treaty.⁴⁴ Such enforced neutralization, according to the Western Foreign Ministers,⁴⁵ was really in contradiction with Article 1 of the draft Treaty in that an imposed status of neutrality was in conflict with the postulated independence and sovereignty of the reconstituted Austrian Republic therein expressed. Under such enforced neutralization, it was said, Austria's sovereignty

⁴¹ Ibid., p. 218-219

⁴² Vide supra, p. 68-69

⁴³ Vide supra, p. 69

⁴⁴ Foreign Ministers Meeting: Berlin Discussions, p. 218-219

⁴⁵ Ibid., p. 192 ff.

and independence would be impaired through her legal incapacity to enter into military alliances if she so desired.⁴⁶ In this last connection Mr. Dulles stated that it was "the essence of sovereignty... to be able to make dependable alliances with other nations, if you so wish."⁴⁷

Accordingly, there was some basis in fact for the allegation of the independent element in the Austrian Parliament who urged the elimination of the term "of her own free will",⁴⁸ from the Parliamentary Proclamation of permanent neutrality on October 26, 1955. Initially, the proposal of Austria's permanent neutrality did originate with the Soviet Union, and was unanimously resisted by Austria and the Western Powers. At the time it was either a delaying tactic or a genuine additional condition insisted on by the Soviet Union for the conclusion of the Treaty, probably both. There was a large element of moral duress, therefore, in the Austrian acceptance of permanent neutrality, but there was perhaps also a sense of realism in that it was appreciated that permanent neutrality coincided with the small states best interests. In Marxist terms it was "freedom defined as the recognition of necessity."

At the negotiations between the Soviet Union and Austria early in 1955 leading to the conclusion of the Moscow Memorandum, Mr. Molotov no longer insisted on the connection between the departure of troops from Austria and the conclusion of a German Peace Treaty.⁴⁹ He continued,

⁴⁶ Ibid., p. 206

⁴⁷ Ibid., loc.cit.

⁴⁸ Vide supra, p. 63

⁴⁹ Bruno Kreisky, op.cit., p. 273

however, to insist on a firm guarantee against another Anschluss which seemed to be no longer an issue in either German or Austrian policies. The Austrians appeared to have no reluctance whatever to give the required consent to later making a parliamentary declaration of permanent
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neutrality. The Austrian State Secretary for Foreign Affairs, who attended the deliberations at Moscow, described the choice confronting Austria there as follows:

To venture out into the open without having sought shelter from one of the blocs seemed fraught with grave consequences. Whatever the merit of this argument, it had the flaw of presupposing a choice which in fact did not exist. At the very best, we could choose between neutrality and the status quo. At no time could we choose between neutrality and alignment with a bloc. And in fact what did the status quo amount to? Was it not itself a form of passive neutralization?--- neutralization by occupation? Under the circumstances, what alternative was open to a nation which longed to be master once again of its own destiny.⁵¹

If the cogency of the above argument is granted, and it is a most plausible argument, it comes perilously near to conceding that Austria had no choice; it was either permanent neutrality or nothing. In such a context she chose permanent neutrality, but to say that she chose it voluntarily is begging the question, if there were no alternative.

If it is meaningful to speak of freedom of political action for a small state in Austria's position at this time, then her permanent neutrality ensures a certain degree of freedom of action to her. She must not align herself militarily with either bloc, but while in one sense this restricts her foreign policy in another it prevents serious domination

50 Ibid., p. 273

51 Ibid., p. 273

from outside. Also, she must not undertake commitments of a kind that would compromise her neutrality, but this does not necessarily confine her to an abortive foreign policy. In a similar position, Switzerland has at times been an articulate critic of international affairs, especially during the Second World War,⁵² and a centre of international organization. The increasingly obvious trend towards European economic integration coupled with military and other alliances will make it more difficult to maintain the relative insularity required for permanent neutrality, nevertheless.

There are, however, compensatory advantages attendant on a status of permanent neutrality. The military impartiality of a permanently neutral state may cause non-committed nations to regard her official statements with less suspicion than those of the adherents of a bloc; she is therefore in a position to assume a potential role of moral leadership among such nations. So far, however, Austrian leaders have disclaimed any such role in international affairs, perhaps rightly preferring a pragmatic and non-doctrinaire approach to current problems. Her new status carries with it, also, the advantages of relative political security in terms of freedom from flagrant attempts on the part of either bloc to interfere in her domestic affairs and the consequent freedom this implies from domination by the leaders of a bloc. Hence, to say that neutrality was imposed, while it is partly true ignores these substantial compensatory advantages attendant on her status which Austria's small sovereign neighbours do not

52 Constance Howard, op.cit., p. 205-206

share to a like degree. It is possible, yet perhaps not altogether probable, that the advantages of permanent neutrality might have induced Austria to seek such a status whether or not it was urged by the Soviet Union in the context of the Austrian State Treaty negotiations.

3. Is the Form of Austria's Declaration of Permanent Neutrality Valid?

No mention of permanent neutrality was made in the Austrian State Treaty because it was thought that a treaty provision to this effect would amount to an imposition of neutralization on Austria by other Powers:

There is, however, no statement in the treaty with respect to the neutrality of Austria, since it was understood that adoption of the status of neutrality should be a voluntary act of a free state and not imposed as a treaty provision.⁵³

Although the provision relating to permanent neutrality was not incorporated into the Treaty, however, the Soviets continued to insist upon it as a prerequisite to the consummation of the Treaty, and its omission from the express treaty provisions does not make it any the more voluntary.⁵⁴

The consensus among jurists is that a unilateral declaration alone is ineffective to create an international status in law. Such a statement is really only a declaration of national policy and has no internationally recognized legal effects. Declarations in such a form by Scandinavian States are considered to have had no international legal effect by Sibert: Speaking of permanent neutrality, he says:

⁵³ U.S. Government Printing Office, "Report of the Senate Committee on Foreign Relations, "June 15, 1955", in American Foreign Policy, 1950-1955: Basic Documents, Vol. 1, Washington, D.C., 1957, p. 687

⁵⁴ Bruno Kreisky, op.cit., p. 273

Elle a son fondement dans les traités intervenus entre puissances et ne peut être ni présumée ni déclarée unilatéralement. La "déclaration commune" signée le 27 mai 1938 par les gouvernements de Danemark, Finlande, Islande, Norvège et Suède, sur les règles similaires à appliquer en cas de guerre entre puissances étrangères, renouvelée de la déclaration du 21 décembre 1912, ne pouvait engager que les signataires. D'une manière analogue la neutralité islandaise déclarée en 1918 n'a jamais fait l'objet d'un accord collectif entre puissances. Elle n'a donc eu aucun fondement conventionnel et n'aura équivalu qu'à une aspiration que les événements de la seconde guerre mondiale ont laissé sans suite.⁵⁵

Accordingly, it may be asked whether the declaration of neutrality by the Austrian Parliament, which was unilateral in form, may be distinguished from the declarations of the Scandinavian States mentioned by Sibert which were clearly nugatory as far as the conferment of a generally -
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acknowledged international status was concerned.

In this connection, it should be stressed that there is a great difference between a bare declaration like that made by the Scandinavian States, and a declaration made as a result of a previous understanding with another state or states. In the latter case, the context in which the declaration is made gives the transaction a prestige which the former bare declaration, created in a vacuum as it were, lacks.

55 Marcel Sibert, op.cit., p. 392

56 Marcel Sibert, loc.cit.

The parliamentary declaration of permanent neutrality did not arise in a vacuum, however. It was a direct result of a bilateral agree-⁵⁷ment between Austria and the Soviet Union, and thus already had some measure, at least implicitly, of international acceptance. Following the constitutional amendment declaring permanent neutrality, Austria was to take steps to "obtain international recognition for the declara-⁵⁸tion confirmed by the Austrian Parliament." The distinction between a guarantee and mere recognition of permanent neutrality is manifested in section 4 of the Moscow Memorandum which states that in addition to

⁵⁷ Moscow Memorandum, Part 1, Article 2, p. 191. The legal validity of Austrian permanent neutrality would be more firmly established, because of its international origin, than, say, the nationalization of the Suez Canal by the unilateral declaration by Egypt in 1956. Although the nationalization of the Canal by Egypt was valid in municipal law, its international validity may be questioned because it violated long-standing treaties which had internationalized the canal. The Austrian declaration of permanent neutrality was unilateral in form but it was made pursuant to the Moscow Memorandum and had wide international support, subsequently manifested by the recognition of the status by all of the Great Powers and many lesser powers; in the case of Egypt, the unilateral declaration nationalizing the Canal was registered with the United Nations Organization, according to article 102 of the United Nations Charter, but support of the Egyptian action was much less widespread. In the above connection, it is necessary to distinguish between legal validity and political effectiveness --- both Austrian permanent neutrality and the nationalization of the Canal are politically effective, but serious doubts may be expressed concerning the international legal validity of Egypt's action in nationalizing the Canal. Vide, for a discussion of the Egyptian nationalization of the Suez Canal, "The News in Review," in United Nations-Review, Vol. 3, No. 12 issue of June, 1957, p. 1., and for a discussion in general of the means of lawfully terminating international treaties (which would seem to exclude unilateral denunciation as in the case of Egypt with the possible exception of rebus non sic stantibus) vide Oppenheim, Vol. 1, p. 936 ff.

⁵⁸ Ibid., Part 1, Article 3, p. 191

seeking recognition Austria "will welcome a guarantee by the four great powers of the inviolability and integrity of Austrian State Territory."⁵⁹

This evinces a Soviet preference to a guaranteed neutrality, in contradistinction to the United States preference for a "recognized" permanent neutrality only,⁶⁰ and is interesting in the light of Mr. Khrushchev's statements in Vienna in July, 1960 indicating a Soviet military guarantee of Austrian neutrality.⁶¹

The report of Secretary of State Dulles to President Eisenhower on the conclusion of the Austrian State Treaty refers to the provisions of the Moscow Memorandum respecting the obtaining of a guarantee of the inviolability of Austrian territory:

The Soviet-Austrian agreement of April 15, 1955, referred to above, specifies a desire on the part of Austria for a guarantee by the Governments of the United States, the United Kingdom, France and the Soviet Union of the inviolability and integrity of Austrian territory. This desire on the part of the Austrian Government is understandable, but the Government of the United States has made no commitment with respect thereto. It should, moreover, be clearly understood that none of the signatory powers to the treaty conditioned the conclusion of the Austrian Treaty or the implementation thereof on a guaranty of Austria's territorial integrity.⁶²

It appears from the above statement and from the relevant provisions of the Moscow Memorandum that it was considered that recognition⁶³ of Austria's status of permanent neutrality by the Four Powers would be adequate

⁵⁹ Ibid., Part 1, Article 4, p. 191

⁶⁰ Vide supra, p. 16

⁶¹ John Gunther, op.cit., p. 182

⁶² Report by the Secretary of State to the President, May 27, 1955, p. 681

⁶³ Moscow Memorandum, Part 1, Article 3, p. 191

to establish the status, although if a guarantee could be obtained it would enhance the mere recognition.

The Report of the American Senate Committee on Foreign Relations which recommended American ratification of the Treaty, indicated that article 2 (4) of the United Nations Charter⁶⁴ would provide the required protection for Austria's permanent neutrality and stated that a constitutional impediment existed preventing the solicited American guarantee of Austrian territory:

The Austrian Parliament has adopted a declaration of neutrality, which it intends to give legal effect by amendment of the Austrian Constitution. The Austrian Government also intends to seek international recognition of its neutral status. With respect to this matter, the Secretary of State indicated that it was the position of the United States that article 2 (4) of the United Nations Charter requires members to refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state... Secretary Dulles has stated, however, that "none of the signatory powers to the Treaty conditions the conclusion of the Austrian Treaty or the implementation thereof on a guaranty of Austria's territorial integrity." He indicated further that no commitment has been made by the United States Government with respect to this matter.

This position was taken in view of the constitutional problems that would be involved in the United States since any specific guaranty of the territorial integrity of a foreign state might conceivably involve the use of armed force should such territory be subjected to external attack. The Secretary of State informed the Senate that it "would be fully informed and consulted with respect to any further developments in this connection."⁶⁵

There is no explicit mention of what, exactly, the constitutional impediment to the "guaranty" referred to above would be. However, pursuant to subsection 11 of section 8 of the Constitution of the United States

⁶⁴ United Nations Charter, Article 2 (4) op.cit., p. 689

⁶⁵ Report of the Senate Committee on Foreign Relations, June 15, 1955, p. 687-688.

the war-making power is confided to Congress.⁶⁶ Accordingly, when President Franklin Roosevelt desired a declaration of war against Japan he requested Congress to make the formal declaration of war indicating that a state of war existed from December 7, 1941.⁶⁷ It may have been thought, therefore, that an international undertaking made on behalf of the United States to guarantee Austrian Territorial integrity would be circumventing the constitutional prerogative of Congress to decide on the appropriateness of a declaration of war when the occasion arose.

4. The Constitutional Law and Austrian Sovereignty

The limitations on Austrian foreign policy constituted by the constitutional amendment arises from the fact that henceforward treaties of military alliance or wars by Austria, other than in its self defence, are illegal. Nonetheless, it may be asked what the legal position would be in the unlikely case that Austria chose to ignore her permanent neutrality and resorted to war other than in self defence. In such a case she would clearly be estopped from claiming the benefits of her permanent neutrality. Law, however, is merely incidental to war, and notwithstanding her legal incapacity to wage war one international jurist has described her position as follows:

⁶⁶ "Constitution of the United States," in The World Almanac: 1960, The New York World Telegram, 1960, p. 618

⁶⁷ Harold L. Ickes, The Secret Diary of Harold L. Ickes, Vol. III, New York, Simon and Schuster, 1954, p. 664

It (Austria) has foregone the right to go to war except in self defence, but it has not lost its legal capacity to make war; if it starts a war such war is illegal, but it is, nevertheless, a war and the laws of war apply.⁶⁸

An analogy might be made here between Austria and a person under a contractual incapacity in civil law: if Austria seeks to participate in war, other than in self-defence, she cannot evade the legal consequences of so doing by pleading a status she voluntarily chooses to ignore.

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The constant reiteration by Mr. Dulles and Mr. Bidault, following Mr. Molotov's proposal to neutralize Austria, that the effect of neutralization would be in conflict with the professed ideal of the first article of the draft treaty to restore Austria as a "sovereign, independent and democratic state",⁷⁰ is rather remarkable. If this is understood as signifying that permanent neutrality imposed as a Treaty provision, or otherwise imposed, would restrict Austrian foreign policy by depriving her of freedom of choice in an important area of her international relations then this is true. However, this is not to say that permanent neutrality is necessarily restrictive, for such a neutrality is actually one choice among many which a state may select in forming its long-range foreign policy goals.

68 Josef L. Kunz, "Austria's Permanent Neutrality," in The American Journal of International Law, Vol. 50, No. 2, issue of April, 1956 p. 419.

69 Vide supra, p. 68-69

70 Austrian State Treaty, Article 1, p. 163

There was doubtless an element of necessity in the Austrian decision to adopt permanent neutrality. As Mr. Kreisky has mentioned,⁷¹ The only alternative to permanent neutrality was the continuance of foreign occupation troops in Austria indefinitely which was clearly unacceptable to the Austrians. However, before attaching too much weight to the pronouncements of Western Foreign Ministers that permanent neutrality exacted by one or other of the Great Powers would be an "imposed" neutrality and a limitation on Austrian sovereignty, it might be asked with significance how "sovereign" a small nation in Austria's position can be in the context of present-day Europe.

The military adherence of a small state to either the Western or the Eastern bloc, whether through coercion, economic need, geographical location or a combination of these, inevitably renders a large degree of conformity with the foreign policy of the major member of such a bloc mandatory. The degree of conformity in each case depends on the population, resources and development of the state adhering to the bloc. Viewed from this vantage point, it may be appreciated that Austrian membership in either of the present power blocs would constitute a greater limitation on her international competence than a policy of permanent neutrality which enables her--- infact, requires her --- to dissociate herself from the relatively monolithic foreign policy of either bloc.

Any pressure by which the Great Powers seek to influence Austrian foreign policy in future will doubtless be indirect. So long as it

⁷¹ Vide supra, p. 73

is of equal advantage to have a militarily neutral state between their respective spheres of control neither the West nor the East will have an incentive to disturb Austria. They may seek in specific cases, as with the Soviet protest over the Austrian reception of Hungarian refugees in 1956, to influence particular courses of conduct, but not to control general conduct for indefinite periods of time. That a permanent neutral may earn the respect of conflicting powers is demonstrated by the example of Switzerland. Austria, however, is less fortunate than its Western neighbour in that it lacks Switzerland's long neutral tradition, its natural geographic defences and the relative distance of its frontier from Communist-controlled territory.

5. Austrian Obligations Arising From Permanent Neutrality

Granted that the Austrian State Treaty makes no mention of permanent neutrality,⁷² it is yet the international agreement which restored full Austrian independence and is closely associated with permanent neutrality for it laid the necessary foundation for the establishment of such a status by acknowledging Austria's international competence and her capacity to enter into such an arrangement. The question may be asked, consequently, whether a breach by Austria of the Austrian State Treaty would also be a breach of her permanent neutrality and would enable the Great Powers and other recognizing powers so to treat it.

The answer to the above question, although it is somewhat vague, is that this would depend on the circumstances of the case. A breach of

⁷² Vide supra, p. 75

the economic provisions of the Treaty would be a breach of international treaty compensable in damages to the aggrieved party, but it would probably not relate in pith and substance to the international status that Austria has assumed. It would not, therefore, be in breach of permanent neutrality and would not legally reflect on such status although at international law Austria would be liable in damages for such a breach. Of course, if the breach of economic obligation related to article 4 (1)⁷³ of the Treaty in that Austria sought to unite economically with Germany, it would be more difficult, for historical reasons, to dissociate economic action of this nature from a political context. Since economic organization is often the foundation of political action.

In any case, however, it would not be the fact that a provision of the Austrian State Treaty was breached that impaired Austrian neutrality, it would be the fact that in breaching the Austrian State Treaty Austria was also breaching a status acquired independently of the Treaty that was the important consideration.

It is obvious, however, that any breach by Austria of the Constitutional Law of October 26, 1955, which made permanent neutrality an integral part of Austrian domestic law, would vitiate her permanent neutrality. The provisions laid down in the foregoing constitutional law⁷⁴ go to the essence of permanent neutrality, and it was the permanent neutrality envisaged by this law that the Great Powers and other states recognized. Hence any deviation from the terms of this law by Austria, or any amend-

⁷³ Austrian State Treaty, p. 163

⁷⁴ Vide supra, p. 63

ment, deletion or departure from the law, if such is conceivable, would require the consent of the recognizing states if Austrian permanent neutrality were to endure as a recognized international status. It goes without saying that since the Constitutional Law was made in pursuance of the Moscow Memorandum⁷⁵ any variation in its terms would require the consent of the Soviet Union to be legally effective. As in all matters of treaty or contract, States would not be bound by varied or newly-imported Treaty provisions they had not originally recognized and agreed to.

In addition to the express prohibitions in the Constitutional Law it might be said that Austria may not perform any act which results in direct military advantage to one of the blocs at the expense of the other. Her leading statesmen have interpreted her permanent neutrality as essentially military,⁷⁶ however, and she retains the right to express herself freely in the cultural and economic spheres wherever she is not under a legal encumbrance undertaken by virtue of an international treaty.

6. Obligations of Other States arising From Austrian Permanent Neutrality.

From the form the recognition of Austrian permanent neutrality has taken it seems clear that what in fact exists are a number of unilateral undertakings by states to refrain from aggressive action against Austria and to perform no act directly inconsistent with her neutrality. There is no formal and express collective agreement among the recognizing states

⁷⁵ Moscow Memorandum, Part 1, Article 2, p. 191

⁷⁶ Vide supra, p. 63

mutually binding them and creating a legal obligation among themselves to recognize Austrian neutrality, although there may be an understanding among them that in order to render Austrian permanent neutrality effectual all the Great Powers, at least, must honourably abide by their undertakings.

An exception might arise to the duty assumed by the recognizing states to act in conformity with Austrian permanent neutrality if Austria herself were to violate her permanent neutrality by performing, for example, an unprovoked belligerent act against a neighbour. In this case, in the event that she continued to insist on the benefits of her permanent neutrality vis-a-vis other Powers, the recognizing states would be able successfully to aver that in so acting Austria was legally estopped from relying on undertakings from which, by her actions, she had implicitly released the states recognizing her status. There is every indication that Austria will assiduously refrain from any aggression like the foregoing, but if an occasion arose where neighbouring states desired a pretext for disguising aggression against Austria in a legalistic formula they might say that Austria had deprived herself of her permanently neutral status by violating it deliberately in just such a fundamental way.

Since an international status such as the one Austria has assumed requires manifest good faith by all parties, a violation of permanent neutrality by Austria directed at any particular state or bloc would be a violation of her permanent neutrality itself and a breach of obligation towards all states who had recognized her status. Whether an isolated violation in a particular context would be fatal to such permanent neutrality would depend on the gravity of the breach and the gravity with which the

breach was viewed by the recognizing states not directly implicated in the Austrian action, as well as depending on the power and eminence of the aggrieved state. There is no question whatever that such an act by Austria would diminish the respect in which her permanent neutrality was held.

In conclusion, it may be asked what are the obligations, if any, of those states which have not yet officially accorded recognition to Austrian permanent neutrality.

The consensus is that states which are not parties to a neutralization agreement are not thereby bound.⁷⁷ Accordingly, on the bare facts of the matter, any state which has not formally communicated to Austria notice of her recognition of the latter's permanent neutrality would not be bound to observe the legal duties arising from the recognition of such neutrality.

However, in international relations it might be suggested that the existence of a particular status is a question of mixed law and fact. If a sufficient number of sufficiently influential members of the international community recognize the existence of a status it may be said, practically, to exist, notwithstanding the demurrers of small states. The important question here is what practical effect is given to the status in question by the recognition of those powers who do recognize it. Because the Great Powers have recognized Austrian permanent neutrality, her status is secure, and, for all practical purposes universally

⁷⁷ P. J. A. Calvocoressi, loc.cit.

effective, and the lack of formal recognition by various small powers is not of great importance. It is most unlikely that the equilibrium of European politics would be disturbed, or Austrian permanent neutrality imperilled by those states which have not yet recognized Austria's status.

CHAPTER V

AUSTRIAN MEMBERSHIP IN THE UNITED NATIONS

1. Permanent Neutrality and "Collective Security"

Although it is desirable that the membership of a world organization be as comprehensive as possible in order to promote its ideals through the cooperative action of the largest possible number of member states, the United Nations Charter does not itself envisage universal membership:

The absence of universality in the organization of the United Nations expresses itself not only in the fact that the Charter neither makes provision for compulsory membership nor grants to all States the right to become members. The Charter provides expressly for the termination of membership through expulsion by the General Assembly upon the recommendation of the Security Council as a sanction for persistent violation of the principles of the Charter.¹

2

In the policy of establishing criteria for membership which states applying for membership must meet before their admission to the Organization the United Nations Organization is following the practice of the League of

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Nations, although the tests for admission in each case were different.

1 L. Oppenheim, op.cit., Vol. 1, p. 411 Article 6 of the Charter provides for such expulsion.

2 Article 4 (1) of the United Nations Charter reads: Membership in the United Nations is open to all other peace loving states which accept the obligations contained in the present Charter and, in the judgment of the Organization, are able and willing to carry out these obligations. Vide United Nations Charter, op.cit., p. 689

3 Applications for admission were first examined by a committee of the Assembly upon the following lines: (i) Is the application for admission in order? (ii) Is the government applying for admission recognized de jure and de facto, and by which States? (iii) Is the applicant a nation with a stable government and settled frontiers? (iv) Is it fully self-governing? (v) What has been its conduct, including both acts and assurances, with regard to (a) its international obligations; (b) the prescriptions of the League as to armaments. Vide L. Oppenheim, op.cit., Vol. 1, p. 383

There was some discussion, however, during the preparatory sessions leading to the formation of the United Nations Organization concerning whether universal membership should be required. In this event, of course, permanently neutral states would have no choice but to become members of the United Nations Organization even where, like Switzerland, they considered that such membership was inconsistent with their international status.⁴ Uruguay took the lead in proposing that all states should belong to the United Nations Organization. Her specific proposal, which was thought finally to be too unselective, was that:

All communities should be members of the Organization and ... their participation is obligatory, that is to say that it will not be left to the choice of any nation whether to become a member of the organization or to withdraw from it.⁵

In the end, however, it was thought that some selectivity should be exercised in admitting members to the United Nations, and that only those states which fulfilled certain qualifications were eligible for membership. Accordingly, admission was restricted to "peace-loving states" which were "able and willing" to carry out the obligations of the United Nations Charter.⁶

The peculiar difficulty implicit in the membership of a permanently neutral state in an international organization devoted to the fostering of international peace and security⁷ is that such a state cannot

⁴ U. S. Government Printing Office, Review of the United Nations Charter, Washington, 1955, p. 74

⁵ Ibid., p. 63

⁶ United Nations Charter, op.cit., Article 4 (1), p. 689

⁷ Ibid., Article 1, p. 688

consistently with the maintenance of its international status resort to arms in order to preserve world peace, as it might conceivably be called⁸ upon to do by the Security Council of the United Nations Organization. There is, therefore, a need to reconcile a permanently neutral state's membership in such an international organization with the collective responsibility of member states to maintain world peace by arms, if necessary. If it is considered that all member states may be called upon to take military measures for the preservation of peace then permanently neutral Switzerland has acted with more prudence in refraining from membership in the United Nations Organization,⁹ than has her neighbour Austria¹⁰ which joined the Organization in December, 1955.

While it is true that a strictly literal interpretation of the Charter indicates that no member of the United Nations can escape the obligation of resorting to arms at the call of the Security Council, the inference that all members will in practice be called upon to render the same form of assistance is not warranted. Switzerland and Austria may contribute more by limiting the area of a potential theatre of war than by throwing their armies into the balance.

⁸ Ibid., Article 43, Article 48, p. 696-697.

⁹ L. Oppenheim, op.cit., Vol. 1, p. 246

¹⁰ Austria: Facts and Figures, Vienna, Federal Press Service, 1959, p. 14.

The question of whether a permanently neutral state may belong to the United Nations Organization consistently with the preservation¹¹ of its status is still contested,¹² as was the eligibility of a permanent neutral for membership in the League of Nations.

2. Permanent Neutrality and the Covenant of the League of Nations.

At the time of the creation of the League of Nations in 1919, many commentators would no doubt have agreed with Baron Albéric Rolin that neutrality, especially permanent neutrality, was a form of "selfishness" or "cowardice" that enabled certain states to disavow their

¹¹ Vide L. Oppenheim, op.cit., Vol. 1, p. 246-247; Hans Kelsen, The Law of the United Nations, New York, Praeger, 1950, p. 6-7, p. 94; Charles G. Fenwick, op.cit., p. 621 and "Neutrality" in The Columbia Encyclopedia, 2nd. ed. New York, Columbia University Press, 1950, p. 1380. However, in opposition to the views of the foregoing authors that neutrality has disappeared as a permissive legal status for member states of the United Nations Organization when concerted action is being taken by the Organization to further collective security, vide Karl Zemanek, op.cit. p. 414 who cites the Soviet international lawyer A. Galina as authority for the proposition that Austria need not be impartial when measures are being taken by the United Nations Organization to promote collective security; in such a case, Galina infers, Austria need not adhere strictly to an attitude of impartiality, but may assist in collective measures against "states violating peace" and this would not be "on its part, violation of international law"; Zemanek also mentions the French international lawyer J.F. Lalive who maintained as early as 1947 that participation in non-military measures decided upon by the Security Council would not violate the duties of permanent neutrality (p. 414); The French publicist Georges Scelle, op.cit., Vol. 1, p. 131, uttered similar views respecting the obligation of membership in the League of Nations. Scelle held that the League is not a "belligerent" in the normal sense, but intervenes in wars and disputes as a "policeman" to effect a social purpose and Switzerland might, accordingly, assist the League by participating in sanctions against international malefactors without committing a "belligerent" act. The same argument might apply in the case of the United Nations.

¹² Vide Charles G. Fenwick, op.cit., p. 613, and Dr. Alfred Verdross, Die Immerwährende Neutralität der Republik Oesterreich, Vienna Österreichischer Bundesverlag, 1958, p. 20

responsibility for the maintenance of world peace.¹³ Baron Rolin considered that the Covenant of the League of Nations signified the end of neutrality,¹⁴ and given universal membership and a literal interpretation of the Covenant he was quite correct in his appraisal of the implications of the Covenant.

The Covenant of the League of Nations put an end in principle to the traditional law of neutrality. The obligation assumed by the members of the League under Article 10, "to respect and preserve as against external aggression the territorial integrity and existing political independence of all Members of the League" made it impossible for a member of the League to stand aside and take no part in the common defence of the victim of an act of aggression. Article 11 of the Covenant made "any war or threat of war, whether immediately affecting any of the high contracting parties or not," a matter of concern to the whole League and authorized the League to take "any action that may be deemed wise and effectual to safeguard the peace of nations." The members of the League were thus collectively responsible to find ways and means of preserving the peace in the presence of a situation of whatever kind that might threaten it. By Article 16 of the Covenant a member of the League which resorted to war in violation of its obligations of peaceful settlement was ipso facto held to have committed an act of war against all other members of the League, and the latter were pledged to discontinue trade and financial relations with it.¹⁵

In the light of the foregoing appraisal of the effect of the Covenant on neutrality, it is not surprising that Switzerland was wary about joining the League lest her permanent neutrality be compromised. Accordingly, the Swiss submitted a constitutional referendum to the electorate before¹⁶ seeking admission to the League. and took the added precaution of securing

13 Dr. Alfred Verdross, op.cit., p. 20

14 Ibid., loc.cit.

15 Charles G. Fenwick, op.cit., p. 613-614

16 Christopher Hughes, op.cit., p. 94

a dispensation from collective military measures from the League Council:

Le Conseil, dans sa Déclaration de Londres, du 13 février 1920, reconnut que la Suisse était dans une "situation unique", et qu'en raison de l'intérêt qu'il y avait à la maintenir, elle ne serait "pas tenue de participer à une action militaire ou d'admettre le passage de troupes étrangères, ou la préparation d'entreprises militaires sur son territoire." Par contre, les représentants de la Suisse acceptèrent de participer aux "mesures commerciales et financières demandées par la S.D.N. contre un Etat en rupture de Pacte."¹⁷

In 1921, the year following the above Declaration of London, the Swiss were constrained to invoke their dispensation from allowing the passage of troops across their territory when an international contingent was being formed by the League of Nations to supervise League-sponsored plebiscite in Vilna. The Swiss, citing the Declaration of London, refused to allow the passage of troops over their frontiers en route to Vilna on the ground that their permanent neutrality might thereby be
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compromised.

Despite her undertaking in the Declaration of London to participate in economic sanctions against aggressor states, Switzerland came to regard even this form of collective action against international malefactors as inconsistent with her permanent neutrality, and on April 29, 1938, with the consent of the League Council, she refrained from further participation in economic sanctions against Italy (invoked because of
19
Italy's aggression in Ethiopia).

¹⁷ Georges Scelle, Précis de Droit des Gens, Vol. 1, Paris, Sirey, 1942, p. 128

¹⁸ Georges Scelle, op.cit., p. 131

¹⁹ Charles Chaumont, op.cit., p. 26

3. Permanent Neutrality and United Nations Membership.

As mentioned in Section 1, there has been considerable controversy concerning the eligibility of a permanently neutral state for membership in both the League of Nations and the United Nations, the peculiar difficulty being the supposed opposition between the principle of collective security and permanent neutrality. In the preamble to the Austrian State Treaty the four powers collectively agree to support Austria's application for membership in the United Nations Organization,²⁰ but the permanent neutrality of Austria was not envisaged when the Treaty was first drafted. Austria's neighbour, Switzerland, with its long-established permanent neutrality had not applied for membership in the United Nations Organization in the belief that the obligations of membership were²¹ inconsistent with its permanent neutrality. However, after the conclusion of the Austrian State Treaty when active steps were being taken by Austria to establish its permanent neutrality, the four powers continued to support the proposal that, notwithstanding its permanent neutrality,²² Austria should become a member of the United Nations. But should a permanently neutral state be a member of the United Nations Organization?

A suggestion was made at a subcommittee meeting of the San Francisco Conference of 1945 (which prepared much of the groundwork for the United Nations) that permanent neutrals be expressly excluded from United

²⁰ Austrian State Treaty, preamble, p. 163

²¹ U.S. Government Printing Office, Review of the United Nations Charter, p. 74.

²² Report of the Senate Committee on Foreign Relations, June 15, 1955, p. 688-689

Nations membership:

The report of Rapporteur of Subcommittee 1/1 of the San Francisco Conference contains the following statement referring to paragraphs 5 and 6 of Chapter II of Dumbarton Oaks Proposals which corresponds to paragraph 5 of the Article 2 of the Charter: 'The French delegation proposed to add to paragraph 5 of the Chapter II the following phrase which was conceived in the French text as follows: "sans qu'un Etat puisse, pour s'y soustraire invoquer un statut de neutralité." The French delegate explained that what he meant by "statut de neutralité" was that of permanent neutrality. From the discussion that ensued, it was understood in subcommittee that the statute of permanent neutrality is incompatible with the principles declared in paragraphs 5 and 6 of Chapter II, in that no state can avail itself of the statute of permanent neutrality to be freed from the obligations of the Charter. The subcommittee, on that understanding, tacitly accepted that the vote taken on paragraphs 5 and 6 covers the amendment.²³

Paragraphs 5 and 6 of Article 2 of the United Nations Charter, referred to in the above passage as being inconsistent with permanent neutrality, read as follows:

Article 2

5. All Members shall give the United Nations every assistance in any action it takes in accordance with the present Charter, and shall refrain from giving assistance to any state against which the United Nations is taking preventive or enforcement action.

6. The Organization shall ensure that states which are not Members of the United Nations act in accordance with these Principles so far as may be necessary for the maintenance of international peace and security.²⁴

Thus, if the Security Council decided to raise an armed force in order to maintain international peace and security under Article 43 of the Charter,²⁵ it might justifiably call upon Member states to raise the needed force. The question of whether this makes it mandatory for all member states

23 Hans Kelsen, op.cit., p. 94

24 United Nations Charter, op.cit., p. 689

25 Ibid., p. 696

(or even non-member states according to Article 2 (6) of the Charter) to render military assistance to maintain international peace will be dealt with later.²⁶

That an eminent internationalist like Hans Kelsen would accept the view that a status of permanent neutrality was inconsistent with the obligations of membership in the United Nations reveals the serious need for reconciling the admission of Austria to United Nations membership on December 15, 1955²⁷ with her previously-established permanent neutrality. Referring to the French submission that permanent neutrality was incompatible with membership in the United Nations, Kelsen says:

As to obligations stipulated by Article 2, paragraph 5, it has already been pointed out that it makes the status of neutrality incompatible with membership in the Organization. If by Article 2, paragraph 6, the obligation of paragraph 5 is imposed also on non-members, no non-member state can with reference to its duties of neutrality or its status of permanent neutralization refuse to give assistance to an enforcement action by the United Nations against a member of non-member state.²⁸

The above argument, if correct, would destroy the status of permanent neutrality since it purports to universalize the obligation to resort to arms at the request of the Security Council. The above argument envisages the setting up of the law of the United Nations as fundamental --- a sort of constitutional law for the entire family of states--- with treaties of neutralization and bilateral and multilateral international agreements giving way to the paramount international law created by the

26 Vide infra, 107

27 Federal Press Service, op.cit., p. 14

28 Hans Kelsen, op.cit., p. 6-7

United Nations whenever there is a conflict between articles of the United Nations Charter and international or domestic laws of lesser status.

In view of the above considerations concerning the eligibility of permanent neutrals for United Nations membership, therefore, it is rather surprising that when permanently neutral Austria applied for membership in the United Nations late in 1955 there were no dissenting voices raised against her admission:

Cependant la circonstance actuelle de l'instauration pour l'Autriche d'une neutralité permanente contemporaine de l'admission de ce pays dans les Nations Unies ne permet plus de résoudre le problème de la confrontation de la neutralité et de la sécurité collective aux Nations Unies par une simple déclaration de principe sur les caractères généraux et antithétiques de la neutralité et de la sécurité collective. Non seulement les grandes Puissances, mais l'unanimité total des Etats membres des Nations Unies ont accepté l'entrée d'une Autriche neutre dans l'organisation des Nations Unies. La doctrine a commencé aussi de s'attacher à ce problème, en revisant certains jugements antérieurs considérés comme trop absolus.²⁹

The main question posed by such admission, of course, is whether Austria, in view of its permanent neutrality, assumes all duties of member states after her unreserved admission to the United Nations; Chaumont, in the passage quoted above, suggests that she would not succeed to the duties of maintaining collective security by force.

The distinction between the obligations of United Nation's membership and membership in the League of Nations with respect to collective military action is instructive. In this connection, it is especially interesting that another permanent neutral, Switzerland, felt itself legally entitled to join the League of Nations, but not similarly

29 Charles Chaumont, op.cit., p. 6-7

competent to join the United Nations Organization:

Switzerland considered its entry into the League of Nations possible because of the decentralization of the collective security system, but only on condition of being granted a special legal status exempting it from participation in the military "action commune" and later also from participation in economic sanctions. On the other hand, Switzerland holds its entry into the United Nations, because of the centralization of the collective security system in the Security Council, to be incompatible with its permanent neutrality, even with a special status granted to it.³⁰

³¹
Although Articles 10 and 11 of the Covenant of the League of Nations did provide for "mutual self-defence" they do not appear to have envisaged the mandatory collective action of member states that Articles 43³² and 48³³ require of members of the United Nations at the command of the Security Council. Economic sanctions, however, were required by members of the League under Article 16 (1) of the Covenant,³⁴ to penalize those states resorting to war in disregard of their covenants under Articles 12,³⁵ 13 and 15 (which provided for the settlement of international disputes by judicial settlement, arbitration or a submission to the League Council). Article 16 (1) provided that a member resorting to war in such circumstances was to be deemed ipso facto to have committed an act of war against ~~other member states~~ **other member states, punishable by:**

30 Joseph L. Kunz, Austria's Permanent Neutrality, p. 423

31 "Covenant of the League of Nations" in International Law by Charles G. Fenwick, p. 681. (Hereinafter cited as League of Nations Covenant.)

32 United Nations Charter, p. 696

33 Ibid., p. 697

34 League of Nations Covenant p. 683

35 Ibid., p. 681-683

... the severance of all trade or financial relations, the prohibition of all intercourse between their nationals and the nationals of the covenant-breaking State, and the prevention of all financial, commercial or personal intercourse between the nationals of the covenant-breaking State and the nationals of any other State, whether a member of the League or not.³⁶

Thus economic sanctions were mandatory under the Covenant, but not under Article 41³⁷ of the Charter, while common military action is mandatory under the Charter, but there is no similar express commitment to mandatory military action under the Covenant.

What Kunz means by the "decentralization of the collective security system" above is that, in contradistinction to the system in effect under the United Nations Charter, in the League of Nations there was no international organ like the Security Council which in practice, could call upon member states to take collective action against an aggressor State; Member states of the League in practice decided for themselves concerning the appropriateness of the application of sanctions against an aggressor State:

Early in the history of the League the opinion became general that each member of the League must determine for itself in the exercise of its sovereign right, whether another state had committed acts which would bring the obligations under Article 16 into play. This view was unchanged in 1935 when the individual members of the League voted on the question of whether Italy had in fact breached the Covenant in resorting to war against Ethiopia. It will be recalled that several states in the exercise of this sovereign right declined to participate in the application of sanctions, but only four failed to join in a vote of the other states which rendered a verdict against Italy.³⁸

³⁶ Ibid., p. 683

³⁷ United Nations Charter, p. 696

³⁸ Philip C. Jessup, Neutrality: Its History, Economics and Law, Vol. IV, p. 90.

Accordingly, collective action under the Covenant appears to have lacked the mandatory and universal character it has, at least in form, under the Charter.

The refusal of members of the League of Nations strictly to observe Article 16 (1) of the Covenant when it was invoked during the Italian aggression in Ethiopia in 1935 led to more elaborate provision for armed intervention, being devised in the United Nations Charter to provide for effective action as the need arises:

The enforcement provisions of the Charter were devised to give the United Nations the "teeth" the League of Nations had seemed to lack, as, for example, when it unsuccessfully attempted to cope with the invasion of Manchuria in 1931 and the aggression against Ethiopia in 1935. For this purpose, the primary responsibility for maintaining peace and security was vested in a Security Council, which in theory was to be more powerful and effective than the Council of the old League.³⁹

Whether the indecisiveness of the League of Nations during times of crisis was caused by procedural defects in the Covenant, as the above passage suggests, or more probably by such defects accompanied by the reluctance of larger powers to entrust the settlement of disputes to the League, the purpose of the Charter was to confide greater powers of decision and action to the Security Council.

³⁹ U.S. Government Printing Office, Review of the United Nations Charter, p. 194

The above purpose is manifested, especially, in Articles 2, 43(1) and 48⁴⁰ of the Charter of the United Nations.

Article 2

40 The Organization and its Members, in pursuit of the Purposes stated in Article 1, shall act in accordance with the following Principles.

(1) The Organization is based on the principle of the sovereign equality of all its Members.

(2) All members, in order to ensure to all of them the rights and benefits resulting from membership, shall fulfil in good faith the obligations assumed by them in accordance with the present Charter.

(3) All members shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered.

(4) All members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.

(5) All members shall give the United Nations every assistance in any action it takes in accordance with the present Charter, and shall refrain from giving assistance to any state against which the United Nations is taking preventive or enforcement action.

(6) The Organization shall ensure that states which are not members of the United Nations act in accordance with these principles so far as may be necessary for the maintenance of international peace and security.

(7) Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VII.

Article 43 (1)

All members of the United Nations, in order to contribute to international peace and security, undertake to make available to the Security Council, on its call and in accordance with a special agreement or agreements, armed forces, assistance and facilities, including rights of passage, necessary for the purpose of maintaining international peace and security.

Article 48

(1) The action required to carry out the decisions of the Security Council for the maintenance of international peace and security shall be taken by all the members of the United Nations or by some of them as the Security Council may determine.

(2) Such decisions shall be carried out by the Members of the United Nations directly and through their action in the appropriate international agencies in which they are members.

Perhaps the contrast in the means envisaged to contain aggression in the respective Articles of the Covenant and the Charter mentioned above constitutes the greatest single difference between the law of United Nations and that of its predecessor. The relative powerlessness of the League of Nations to take effective action against aggression hampered its activities and lowered its prestige in the 1930s. The effectiveness of either international organization, of course, requires participation by Member states embracing the major part of the international community for the maintenance of world peace. The important question here is whether all states must render the same kind of contribution towards the desired end. It may be suggested that a permanently neutral state can make its own distinctive contribution to international harmony by refraining from military alliances and power politics.

If the qualifications for membership in the United Nations as set out in Article 4 of the United Nations Charter are interpreted without any reservations, then it would be impossible for a permanently neutral state to be a member of the United Nations for two reasons. Firstly, it could not accept all the obligations contained in the Charter, e.g. the obligation to furnish armed forces for purposes of collective security as envisaged in Article 43 (1). Secondly, it is not able because of its self-imposed legal incapacity to resort to arms, other than in self-defence, to fulfill the obligations imposed upon it by Articles like the foregoing consistently with its permanent neutrality.

A literal interpretation of Charter obligations, which seems to be the interpretation made by Kelsen above,⁴¹ would certainly preclude

⁴¹ Vide supra, p. 97

Austrian or Swiss membership in the United Nations. However, perhaps a systematic interpretation which goes beyond the bare words of the Charter to consult the purpose for which the Charter was framed might enable a permanently neutral state to become a member of the Organization notwithstanding the apparent obligation to resort to arms under Article 43 or similar articles. In this connection, an Austrian jurist has said:

The main object of the United Nations Organization is the maintenance of International Peace. All provisions, therefore, of the Charter which support this purpose under normal circumstances have to yield when an exception is necessary in order to achieve the main object of the United Nations Organization, the maintenance of peace.⁴²

It is argued, on this basis, that in the case of both Switzerland and Austria a status of permanent neutrality was adopted for the purpose of maintaining regional and general peace by rendering a certain area "out of bounds" to the major powers and thus reducing international tension and the threat of war. There is, accordingly, no one isolated method of maintaining peace, but imagination and resourcefulness are required since the same end may be achieved through the use of different
⁴³
means.

There is much that is attractive in the above argument, but there is also a certain strain since the Charter was obviously not written with the problem of the admission of permanent neutrals in mind. Some such liberal interpretation of the Charter was perhaps implicitly recognized when Austria was admitted to the United Nations,

⁴² Alfred Verdross, Austria's Permanent Neutrality and the United Nations Organization, p. 68

⁴³ Ibid., p. 68

nonetheless. The relationship between neutrality and the Charter has been described as follows:

Si la neutralité n'est pas explicitement prévue par la Charte, cette place est néanmoins rendue possible par la nature même des mécanismes de sécurité qui résulte de ces dispositions, dans la mesure où ces mécanismes sont à la fois volontaires et partiels. Elle peut figurer parmi les "mécanismes garantissent qu'il ne serait pas fait usage de la force des armes, sauf dans l'intérêt commun" prévus par l'alinéa 7 de préambule, et parmi les "autres mesures propres à consolider la paix du monde" prévues par l'article 1 (2).⁴⁴

Thus, taking a broad conspectus of the entire range of possible palliatives of international tension, it may be said that the status of permanent neutrality appreciably lessens the danger of war by reducing such tension through providing a non-hostile area between blocs. In so far as the object of reducing international tension and stabilizing international relations is realized in practice, permanent neutrality may be said to be in accord with the main object of the Charter. Austria appears to regard her status in this light. In view of the foregoing considerations, there appears to be no valid reason why Switzerland should exclude herself from membership in the United Nations Organization.

4. Is Austrian Membership in the United Nations "Qualified"?

An argument, which it is suggested is sound, may be advanced that Austria is not bound by Article 43 of the Charter or any other Article relating to the use of armed force or of a nature that would contravene her permanent neutrality. This argument would suggest that Austria's obligations as a member of the United Nations were "qualified" to the

⁴⁴ Charles Chaumont, op.cit., p. 53

extent necessary to preserve the permanent neutrality she possessed on her admission by the tacit consent of both Austria and the United Nations Organization.

Like matrimony, membership in the United Nations is a contract which confers a status (although perhaps not a sacrament). Before acquiring member status an exchange of undertakings is required. Prior to admission, it may be said that the United Nations on one hand, in its capacity of international person, and Austria (or the applicant for membership, as the case may be) mutually exchange promises involving the creation of legal rights and duties.

In return for the rights appurtenant to United Nations membership the Member state binds itself faithfully to observe the provisions of the Charter, and such other duties as devolve upon it pursuant thereto. However, these reciprocal rights and duties are undertaken in a specific context and, it may be argued, with reference to the legal capacity of the contracting party. Just as in civil law, there must be a meeting of minds with reference to the subject matter of the contract. Therefore, if the United Nations agrees to accept as a member a state with explicit constitutional and international commitments to permanent neutrality, and notwithstanding such commitments accepts such state as a member unanimously and without question,⁴⁵ it cannot afterwards require the state to assume obligations violating its neutrality. In an analogous fashion, contracts can be made in civil law for limited purposes with persons lacking full legal capacity. Accordingly, a contract with a minor, a lunatic, or un-

⁴⁵ Vide supra, p. 98

til their recent emancipation, a married woman, whether express or implied, would not impose any binding obligations in matters where the party under legal disability lacked capacity. It may be suggested that when Austria was finally admitted to the United Nations it was admitted with the understanding that it would not be required to violate its permanent neutrality by resorting to armed force or otherwise.

Thus, when Article 48⁴⁶ of the Charter provides that all members of the United Nations are required to carry out decisions of the Security Council for the maintenance of international peace and security it must be understood in a qualified sense with reference to Austria. When referring to Austria, it may be said that Article 48 should be read with the proviso: "Austria is required to carry out decisions of the Security Council for the maintenance of international peace and security only in so far as they do not require her to violate the permanently neutral status she possessed on her admission to the United Nations" In virtually every case, this will mean that Austria will be excused from taking any action whatever.

5. The Swiss and Austrian Positions Compared.

The question of the compatibility of a status of permanent neutrality with membership in the United Nations is not, however, free from doubt. The refusal of Switzerland to apply for membership in the belief that such membership is inconsistent with her status as a permanent neutral emphasises the difficulty of the problem.

⁴⁶ United Nations Charter, p. 697

Whether permanent neutrality or neutralisation is compatible with membership of institutions based on the principle of collective defence is a question of interpretation of potentially conflicting international obligations. Switzerland does not consider her status compatible with that of a member in the United Nations. Austria, however, has joined the United Nations, on the assumption that her duties as a permanently neutral state take precedence over those of a member state under the Charter.⁴⁷

If it is thought unlikely, as a matter of policy, that a permanent neutral would be called upon by the Security Council to use armed force against an aggressor, the issue is still not entirely academic, since under Article ⁴⁸41 of the Charter the Security Council may yet call upon members to take "measures not involving the use of armed force," to give effect to its decisions. Even these "measures" might contravene permanent neutrality if they required Austria, say, to grant a right of passage to United Nations troops over her territory. The effect of this Article would be to align a permanent neutral with military powers acting on behalf of the United Nations against an aggressor or aggressors. There would be a large possibility of an outbreak of general war in such a context, and if a permanent neutral were required to participate in the above "measures" it would almost certainly be involved in any ensuing conflict.

Mr. Kreisky has described the division of opinion in Austria (and also in Switzerland) concerning the consistency of membership in the United Nations with permanent neutrality:

⁴⁷ Georg Schwarzenberger, A Manual of International Law, 4th ed., 2 vols., London, Stevens, 1960, Vol. 1, p. 54

⁴⁸ United Nations Charter, p. 696

Not even Swiss authorities on international law agree wholly on the precise relationship between neutrality and United Nations membership. In the case of Austria, there was one interpretation according to which membership would be "strictly speaking, incompatible with permanent neutrality;" another advanced more flexible views, arguing that the Charter recognizes neutrality by implication. The latter noted that Article 43, Paragraph 3, governing the participation of member states in sanctions, provides that agreements are to be negotiated between the Security Council and members but implies that in certain circumstances a state may exclude itself. Attention was also drawn to Article 48, Paragraph 1, stating that either all members or certain members may be called upon to act for the maintenance of international peace and security, as the Security Council may determine. Here again the implication is that neutral states can be excluded from participating in sanctions.⁴⁹

The interpretation that the Security Council is vested with a discretion to call upon certain states only to participate in sanctions is borne out by the permissive language of Articles 41⁵⁰ and 48⁵¹ and the "negotiations"⁵² alluded to by Mr. Kreisky in connection with Article 43. In each case of aggression it is not mandatory for all members to act in unison, it is only mandatory for those members called upon to act by the Security Council in the exercise of its discretion.

The more fundamental question in the above connection, perhaps, is whether the Security Council would choose to act at all in an international crisis. The answer to this question, unfortunately, rests not so much on law as on policy.

49 Bruno Kreisky, op.cit., p. 275

50 United Nations Charter, p. 696

51 Ibid., p. 697

52 Ibid., p. 696

Ironically, the very centralization of the power to act for collective security in the Security Council, which persuaded the Swiss not to apply⁵³ for membership in the United Nations, also provides the reason why the Organization would be paralyzed at a time of international crisis. The veto power possessed by the major Powers in the Security Council would⁵⁴ impede any proposed military action detrimental to their interests.

Since almost any military action will now affect the interests of one or other of the major powers adversely, it seems clear that any such proposed action would be enjoined by the veto. In this connection, it should be observed that the Security Council vote on July 27, 1950, to render all aid necessary to the Republic of Korea to repel aggression was only made possible by the absence of the Soviet Union in protest over the non-admission⁵⁵ of Communist China to the United Nations.

Although a concrete answer to the question of whether Austrian permanent neutrality is compatible with her membership in the United Nations Organization may have to await the unfolding of history, it is possible at this time to tentatively answer that there is no necessary incompatibility. Having regard to the purpose for which the Organization was founded, namely, the promotion of international peace and security, it seems manifestly reasonable that all means conducive to this end may be employed

⁵³ Vide supra, p. 99

⁵⁴ United Nations Charter, Article 27, p. 693

⁵⁵ Charles Chaumont, op.cit., p. 18-19

by the Organization. Since Austria was admitted to the United Nations by a unanimous vote there would appear to be no serious practical objection to her membership, despite the fact that a technical argument may be made against it. On the other hand, Austrian permanent neutrality promotes the main purpose of the Organization by supplying a stabilizing medium in Central Europe; in doing this she is contributing to the main purpose of the United Nations and deserves a place among its members.

CHAPTER VI

CONTEMPORARY NEUTRALS: THEORY AND PRACTICE

It is difficult to treat of contemporary neutrals in general terms because each neutral state, whether it is a permanent or traditional neutral, or both, reacts to the international scene in its own fashion, reflecting its own attitude to the legal exigencies of neutrality, the political and economic influences playing upon it and its own preferred foreign policy objectives. Theory must always be examined in the light of practice in evaluating the neutrality of this or that state, and an examination of both of these elements in combination, as the following survey will attempt to show, tends to suggest that there is no a priori form of neutrality descriptive of all neutrals, but that each neutral has fashioned a neutrality sui generis.

The above characterization of neutrality may seem to be dangerously close to asserting that there are no general characteristics of neutrality whatever. There are certain minimum requirements, however, which enable a comparison between neutrals to be made. While it is true to say that without the observance of the minimum requirements of neutrality a neutral state would not be able to preserve its status as such, the interpretation of legal duties in concrete historical, economic and political situations will in every case reflect a distinctive approach of a neutral towards neutrality. The degree of rigour with which neutral duties are interpreted will depend on the neutral concerned and also on the exigencies of the international situation. The power of an aggrieved belligerent to make an effective protest concerning the infraction of normal neutral duties by a neutral often determines to what extent the neutral

in question will perform these duties.¹ Also, permanent neutrals must strive to preserve their status at all times with a somewhat higher degree of rigour because they must look beyond the bare exigencies of the current world situation to the effect any present breach of their neutrality will have on a status they seek to preserve, into the indefinite future. A French internationalist distinguishes two elements which would seem to be requisite in any neutrality, the first of which is more important than the second:

Le concept de neutralité peut continuer à avoir une validité juridique moyennant la dissociation des deux éléments traditionnels, de la neutralité: abstention et impartialité. L'abstention peut subsister, même dans des cas où l'impartialité ne le peut pas.²

In the above analysis "abstention" signifies military non-intervention and "impartiality" signifies the neutral obligation to treat belligerent states equally by granting or withholding similar privileges to each; the latter term signifies such privileges as like access to neutral ports of a similar number of ships of each belligerent rather than immunity from criticism: in the criticism of the conduct of the war even permanent neutrals can be most partial, as has already been mentioned.³

It is suggested that to maintain neutrality as a juridical institution at least the two above-mentioned elements are required. Military non-intervention without impartiality in such matters as allowing belligerent warships of both sides equal access to ports would result at most in

1. Vide infra, p. 114

2. Charles Chaumont, op.cit., p. 21

3. Vide supra, p. 8-9

a neutrality by sufferance. It goes almost without saying that belligerents must often ignore partial treatment at the hands of neutrals because of their powerlessness to protest effectively against such partiality. Chaumont describes the inconstancy of modern neutrals and the flexibility of their concepts of neutrality as follows:

La neutralité n'est plus (en admettant qu'elle l'ait jamais été) un concept cristallin. L'expérience montre que les Etats belligerents et neutres se satisfont d'a peu pres, de neutralités approximatives dont le contenu est déterminé par la marge, la frontière mouvante qui sépare l'Etat non-belligérant de la pleine participation aux hostilités, marge qui est fixée dans chaque cas par les contingences historiques qui permettent ou ne permettent pas à un Etat d'échapper à la guerre. Ainsi, des Etats ont-ils pu déclarer la guerre sans participer aux hostilités, pendant la guerre de 1939 comme pendant la guerre de 1914, ou favoriser l'un des belligérents, comme ce fut le cas de l'Italie entre 1939 et 1940 des Etats-Unis entre 1939 et 1941 et de l'Espagne pendant toute la deuxième guerre mondiale.⁴

The important insight contained in the above passage is that it is impossible to sharply define the legal status of states in time of war. To speak of belligerents and neutrals implies a dichotomy of the international community that exists only in theory. In the realm of international relations all shadings of opinion and practice are found in the behaviour of states during war and it would be divorcing legal definition from reality to attempt invariably to force states into the categories of "belligerent" and "neutral". There is actually, as Chaumont suggests,⁵ a need for a third category, intermediate between war and neutrality, comprising those states which fit appropriately into neither of the existing legal

4 Charles Chaumont, op.cit., p. 11

5 Charles Chaumont, op.cit., p. 11

classifications. It would be improper to treat of this proposed third category as conferring a legal status like belligerency or neutrality, however, since it would be impossible to formulate norms descriptive of its character.

Various examples may be given of conduct inconsistent with the obligations of neutrality by supposedly neutral states during wartime. Thus, the Turks signed a military alliance with the English and French on October 19, 1939, in which each state agreed to assist the others in the event of a Mediterranean War arising out of a war of aggression by a European Power, the Soviet Union only excepted.⁶ Again, Dr. Salazar of Portugal granted naval bases on the Azores to Britain in 1943 to allow all Allied ships to refuel in the mid-Atlantic.⁷ In violation of an express promise to the Allies, Sweden in 1943 exported 10,241,737 tons of iron ore to Germany which was vitally needed for the German war effort.⁸

1. The European Neutrals

Since Austrian permanent neutrality must be studied primarily in the context of European politics, it would be appropriate to compare Austria's status with those of other European states which are described as neutral, bearing in mind that ~~each~~ neutral status is individualistic and dictated by its own peculiar historical circumstances.

Five European states and the Vatican City, which is a political

⁶ G.E. Kirk, "Turkey," in The War and the Neutrals, p. 346

⁷ Katharine Duff, op.cit., p. 338

⁸ W.N. Medicott, "Economic Warfare" in The War and the Neutrals,

entity sui generis, may be described as "neutral" at least in so far as they recognize no military commitment to either of the power blocs: the states are Switzerland, Austria, Sweden, Finland and Yugoslavia.⁹ Possibly Eire and Spain might be added to the list but their precise position is not so clear as the others.

Yugoslavia is a communist state which, after successfully defying Russia sought links with 'uncommitted' Asian and African countries such as India and Egypt rather than with other European 'neutrals'. Switzerland and Sweden are as democratic as their western neighbours, but have long traditions of non-involvement. The world has come to expect them to provide mediators and other impartial persons to help alleviate international conflicts...Finland and Austria are also democracies, but their neutrality is not traditional. It is part of the price each has had to pay to get Russia to leave it alone.¹⁰

2. Swiss and Austrian Permanent Neutrality Compared

In the case of both Switzerland and Austria it is remarkable that an international status deemed to be as important as permanent neutrality should find such scant mention in their respective constitutions. In the Austrian Federal Constitution there is only the very brief Constitutional Law of October 26, 1955.¹¹ There is no declaration or description of neutrality anywhere in the Swiss Constitution. Article 85, Paragraph 6, of the Swiss Constitution does, however, assign the maintenance of neutrality to the competence of the National Council and the Council of States:

Article 85. The following are the principal subjects within the competence of the two Councils:

.....

9. Andrew Boyd, An Atlas of World Affairs, London, Methuen, 1960, p.54

10. Ibid., p. 54

11. Vide supra, p. 63

6. Measures for the external security of Switzerland, and for the maintenance of her independence and neutrality; declaration of war and conclusion of peace.¹²

The above Article, along with Paragraph 9 of Article 102¹³ which entrusts the guardianship of the external security, independence and neutrality of Switzerland to the Federal Council, provide the only mention in the Swiss Constitution of neutrality.¹⁴

The Swiss have developed the practice of making a formal declaration of neutrality on the outbreak of war in Europe, much as other states declare war.¹⁵ Such a declaration is in the form of an "Arrêté" which is a proclamation issued by the Federal Assembly of Switzerland giving public and international notice of the passing of an important act.¹⁶

Arrêtés passed by the Federal Assembly when war is imminent, or has already commenced, have the effect of suspending normal Swiss constitutional processes, since unlike other delegations of power such Arrêtés are not usually subject to referenda or legislative challenge.¹⁷ Until repealed, therefore, an Arrêté confers emergency full powers on the Federal Council (an executive of seven ministers)¹⁸ to take action rendered imperative by

12 Christopher Hughes, The Federal Constitution of Switzerland, Oxford, Oxford University Press, 1954, p. 91

13 Ibid., p. 111

14 Ibid., p. 94

15 Ibid., p. 94

16 Ibid., p. 100

17 Ibid., p. 100

18 Ibid., p. 106-107

warlike or other events threatening Swiss welfare.¹⁹ Arrêtés have been passed in peacetime, for example the Arrêté granting full powers to the Federal Council to take measures to counteract the economic depression of the 1930s.²⁰ This centralization of delegated powers in the executive may be made subject to legislative challenge,²¹ but usually in such urgent matters as the preservation of neutrality during war it is declared to be "urgent" and is thus removed from challenge by the people.²² Hence, an Arrêté once accepted by the Federal Assembly is amendable or repealable (if it is of the unchallengeable variety as are neutrality Arrêtés) only by a further Arrêté passed by the Councils, such as the Arrêtés restraining emergency powers passed on 6 December, 1945²³ and the Arrêté of 18 December, 1950 providing that, subject to certain conditions, acts passed under emergency powers are to go out of force at the end of 1952.²⁴

With the advent of general European War in the present century Arrêtés passed on August 3, 1914 and August 30, 1939 conferring emergency full powers on the Federal Council were extensively used.²⁵ The latter Arrêté was passed without debate through both Swiss Councils when it appeared patriotic to confer full powers on the executive; by the end of

19 Ibid., p. 169

20 Ibid., p. 169

21 Ibid., p. 100

22 Ibid., p. 100

23 Ibid., p. 171

24 Ibid., p. 171

25 Ibid., p. 169

the war, however, there was general discontent at the persistence of un-
constitutional government.²⁶ The Arrêté extended the competence of the
Federal Council to include: "the power and the duty to take the measures
necessary to maintain the security, independence and neutrality of Swit-
zerland, to safeguard the credit and the economic interests of the country,
and to secure its food supply."²⁷ It is obvious from the quoted terms of
reference of the Federal Council that normal constitutional processes in
such a case would be all but abrogated, since almost all spheres of public
and private life are embraced within the broad provisions of the above
Arrêté.

Since Switzerland affords the closest approximation in international
status to Austria, in point not only of permanent neutrality but also in
size and geographic position, it provides a valuable means of evaluating
Austria's chances of maintaining her new status.

Austria, is, if anything, and would be in time of war, subject to
more political pressure than Switzerland because her frontiers border those
of two Communist states, Hungary and Czechoslovakia, as well as their pro-
bable enemies, Germany and Italy. Her permanent neutrality has also not
existed for a sufficiently long period to earn it the respect and prestige
of Swiss permanent neutrality, or to give her statesmen the accumulated
experience of generations during which the Swiss Foreign Office has success-
fully maintained its status.

26 Ibid., p. 171

27 Ibid., p. 170

The lack of a tradition of neutrality like that of Switzerland, has caused some observers to regard Austrian permanent neutrality as a freak thrust upon the Austrians by the Soviets as a condition sine qua non for the restoration of their independence. ²⁸ This tends to foster the probably quite false impression that the Austrians do not genuinely desire to maintain their neutrality, but would quickly align themselves with the West in a general War. If it is at all possible to protect their new status, the Austrians will abide by their international commitment to do so, but whether this is possible will depend largely on whether the next war is fought with conventional weapons over a limited area, or is fought with nuclear weapons over whole continents. If the Austrians can defend their frontiers with their small conventionally-armed forces there is no doubt they will do so, but without the natural fortifications of Switzerland, their task would be hopeless against a determined attack from East or West.

Mr. Kreisky has made the following instructive comparison between Austrian and Swiss permanent neutrality:

Swiss neutrality...is a firmly established concept of international law. The powers which have given it recognition have also undertaken a commitment to guarantee the inviolability of Swiss territory. However, the Swiss themselves have never invited outside intervention or any sort of unilateral action by a foreign power in defence of their neutrality. This was clearly stated by the Swiss Parliament during World War I: "Switzerland reserves to itself the right to decide whether, and under what terms, the aid of foreign powers might be called upon."

Clearly, the principle of Austrian neutrality bears a strong constitutional resemblance to that of Switzerland, whereas Austrian practice--- membership in the United Nations being a case in point--- is not far removed from that of Sweden. One may suppose that Austria

28 John Gunther, op.cit., p. 182

will develop its own variant somewhere between the Swedish and the Swiss. There are historical and geographical differences as well as similarities between Austria and these countries, and they will account for the differences in approach.²⁹

It is noteworthy that Switzerland persisted in her attitude of refusing premature offers of foreign assistance when France and Great Britain informed her in 1939 that they intended to "guarantee" the neutrality of Switzerland.³⁰ When informed of the intended guarantee by the French, the Swiss Minister in Paris informed the French Government that Switzerland did not seek such a guarantee and would herself decide the moment at which foreign help would be welcome to her.³¹ On learning of this proposed guarantee by the Allies, the Germans emphasised that any guarantee by Britain and France was inconsistent with the German interpretation of the laws of neutrality affecting Switzerland.³² In order to remove any doubts concerning the Swiss conception of their own permanent neutrality, on 13 July, 1939, two months before the outbreak of the Second World War, the Swiss Minister in Berlin delivered a note to the German Foreign Office stating that:

...the Federal Government had made no comment when other powers had declared that they would help her if she were to be attacked, because she was averse to being given promises which would only apply in the event of a violation of her neutrality. The Government considered that their right to ask for help in such an event could not be contested, but they emphasised that unsolicited intervention by a third state would be regarded by them as a breach of neutrality.³³

29 Bruno Kreisky, op.cit., p. 274-275

30 Constance Howard, op.cit., p. 200

31 Ibid., p. 200

32 Ibid., p. 200

33 Ibid., p. 201

Implicit in the Swiss rejection of proffered assistance was undoubtedly the fear that a guarantee by one belligerent camp only would not merely anticipate a violation of such neutrality by the other camp, but perhaps actually prompt it by aligning her with the guarantors of her neutrality.

The Austrian reaction to Mr. Khrushchev's proposed guarantee of their neutrality is similar to the Swiss, and also bespeaks an aversion for foreign entanglements that might reflect on the validity of her status; while in Vienna in July, 1960 Mr. Khrushchev is reported to have made a declaration of Soviet guarantee in the event of a violation of Austrian neutrality:

He declared that the Soviet Union would respond with armed action in defence of Austria if anybody else violated its neutrality, and that the American missile bases in Italy were a source of grave danger to the country; if, he went on, U.S. missiles directed against the U.S.S.R. or its satellites passed over Austria in the event of war, the Soviet Union would consider this a violation of Austrian neutrality and would act accordingly. The tart Austrian reply to this was to the effect that they did not want any outsider to "interpret" what they thought their neutrality ought to be.³⁴

From their rejoinder to Mr. Khrushchev, it would appear that the Austrians, like the Swiss, would prefer to await the event and, upon an actual violation of their neutrality, invite assistance rather than have unwanted assistance prematurely foisted upon them. Any other interpretation of their permanent neutrality would leave the way open for an occupation by the "guaranteeing" power who could pose as the defender of Austrian territorial integrity in any hostilities while actually seeking only to improve its own strategic position.

³⁴ John Gunther, op.cit., p. 182

Perhaps the whole question of guarantee, however, is academic and legalistic rather than practical. In the event of war in Europe the effectiveness of a guarantee of Austrian permanent neutrality would depend on such extraneous factors as the military importance of Austria in the overall strategic operation, and the effect of a violation of Austrian permanent neutrality on that segment of the world that was able to remain neutral and uncommitted.

3. Sweden

Swedish neutrality is more flexible than that of Austria and Switzerland in that she has no irrevocable written commitment to neutrality conferring a status upon her in international law. Thus, at any time Sweden might declare war without violating her constitution, although in doing so she would be breaking with tradition.

Sweden's neutral position has been incisively described as follows:

In contrast with Switzerland, Sweden does not have any constitutional commitment to neutrality and its status is not guaranteed by other powers. It simply is determined to follow in time of peace a policy that should logically result in a neutral position in time of war. Indeed, when Swedes describe their position they prefer the term non-alignment to neutrality.³⁵

Swedish neutrality is acceptable to the Soviet Union because it creates part of a buffer zone that the Soviets would like to see established in Central Europe.³⁶

35 Bruno Kreisky, op.cit., p. 274

36 Georg von Rauch, A History of Soviet Russia, New York, Praeger, 1958, p. 417

The desire for such a neutral zone was promoted when Greece and Turkey³⁷ joined the North Atlantic Treaty Organization in 1952:

The admission of Greece and Turkey fortified the Soviet Union in its desire to create neutral buffer zones in Europe and the Near East between the two power blocs. This new trend became noticeable at the end of 1951 in an exchange of notes on this subject with Norway, Italy and Turkey; also in Soviet appeals for Swiss and Swedish neutrality, a New Year message to Japan, and the plan of an armed neutrality pact of the Scandinavian countries which was suggested via Finland. The Soviet note on Germany of March 10, 1952 was also in the same vein.³⁸

Of all the Scandinavian countries Sweden has managed to maintain its neutrality most effectively. Denmark and Norway have abandoned any pretensions they might have had to a traditional neutral policy by entering NATO. Finland became a co-belligerent of Germany during the Second World War in furtherance of its traditional enmity against Russia. Only Sweden remained neutral and relatively unscathed by the War. Sweden has not been engaged in War since 1814, in fact, but she allocates a³⁹ large proportion of her budget for national defence:

The Swedes were neutral in both world wars, but they are very firm to point out nowadays that their "alliance-free policy" is not one of "neutrality"; rather it is a positive policy---even potentially belligerent. If attacked, the Swedes will respond with vigour...Sweden, although the figure is hard to believe, spends not less than 25 per cent of its budget on defence, a figure comparable to that of such "nonneutral" powers as France, has what is probably the best army in Europe next to Switzerland and Yugoslavia, proudly possesses one of the two or three most powerful air forces in Europe, and is thinking of building its own nuclear armory.⁴⁰

37 Georg von Rauch, op.cit., p. 417

38 Ibid., p. 417

39 John Gunther, op.cit., p. 275

40 Ibid., p. 275

From the above account, it is obvious that the Swedes understand the full significance of the term "armed neutrality".

At the outbreak of the Second World War the Swedes were not prepared so well militarily to defend their neutrality. On September 1, 1939, by an Order in Council which became effective on September 3, 1939, it was decreed that defence preparedness would be strengthened in accordance with regulations made previously. Sweden associated herself with declarations of neutrality by Scandinavian States on September 1, 3 and 19, but was the only such State which maintained its neutrality throughout the War.⁴¹

Sweden strove to maintain her neutrality throughout the Second World War in the face of great German pressure. She was forced, however, to accede to a German request to allow German troops to pass over her territory to and from Norway and by the end of 1940, 133,135 troops had passed from Norway to Germany and 129,105 troops had passed from Germany to Norway via Sweden.⁴²

4. Yugoslavia.

Yugoslavia's neutrality is not a neutrality of choice but rather of necessity. Her disagreement with the Soviet Union over the proper means to implement Marxist-Leninist theory was possibly a facade for Tito's nationalism; it had the effect, in any event, of branding her as heretical and rendering her unacceptable to the other communist states as a

⁴¹ Agnes H. Hicks, "Sweden" in The War and the Neutrals, p. 172

⁴² Ibid., p. 172

military ally. On the other hand, since the ideals of Yugoslavian Communism diverged from those of the democratic West, Tito was acceptable to the West in only a limited sense, and he was forced to become a "neutral." Yugoslavia's present heretical status seems ironic when it is considered that when the Cominform was created to co-ordinate the policies of European communist states in October, 1947 Belgrade was selected as its headquarters.⁴³

There are several other sources of Yugoslavia's present neutral policy. One of the most basic as mentioned above, was Marshal Tito's quarrel with Moscow over the practical application of Marxist-Leninist Theory. Tito's policy was to prevent the coalition of the industrial proletariat with poor peasants against the rich peasants which had occurred soon after the Revolution in Russia; in doing so, he claimed that the peasantry in general, who outnumber the Yugoslavian industrial workers by twelve to one, were "the most stable foundation of the Yugoslav state."⁴⁴ For this allegedly fundamental error in Marxist-Leninist theory Yugoslavia was expelled from the Cominform in 1948,⁴⁵ whereupon the headquarters of the Cominform was moved to Bucharest where it remained until April, 1956, when the Cominform was dissolved after diplomatic relations between Belgrade and Moscow were resumed.⁴⁶

⁴³ Florence Elliott and Michael Summerskill, "Cominform" in A Dictionary of politics, Harmondsworth, Penguin, 1959, p. 71

⁴⁴ Ibid., "Yugoslavia", p. 352

⁴⁵ Ibid., p. 352

⁴⁶ Ibid., "Cominform", p. 72

Another reason for the rupture between Yugoslavia and the Soviet Union was the attempt by Marshal Tito to create a "Balkan Federation" of communist states which might have considerably reduced the Soviet Union's influence in Eastern Europe:⁴⁷

Tito realized that Stalin had assigned the role of a second-rate agricultural state to Yugoslavia and that there was a tendency to increase dependency on the Soviet Union in all areas. These considerations led to Tito's plan for a Balkan federation which he discussed with the Bulgarian Communist leader, G. Dimitrov, in Bled in the summer of 1947. The plan had been in the making for some time; as early as 1944 the Communist leaders of Yugoslavia and Bulgaria had held consultations with this end in view. Now a joint communique announced their intention to open the borders between their countries as soon as possible and to create a customs union. In a speech in Bucharest in January, 1948 Dimitrov hinted that the future federation was also to be joined by Rumania, Albania, Hungary and even Poland, Czechoslovakia and Greece. This was more than Moscow could stand. A large South-East Europe federation under Tito could become a dangerous competitor for the Soviet Union. Dimitrov was induced to dissociate himself publicly from Tito's plans in the Moscow press.⁴⁸

From the above it appears that Yugoslavia's alienation from Russia and her consequent "neutrality" stemmed from Marshal Tito's nationalistic and expansionist ambitions and was not grounded in any desire to reduce international tensions or promote world peace. Yugoslavia's defection from the communist bloc produced no real common basis for co-operation with the West except the desire to prevent her from again falling under the domination of Moscow; there may also have been the furtive wish on the part of the West that Yugoslavia's defection would be emulated by other communist states.

⁴⁷ Georg von Rauch, op.cit., p. 407-408

⁴⁸ Ibid., loc.cit.

Yugoslav neutrality was therefore dictated more by the nationalistic aspirations of her leaders than by motives of humanitarianism. Marshal Tito wished to throw off Moscow's yoke so that he could follow an independent policy of his own. In the case of both Yugoslav and Austrian neutrality the elements inducing the adoption of the status were a mixture of necessity and nationalism. Both states wanted to follow independent courses: Yugoslavia's neutrality was induced by necessity in that she could not ideologically align herself with either East or West and this implied neutrality; Austria's neutrality was induced by the fact that the Soviets made the adoption of permanent neutrality a precondition of the restoration of independence and thus rendered neutrality necessary for the reacquisition of sovereignty. In both cases, also, the acquired independence conformed with the nationalistic aspirations of the Austrian and Yugoslav peoples. In the case of Yugoslavia, however, the element of nationalism was greater than that of necessity while in the case of Austria the opposite was true; Austria, in fact, had little choice.

Although Yugoslavia disclaims any ambition of forming a "neutral bloc"⁴⁹ she was host at a conference of "neutral" states which convened⁵⁰ in Belgrade in September, 1961, Austria, Switzerland, Sweden and Finland⁵¹ were not invited to this Conference which was attended by 16 heads of

⁴⁹ "Neutrals" in Time, Vol. 78, No. 9, issue of September 1, 1961, p. 23

⁵⁰ Ibid., p. 23

⁵¹ Louis Fischer, "The Mood Inside Russia's Satellites," in Saturday Review, Vol. 44, No. 28, issue of July 15, 1961, p. 15

state, seven prime ministers and other dignitaries representing 24 nations.⁵²

This meeting was actually a conference of neutralist,⁵³ states stressing non-alignment with either of the major power blocs, since, of course, the term "neutrality" in its strict legal sense has no significance in peacetime⁵⁴ apart from permanent neutrality.

It is remarkable that the first two of the requirements laid down by the preparatory committee to render a state eligible to attend the Conference, resemble in a qualified sense the duties of permanent neutrality⁵⁵ set forth in the Austrian Constitutional Law of October 26, 1955:

Although the eligibility of the conference's main sponsor's was never in doubt, a workable definition of unalignment was needed before other invitations could be sent. A 21-nation conference met in Cairo and pondered the problem for twelve days. Finally, the essential qualifications were chosen: 1) nonparticipation in military alliances with great powers, 2) refusal to "voluntarily" grant military bases to foreign powers, and 3) "active support" of liberation and independence movements.⁵⁶

The above qualifications do not prohibit military alliances among the powers attending themselves nor do they render questionable the status of a nation like Cuba, whose American-leased naval base at Guantanamo was presumably regarded as not "voluntarily" granted and hence not a reflection on that

52 Burma, Ceylon, Ghana, Guinea, Ethiopia, Sudan, India, Indonesia, Yemen, Cambodia, Mali, Morocco, Nepal, Saudi Arabia, Somalia, United Arab Republic, Lebanon, Algerian Provisional Government (F.L.N.), Tunisia, Cyprus, Afghanistan, Cuba, Iraq with Brazil and Bolivia sending observers.

53 Vide supra, p. 22

54 Vide supra, p. 1

55 Vide supra, p. 63

56 "Neutrals" in Time, loc.cit.

state's "neutrality."

The fact that Austria, Switzerland, Sweden and Finland were not invited to the conference was probably attributable to the fact that these states are modern, relatively highly industrialized Western nations with a more marked aversion for Communism than the former colonies who formed the majority of members at the Belgrade meeting. There would be little chance of basic agreement between such European countries and the former colonies.

With such a diverse assembly of nations it was naturally difficult to formulate any acceptable common policy except the negative one of "resistance to evil"; notwithstanding this restriction, there is no doubt that however much she disavows the intention of forming a "neutral" bloc, this was yet another attempt by Yugoslavia to increase her influence to promote policies which she considers desirable at the expense of the Eastern and Western powers. Austria could not aspire to such an active role in world affairs since any intervention in diplomacy by her on such a scale would jeopardize her neutrality. She must play the role of a tactful intermediary rather than that of an aggressive agent.

5. Finland.

The neutral policy of Finland is dictated largely by her geographical proximity to the Soviet Union. Along with Turkey, Finland is one of two democracies in the world who share major land frontiers with Russia. Having regard to her closeness to the Soviet Union and her military weakness a policy of discretion if not deference is required toward her large eastern neighbour. In April, 1948, Finland concluded a Friendship Treaty with the Soviet Union which was extended for a period of twenty years in

1955 in return for the evacuation of the former Finnish military base at Porkkala, west of Helsinki, by the Soviets.⁵⁵

A former Prime Minister and Foreign Minister of Finland has assessed her policy of neutrality as follows:

The foreign policy of a small nation can have but one purpose: the safeguarding of its independence and security. The means employed to this end must be adapted to circumstances over which it can have only marginal control. In 150 years of nationhood the Finnish people have used a variety of means to protect their self-determination and their identity. Yet throughout, one central idea has dominated Finnish thinking on foreign affairs. This is the idea of neutrality.⁵⁶

The Finnish policy of neutrality has been recognized informally by the Soviet Union, the United States and the United Kingdom,⁵⁷ but, of course, Finland's neutrality remains merely a policy and confers no status upon Finland in international law. It has remained aloof from both the North Atlantic Treaty Organization⁵⁸ and the Warsaw Pact, being, indeed,⁵⁹ the first non-Communist state invited to join the latter alliance.

While admitting that, legally speaking, there is no neutrality apart from war, Mr. Torngren stresses that the Finns regard their neutrality as an essentially practical rather than a theoretical concept:

When I write of Finland's neutrality I mean a policy of maintaining the security of the country by keeping it outside the conflicts of interests of the big powers, rather than by aligning it with one

⁵⁵ Florence Elliott and Michael Summerskill, op.cit., "Finland" p.121

⁵⁶ Ralf Torngren, "The neutrality of Finland", in Foreign Affairs, Vol. 39, No. 4., issue of July, 1961, p. 601

⁵⁷ Ibid., p. 604-605

⁵⁸ Ibid., p. 606

⁵⁹ Florence Elliott and Michael Summerskill, op.cit., "Finland" p.121

big power or a group of powers against another. This idea of neutrality is not the product of abstract thought nor is it imported from elsewhere: it has grown out of the soil of Finnish history.⁶⁰

Although the Finns are susceptible to pressure from the Soviet Union, especially economic pressure since a large proportion of their total foreign trade is with Russia,⁶¹ they have so far succeeded in maintaining their own form of democracy which, like Austrian and Swedish democracy, is not predicated on the concept that a neutral foreign policy implies ideological neutrality:

Neutrality cannot of course be an end in itself. It is...the means by which Finland traditionally has sought to safeguard her security and thus to protect her national way of life. "I am convinced," President Kekkonen declared in a speech during Mr. Khrushchev's recent visit to Helsinki, "that even if all the rest of Europe were to turn to Communism, Finland would retain the traditional democracy of the North if the majority of the Finnish people so desired, as I believe it does." We are not neutral in regard to the values on which our way of life is built. Though we have learnt to desist from the luxury of emotional gestures, we are none the less as determined as any nation to preserve these values.⁶²

Finland resembles Austria in that it is a neutral state on the periphery of communist Europe. Pessimistic forecasts of Finland's future made at the end of the Second World War have not been fulfilled, however, and this augurs well for Austria.

6. Vatican City.

Vatican City, now a small enclave in Rome, along with Castel Gandolfo and the palace of San Callisto is all that now remains of the once extensive temporal domains of the Pope in Italy. The Vatican City

⁶⁰ Ralf Torngren, op.cit., p. 601-602

⁶¹ Andrew Boyd, op.cit., p. 56

⁶² Ralf Torngren, op.cit., p. 609

was constituted as a political entity according to the Provisions of the Lateran Treaty concluded between Italy and the Church in 1929⁶³ during the pontificate of Pius XI.

Although small in area, the Vatican City has all the essential attributes of statehood including international juridical personality in accordance with which it concludes treaties and maintains diplomatic relations throughout the world.⁶⁴

Because the Vatican City has a primarily spiritual function, as was stressed by Pius XI after the conclusion of the Lateran Treaty,⁶⁵ and because of its small size it is a political entity sui generis, although it has all the marks of a state. It nevertheless wields great influence, which has been employed to further the Church's historic mission of peace. An evidence of this was Pope Benedict XV's peace proposal made to the belligerents in the summer of 1917.⁶⁶ The Pope's proposals were rejected by President Wilson, however, on the ground that the Germans could not be trusted and negotiations with them would be futile.⁶⁷

Before and during the Second World War Pius XII continued the efforts of his predecessors towards a just peace:

Like Benedict XV before and during World War I, Pius XII appealed to the world for peace, and when the war came devoted himself un-

63 Rev. John Laux, Church History, Benziger, New York, 1945, p. 591

64 L. Oppenheim, op.cit., Vol. 1, p. 254-255

65 Rev. John Laux, op.cit., p. 591

66 James A. Corbett, The Papacy: A Brief History, Princeton, N.J., Van Nostrand, 1956, p. 149

67 Ibid., p. 149

stintingly to mitigating its horrors and succoring its victims. His has been a reign devoted to the work of peace with justice, as he appeals to statesmen to recognize the need for government by law, the rights of the human person and of nations.⁶⁸

In view of the historic Mission of Peace characterizing the work of papacy, it is entirely understandable that in the Lateran Treaty, which originated its present political status, there should be a provision establishing the Vatican City's permanent neutrality:

Article 24. Le Saint Siège, en ce qui touche le souveraineté qui lui appartient, même dans le domaine international, déclare qu'il veut demeurer et demeurera étranger aux compétitions temporelles envers les autres Etats et aux réunions internationales convoquées pour cet objet, à moins que les parties en litige ne fassent un appel unanime à sa mission de paix, se réservant en chaque cas de faire valoir sa puissance morale et spirituelle.

En conséquence, la Cité du Vatican sera toujours et en tout cas considérée comme un territoire neutre et inviolable.⁶⁹

Oppenheim has commented as follows on the status conferred on the Vatican City by the Lateran Treaty:

The accurate view is probably that the Lateran Treaty has created a new international State of the Vatican City, with the incumbent of the Holy See as its Head. That state possesses the formal requirements of statehood and is an international person recognised as such by other States. Its true significance in the field of International Law lies in the fact that international personality is here recognized to be vested in an entity pursuing objects essentially different from those inherent in national States such as those which have hitherto comprised the society of States.⁷⁰

In view of the fact that the objects of the Vatican City are not identical with those of other states, it is not subject to the same international pressures and exerts a moral leadership through its authoritative spiritual

⁶⁸ Ibid., p. 86

⁶⁹ Claude Albert Colliard, ed., Droit International et Histoire Diplomatique; Documents Choisis, Donat Monchrestien, Paris, 1950, p. 58

⁷⁰ L. Oppenheim, op.cit., Vol. 1, p. 254-255

position rather than a leadership based on power politics.

The United States explicitly recognized the permanent neutrality of the Vatican City during the Second World War:

In July, 1943, at the time of the Allied invasion of Sicily, the President of the United States assured the Pope that "throughout the period of operations the neutral status of the Vatican City as well as of the Papal domains throughout Italy will be respected."⁷¹

7. A comparison: the European neutrals.

In summation, it may be said that in refraining from military alliances while at the same time participating in the United Nations Organization and building up an armed force to resist any possible violation of her neutrality, Austria resembles Sweden. Sweden has not, however, undertaken the formal written commitment Austria has assumed by her conventional and constitutional undertakings to maintain her permanent neutrality. As Austrian Foreign Minister Kreisky has mentioned, Austrian practice resembles that of Sweden while her constitutional commitment to permanent neutrality is similar to that of Switzerland. Unlike Switzerland, however, she sees no inconsistency between her membership in the United Nations Organization and her status of permanent neutrality, believing, as she does, that permanent neutrality is one of several means by which collective security may be achieved by providing a stabilizing agency in a potential theatre of conflict.

Austrian permanent neutrality differs from Yugoslav neutrality in that the latter neutrality is based on a spirit of assertive nationalism and the desire to play an independent and active role in international

⁷¹ Ibid., Vol. II, p. 246n.

affairs. Austria could not hope to align a large number of uncommitted or neutralist states, as Yugoslavia has done, for instance, in order forcibly, to bring to bear in international councils a point of view inclining to favour one bloc at the expense of another and so to intervene actively in high diplomacy. For Austria to do so would be to forfeit the respect and support for her permanent neutrality of the bloc she opposed and others and to undermine gravely the international status she is pledged to uphold. In addition, any such role assumed by Austria would compromise her neutrality if it meant cooperation with non-neutral powers to achieve a political object antagonistic to other powers.

Austrian neutrality resembles Finnish neutrality in that both are stabilizing media whereby the neutral states seek to insulate themselves from the great political pressure they would otherwise be exposed to as small states bordering on Soviet-dominated Europe. Permanent neutrality in the case of Austria, and traditional neutrality in the case of Finland afford effective mechanisms to preserve their respective independence, because they remove the potential irritant of military involvement between a small state and a large and powerful one which, if differences arose, could only be resolved in favour of the latter.

Finally, although there is no exact basis for comparison between Austria and the Vatican City, in view of their different constitutions and international functions, it may be said that in their respective ways both Austria and the Vatican City provide a beneficial influence and example to the international community of states working for peace through promoting international harmony and stability. In the case of the Vatican City the influence is primarily religious and moral deriving from its unique

spiritual position, whereas in the case of Austria in addition to the moral influence of a small state seeking harmonious relations with all its neighbours, it plays a direct political role in providing a politically unaligned territory free of the tension present elsewhere on the periphery of the eastern and western blocs.

Accordingly, there are points of similarity and difference between Austria and the other European neutrals, both traditional and permanent, and the variations of neutral policy seen in its different European exemplifications illustrate that different factors are at play in each case, but also that, in each case, a similar though not identical response has for a time served to stabilize relations and promote international harmony by removing the potential irritant of military alliances and the suspicion and ill-will they foment.

8. Neutrality Regarded as a Legal Status and as a Basis for Foreign Policy

The variations in the circumstances of their origin and in the particular historic and economic factors affecting them have given a distinctive cast to each of the traditional and permanent neutrals mentioned above. Thus, Switzerland had a long tradition of neutrality before its status was formally crystallized into permanent neutrality by the Treaty of Paris in 1815, while the predecessor of Austria (with which, however, the present Austrian Republic does not recognize legal continuity) was constantly embroiled in war. Finland has also recently engaged in war whilst Sweden has managed to avoid war since 1814. The Vatican City, as constituted in 1929 by the Lateran Treaty, has no physical capacity to wage war and its foreign policy is unique in that it is largely founded on the moral influence

inherent in its spiritual position.

In the case of each of the above neutrals, the range of possibility of permissible foreign policy is determined not merely by what it considers its abstract legal position to be, but upon the different influences playing upon it from without. This was manifested during the war when Sweden and Switzerland were, respectively, forced to allow troops over the frontier or to engage in trade involving war materiel in what would normally be regarded as a contravention of their neutral duties.

Since traditional or permanent neutrality is characteristic of states which are relatively small it promotes incorrect analysis to regard such neutralities with clinical refinement, for the competence of such states is limited. There is no neutrality in a historic, economic or political vacuum simply because no such vacuum exists. In this connection, neutrality will only endure as long as it remains possible for the neutral to preserve enough of its competence to ward off foreign influences that would deflect it from its neutral course beyond the degree tolerable to any of the belligerents. There will be a wide degree of difference in the ability (or, indeed, the inclination) with which states are able to fulfill their neutral duties and practical circumstances will dictate in each case the success with which their efforts meet.

The duties of permanent neutrals are even higher than those of voluntary or traditional neutrals. Their duties are higher because in their response to international events they must have regard not only to the exigencies of the moment, or of the immediate future, but of the indefinite future since their status is meant to be permanent. What may be permissible for other neutrals is, therefore, not always permissible for

them, since they must consider the effect any isolated act-of-state will have in moulding long-range policy. The example of Switzerland indicates that at times pressure from belligerents has required it to act contrary to its duties as a permanent neutral, but this has been tolerable because its good faith in attempting to preserve its status has generally been manifest and such of its acts as were supposedly in violation of its permanent neutrality were recognized to be the result of coercion and not of free choice. The foregoing manifest of good faith was substantially assisted by the practical consideration in Switzerland's case that for belligerents of either side the maintenance of even a facade of neutrality was preferable to Swiss association with the enemy camp.

CHAPTER VII

THE FUTURE OF PERMANENT NEUTRALITY

The success Austria achieves in forging a viable permanent neutrality, aided by the example of Switzerland, will be of assistance in demonstrating the means of relieving international tension in other troubled areas of the world. The device of neutralization enables both antagonists in the Cold War to withdraw gracefully from a potential arena without the conviction that the adversary has gained a tangible military benefit. Although this is not a cure for the illness afflicting the international community, it can be a valuable palliative in certain areas.

That the above suggestion is not merely idle speculation is borne out by a statement made by the present President of the United States in a speech he made on Disarmament while still a Senator on December 11, 1959:

Another drastic step... would be an agreement on general disarmament and demilitarization for some particular area of tension. The treaty of peace and the neutralization of Austria in return for the withdrawal of Soviet occupation forces may point to other applications of such a policy. The Middle East might be an area where a political settlement and disarmament could be fruitfully combined. The new treaty on Antarctica may show the way.¹

The President's statement envisages the coupling of neutralization with demilitarization, at least in certain instances. It should be remembered, however that there is a distinction between neutralization and demilitarization and that while they are permanently neutral Austria and Switzerland are not demilitarized.

It has been suggested that neutralization might be a stabilizing influence in both Laos and West Berlin. After he assumed office,

¹ John F. Kennedy, The Strategy of Peace, Toronto, Popular Library, 1961, p. 55.

President Kennedy acted to attempt to resolve the situation in Laos:

By March of this year (1961), then, Laos had become the centre of a renewed cold war and the process of military escalation was well advanced. It was at this point that President Kennedy...apparently made the decision to "bargain only from strength." ...At his television press conference on March 23 he reviewed the situation, stressing several main points.

He specifically endorsed the British diplomatic note (of the same day) which called upon Russia to accept a cease fire, recall of the Control Commission and reconvening of the international conference. He went some way toward conceding the errors of the previous administration when he said "If in the past there had been any possible ground for misunderstanding our desire for a truly neutral Laos, there should be none now.²

The Laos situation, however, sadly demonstrates the need for foresight, enterprise and better military intelligence in neutralizing potential trouble areas. By the time the proposal was finally made by the United States the military situation had deteriorated so seriously that the Communists considered that there was more to be gained militarily than by withdrawing and neutralizing the country, although Laos was finally neutralized.

A delicate balance must be drawn between the advantages to be secured from a military alliance in peripheral areas and the advantage of neutralizing the state concerned and thereby promoting international stability. It is suggested that in small border states greater long-range advantages are secured from neutralization if it can be maintained than from a policy of military alliance. The need for armaments and fortifications in such areas is thereby reduced and tension along a frontier area is decreased. There must always be a measure of agreement on the part of the neutralized state to become neutralized, but it is quite probable that

² Kenneth McNaught, "Can the U.S. Save Face in Asia?" in Saturday Night, Vol. 76, No. 9, issue of April 29, 1961, p. 12

when such a state realizes that a neutralization treaty will impose a legal and moral duty on the recognizing powers to honour its territorial integrity and its inviolability from external attack, the insulation this will afford it from military aggression will be appreciated and accepted. To make the neutralization practically acceptable to the major powers, the advantages to be derived from such neutralization must not be disproportionate to any power or bloc of powers; in other words, there must be mutuality of advantage.

One of the hazards implicit in neutralization for the Western powers is that hitherto the communist powers have been more effective in peaceful penetration of small nations by propaganda, trade, subversion of government and exploiting the opportunities afforded to the local communist faction. For this reason, wherever neutralization is possible it should be coupled with foreign aid, technical assistance and other assistance not in violation of the state's neutral status in order to improve the state's independent position by strengthening its economy and industry. In promoting a sound economy in neutralized states, the danger of a leftist subversion of the Government will be reduced since one of the most potent sources of discontent will be removed.

In West Berlin it is the Soviets rather than the West who are proposing that the City of West Berlin be demilitarized and neutralized. In reply to the question of a German newspaper correspondent on the Soviet proposals for reconstituting West Berlin Mr. Khrushchev answered as follows:

The Soviet Government's proposals for doing away with the vestiges of the occupation regime in Berlin and for turning West Berlin into an independent political entity--- a demilitarized free city--- gives one an idea of what Berlin would be like. In our view West Berlin must be a free city in whose economic and political life no country, including the existing German states, would be able to interfere.

The free city of West Berlin will have its own constitution, based on democratic principles... Legislative power will be vested in a freely elected Parliament, and executive power in a government appointed by Parliament. The city will also have its own independent judicature.³

The difficulty posed by an "independent" Berlin to the West, is that such an entity would be a small democratic enclave completely surrounded by communist territory and with access to the West only by sufferance of the communists. The chances are that such a political entity would be most unstable. In Laos and West Berlin considerations of immediate practical advantage have convinced the Western powers and the Soviets, as the case may be, to retain the advantage that they possess by virtue of occupation rather than to neutralize the area with what is regarded as at most a tenuous prospect of long-range gain through political stabilization.

1. Austria and Germany

Since post-war Germany and Austria were both divided into occupation zones and are geographically located between the Eastern and Western blocs it has sometimes been suggested that the solution devised for politically reconstituting Austria might also be an effective solution for⁴ reunifying Germany.

Such a suggestion ignores two important facts. Germany is a larger and strategically more important country than Austria; it has larger armed forces, a strong military tradition, and its geographical situation athwart a large area of Central Europe is more critically important from a military

³ Nikita S. Krushchev, For Victory in Peaceful Competition With Capitalism, New York, Dutton, 1960, p. 772-773

⁴ Karl W. Deutsch and Lewis J. Edinger, Germany Rejoins the Powers, Stanford, California, Stanford University Press, 1959, p. 221

standpoint than is Austria's. Both the Eastern and Western camps will consequently regard with suspicion any suggestion which would tend to jeopardize their control over the area, since any miscalculation would result in a strategic loss of greater magnitude than would be the case in Austria. Also, despite the fact that Austria was dissected into occupation zones the zones never solidified into "states" as was the case in Germany. There was therefore a real possibility for the reconstitution of a unitary, neutralized state in Austria which hardly exists at present in Germany.⁵

The question of whether Germany herself would choose reunification at the price of neutralization is important in this context, and the answer is that most probably it would not. The following statement by West German Defence Minister Franz-Josef Strauss is instructive in this connection:

...although there exists a preference...for a reunited Germany to belong to a military alliance with the West, the hard political requirements of the German people might cause them to make a decision of the Austrian pattern (of neutralization between East and West)... Such a decision would have to rest on very sober political and military considerations... Without possessing potential power, Germany will never have a chance to be heard.⁶

The facts of German history run contrary to any proposal of neutralization. West Germany is one of the largest and most prosperous states in Europe and it has shown no disposition to disarm. Her Leaders would probably regard such a course as suicidal.

There have been various proposals for disengagement of Western and Soviet troops from Central Europe leaving a disarmed central zone as a buffer between the two cold war antagonists. Although this is not a

5 John Gunther, op.cit., p. 38-39

6 Karl W. Deutsch and Lewis J. Edinger, op.cit., p. 221

proposal for neutralization in the legal sense, such disengagement would have some of the effects of neutralization by promoting a withdrawal of the opposing forces from the affected area. Mr. Khrushchev himself suggested in the interviews he gave to Chester Bowles and Joseph Alsop on February 20, 1957, that both American and Russian troops should be withdrawn from Europe and the countries of Western Europe should also withdraw their troops from each others soil. A modus vivendi could then be arranged by negotiation between the NATO states and the members of the Warsaw Pact.⁷

Former American Secretary of State Dean Acheson has incisively criticised a modified proposal for disengagement advanced by George Kennan, erstwhile American ambassador to Moscow, which envisages the neutralization of Germany as a means of reunifying the country as well as disengagement. Of such a plan, Mr. Acheson says:

Whatever Germans might initially think they would be willing to do, there is no precedent in history for, nor does there seem to me to be any possibility of, the successful insulation of a large and vital country situated, as Germany is, between two power systems and with ambitions and purposes of its own. Constant strain would undermine the sanctions of neutralization. The final result would be determined

⁷ Michael Howard, Disengagement in Europe, Harmondsworth, Penguin, 1958, p. 36-37. Another better-known plan emanated from the eastern bloc the following year, the Rapacki Plan, named for Polish Foreign Minister Adam Rapacki. On 14 February, 1958, the Polish government proposed to representatives of nine foreign states in Warsaw that a central European zone free of nuclear weapons be established. The zone was to include Poland, Czechoslovakia and Eastern and Western Germany, and was to bind, as well as these states, France, Great Britain, the United States, the Soviet Union and other states with armed forces in the denuclearized area, namely, Belgium, Canada, Denmark and the Netherlands. The plan was supported by the Soviet Union but opposed by the United States and Great Britain, partly because it placed a premium on conventional weapons (in which the west was inferior) and partly because it envisaged a permanent division of Germany into two states. For the latter reason the plan is now mainly of historic interest, because of the hostility of West Germany and the United States to recognizing, implicitly or explicitly, the existence of an East German state.

by the relative strength of the pressures from the two sides. As I have already suggested, the pressure would all be from the Russian side. For, there would be no power in Europe capable of opposing Russian will after the departure of the United States from the continent and the acceptance of a broad missile-free area. Then, it would not be long, I fear, before there would be an accommodation of some sort or another between an abandoned Germany and the Great Power to the East.⁸

It might be suggested that the same problem exists in miniature in connection with the Soviet proposal for the neutralization of West Berlin. Any Western acceptance of disengagement would have to be predicated on the stability of the states from which troops were withdrawn. If it were a relatively simple matter for the Soviets to subvert such "disengaged" states, they would be achieving pacifically what had not been achieved formerly through threats of force. It is only realistic to admit that one of the chief influences promoting stability in Western Germany is the Allied occupation forces which are a powerful discouragement to would-be agitators. Once the Allied occupation forces leave there would be an invitation to subversive elements to attempt that had hitherto been impractical: the overthrow of the state by subversive means.

The neutralization of Germany seems, therefore, visionary and impractical at the present time. Germany, taken as a unit comprised of the two "states" into which it is now divided is too large and important, too militarily significant and too strategically important to admit of neutralization. As Mr. Acheson surmises, once the occupation troops had departed stresses would develop impelling the Germans to ally themselves furtively with one of the blocs. The sympathies of a reconstituted German state, for

⁸ Dean Acheson, "The Illusion of Disengagement" in Foreign Affairs, Vol. 36, No. 3, issue of April, 1958, p. 377

historical reasons, would most probably be with the West and the Soviet Union would be most disinclined to tolerate the existence of a "neutralized" German state when this became clear. Accordingly, neutralization must be conceived as a device for stabilizing relations along the median line between the blocs by removing relatively small and military weak states from the sphere of controversy.

2. Hungary.

The attempted unilateral declaration of permanent neutrality by Premier Imre Nagy of Hungary on November 1, 1956⁹ shows the limitations of neutralization as a device for promoting international stability. In Hungary's case there was no antecedent recognition of a status of permanent neutrality by other states and there was no mutuality of advantage as between the East and West which would serve as a foundation for neutralizing Hungary: the advantage would have been completely with the West.

On the evening of November 1, 1956 Premier Nagy announced Hungary's¹⁰ "neutrality" over Budapest Radio in the following words:

The Hungarian people desire the consolidation and further development of the achievements of their national revolution without joining any power blocks. (sic) The century-old dream of the Hungarian people is now being fulfilled...Our heroic struggle has made possible the enforcement in international relations of our people, of their fundamental national interest: neutrality. We appeal to our neighbours, countries near and far, to respect the unalterable decision of our people.¹¹

⁹ George Mikes, The Hungarian Revolution, New York, Andre Deutsch, 1957, p. 145.

¹⁰ Ibid., p. 145

¹¹ Ibid., loc.cit.

At the time the declaration was made it was almost a gesture of despair. Soviet forces were advancing rapidly towards Budapest and, as one commentator has observed, "It was not Nagy's declaration which caused the Soviet to intervene, it was the threat of intervention that caused Nagy to declare Hungary's neutrality."¹² Thus regarded, the neutrality of Hungary was a forlorn hope by an already-defeated government and not a realistic proposal.

The potential usefulness of neutralization is nonetheless underlined by the above episode. In terms of size and geographical location Hungary is the sort of state that might beneficially be neutralized, given mutuality of interest.

3. Prospects of Austrian Permanent Neutrality.

The feasibility of reducing tension and promoting stability through neutralization along the lines suggested above, rather quixotically, for Laos and West Berlin will be indicated with greater force if the Austrians successfully maintain their status. Although other states have been neutralized,¹³ Austria supplies the sole contemporary example of neutralization for the purpose, at least in part, of easing tension in the present unique power struggle. It is therefore important to weigh the probabilities of Austria's success in her new status, and consider the dangers threatening such success. Since political stability rests to a large degree on a sound national economy, it is necessary to enquire first into

¹² Ibid., p. 146

¹³ Vide supra, p. 10-14

Austria's economic viability and her economic relations with other states.

Despite the dismantling and seizure as "German war assets" of many industrial plants in the Soviet Zone of Austria before the evacuation in 1955, Austrian economic recovery after the end of the war was remarkable; Austrian economic recovery has been attributed to two principal factors:

Soon people were beginning to talk of "the Austrian miracle," but it was a miracle brought about by two very concrete and rational agencies (quite apart from the determination and hard work of the Austrian people); by a generous allocation of foreign aid, and by the resolute adoption of a long-term policy based on a balanced budget and a stable currency.¹⁴

Foreign aid to the amount of 379 million dollars was presented to Austria by Great Britain and the United States between 1945 and 1948, while a further 110 million dollars was placed at the disposal of Austria by private institutions abroad.¹⁵ Marshall Plan aid to Austria from January 1, 1948¹⁶ until its termination on March 31, 1955 totalled 962 million dollars.

Mr. Kreisky has emphasised that permanent neutrality has economic implications in that a permanent neutral may not consistently join any international economic organization regulating trade and tariffs which has an associated political program.¹⁷ In 1959 Austria joined the Free Trade Association.¹⁸ Since it is difficult to divorce international economic cooperation from politics there is some danger for Austria arising

14 Federal Press Service, op.cit., p. 71

15 Ibid., p. 71

16 Ibid., p. 72

17 Bruno Kreisky, op.cit., p. 275-276

18 Gordon Shepherd, op.cit., p. 34

from her membership in the Free Trade Association, but her refusal to seek full membership in the rival European Economic Community (Common Market) which has a more definite political program, reveals her sincere desire not to prejudice her neutrality.¹⁹

The Austrian membership in the European Free Trade Association is predicated on the consideration that it is possible to sever economics from politics at least to the extent required for Austria successfully to maintain her permanent neutrality. There is a tacit assumption here that normal trade relations will continue and that no inter-bloc economic rivalry will develop with communist East Europe.

There is some danger of political pressures arising from the existence of trade blocs whether or not the blocs as such have a political program. If, for example, a large volume of trade were to develop between the Soviet bloc and the European Free Trade Area, the centralized economy and relative self-sufficiency of the former bloc might enable it to make political demands of member states of the EFTA who would suffer the economic consequences of refusing to do so in the form of the elimination of communist markets on which the EFTA might come to rely. Such political demands by the Soviet bloc would inevitably generate a political response

¹⁹ John Gunther, *op.cit.*, p. 182 Of Austria's decision to join the European Free Trade Association rather than the European Economic Community an American commentator has observed: "Political sense had prevailed over economic sense, and Austria's citizens, most notably its businessmen, learned that the bread of neutrality is not always thickly buttered." In a representative recent year, for instance, the six other member states of the Association absorbed only 13 per cent of Austria's exports and provided only 16 per cent of her imports while states of the European Economic Community took 50 per cent of Austria's exports and provided 59 per cent of her imports. This hardly augurs well for continued Austrian economic prosperity if the Community raises large tariff barriers against outsiders, *vide* Joseph Wechsberg "Vienna Newsletter", in *The New Yorker*, Vol. 36, No. 16, issue of June 4, 1960, p. 112

on the part of the EFTA and Austria would have to choose between withdrawing from the Free Trade Area with its harsh economic consequences or compromising its permanent neutrality by participating in a hostile political exchange with another bloc. Alternatively, or in conjunction with the above, the Soviets might seek to divert foreign markets of the EFTA. This would also generate political stresses from which the Austrians would find it hard to remain aloof.

A somewhat emotional, but nevertheless not inaccurate assessment of the situation was made by a United States Congressional Committee:

The judgment on the creation of trade blocs must be made in comparison with alternatives. Creation of such blocs would be superior to any attempts to achieve self-sufficiency in smaller units, but if such blocs are considered a substitute for even wider ranging multilateral trade, they have definite disadvantages...The test should be that those groupings and rules used which are trade creating are to be encouraged: while those which merely divert trade or restrict trade are to be discouraged... But when blocs are designed to freeze out rival suppliers, and to deny access to raw materials and investment opportunities, then the seeds of future wars are being sown.

The greatest problem of restrictive and discriminatory regionalism is the existing Sino-Soviet bloc of countries which would offer us the choice, if they could, of strangulation as they take over a widening area, or of capitulation to their control.²⁰

The specific reasons for Austria's membership in the European Free Trade Area are to be found in the political ideals of the European Economic Community and restrictions on Austria's economic association with Germany in the Austrian State Treaty.

20 U.S. Government Printing Office, Foreign Economic Policy; Report of the Joint Committee on the Economic Report to the Congress of the United States, Washington, D.C., 1956, p. 18

21

Pursuant to Article 4 of the Austrian State Treaty "political or economic union with Germany in any form whatsoever" is forbidden. A strict construction of the foregoing article bars Austrian membership in the European Economic Community because West Germany is a member of that

22

organization. It is noteworthy that Article 4 forbids membership in a political or economic union with Germany "in any form whatsoever." The use of the word "or" which disjunctively separates "political" and "economic" suggests strongly that it is not an over-all political and economic union (such as the admission of Austria to Germany as a province) that is forbidden, but a political or economic union of any sort with Germany.

Since the member states of the Common Market have adopted a platform of ultimate political union this constitutes an additional, and perhaps the most important, reason why Austrian membership in the Common Market was impossible. Any such eventual political union would imply a monolithic foreign policy with non-neutral states which would be inconsistent with Austria's permanent neutrality:

Among the Six, there is a yearning for a larger unit. In each case, the state had been unable to provide its citizens with security during the last war. In each case, there is a desire for a stronger voice in international economic affairs or international political affairs, or both. This is not always attainable to each in isolation, but seems within reach when they act together. The means towards such state of affairs is in the first place a European Economic Community--- and the sooner the word Economic drops out of the title, the better will some of its supporters be pleased. There are feasts for prodigal sons and even the ghost of Charlemagne is sometimes invoked to look benignly on.²³

21 Austrian State Treaty, p. 163

22 F.V. Meyer, The Seven: A Provisional Appraisal of the European Free Trade Association, London, Barrie and Rockliff, 1960, vii.

23 Ibid., p. 51

With such mixed economic and political aspirations it is clear that Austrian membership in the Common Market would be inconsistent with her present status. Austria might possibly attempt to adhere to both the EFTA and the Soviet-bloc trading association, but the Western powers might object to this on the ground that any association with the communists would involve economic association with East Germany in contravention of Article 4 of the Austrian State Treaty.

In domestic politics, communist influence has been negligible since the time the Austrian provisional government was established in 1945. The present coalition government is stable and there appears to be no disposition on the part of the Austrians to alter it or to innovate in the political field:

...Ever since 1945 Austria has been ruled by a remarkable coalition of opposites, which has given the country complete political stability for fifteen years--- half a generation. First, the People's Party, which derives from the old Christian Social party (not socialist) of prewar years. Dollfuss and Schuschnigg were among its leaders ...It has always been strongly conservative, its basic support lies in the countryside, and it has marked clerical overtones. Second, the former Social Democrats, now known simply as the socialists... with their strength in the intelligentsia, the labor movement, and the towns. In 1945 the two acquired practically identical strength and this ratio has never altered.²⁴

A semi-fascist party on the extreme right won eight seats in the May, 1959²⁵ election while the communists are without representation in Parliament; in this same election the Socialists received 44.8 per cent of the vote²⁶ while the People's Party received 44.3 per cent giving them practically

24 John Gunther, op.cit., p. 183

25 Ibid., p. 184

26 New York World Telegram, "Austria" in The World Almanac: 1960 New York, 1960, p. 338

equal representation in Parliament under the proportional representation system in effect in Austria.

4. Future Austrian Foreign Policy.

At this juncture, the question of what foreign policy Austria may follow consistent with its permanent neutrality may be asked.

The international role of a permanently neutral state is militarily more restricted than that of other states, and she must be wary of entangling herself in political alliances by accepting economic commitments with non-economic consequences, as suggested above;²⁷ her participation in international fora can be more refreshing and constructive, if she chooses, because she need not follow the relatively monolithic policy of a bloc, nor seek to promote the vested interests of East or West. Thus far, however, the foreign policy of her leaders has been cautious and conservative as is perhaps necessary in a period of transition from one political form to another.

Austria's reception of Hungarian refugees during and after the Revolution of 1956 did promote friction with Hungary.²⁸ When an Austrian delegation visited the Soviet Union in 1958²⁹ one of the topics discussed was Austria's relations with communist Eastern Europe:

²⁷ Vide supra, 148-154

²⁸ Bruno Kreisky, op.cit., p. 279

²⁹ Ibid., p. 277

The Russians appeared anxious to avoid any topic that might be disagreeable for our delegation to discuss. It was impossible, however, to avoid the subject of Austria's relation to Hungary. The Soviet spokesmen stressed that they would like Austria to have the same sort of normal relations with its eastern neighbours as it has with Russia. In the case of our relations with Czechoslovakia, we were able to say that we were comparatively free of friction. Relations with Hungary, on the other hand, we had to stress, had deteriorated considerably for reasons outside Austria's control. It had been Austria's duty to accept the Hungarian refugees who had sought asylum in October, 1956, and this had impelled the Hungarian Government to assume a hostile attitude.³⁰

At the Thirteenth General Assembly of the United Nations Austria appealed³¹ to the Hungarian Government for an amnesty for the revolutionists. She maintains that her reception of the refugees was prompted by humanitarian³² motives only.

Some of the future courses envisaged for Austria would hardly be consistent with her status:

Austria entered its independent, neutral way--- with the signing of the Vienna Treaty (1955) --- with almost the same status it had a millenium ago: a small country of Germanic people thrust into Slav and Magyar territory. Whether the Austrians will fill again the role they held in the past remains to be seen. They were the wedge of the West that stood between the Slavic East and the non-Slav West; and they were the core around which a large part of the west and Southern Slavs were oriented--- westward, and, thereby, drawn away from the more logical eastern (ethnic) orientation. Vienna, key city of the Danube, could well act as a centre from which to again capture and fulfill both functions in the future.³³

The conception of Austria fulfilling the role of a "wedge" supposedly possessed by its predecessor is hardly realistic in the light of present

³⁰ Ibid., p. 278-279

³¹ Ibid., p. 279

³² Ibid., p. 279

³³ Lucile Carlson, Geography and World Politics, Englewood Cliffs, N.J., Prentice Hall, 1958, p. 361-362

historical and political factors. Austria is now a small, militarily weak nation of barely 7,000,000 people which has found it difficult, until recently, to rebuild a sound economy even with substantial American aid.³⁴

To conceive of Austria, as at present constituted, as a "wedge" used progressively to detach satellites from Moscow, which seems to be the tenor of Miss Carlson's remarks, is unrealistic.

When Austria is seen as a small, neutralized state in the centre of two great power blocs each of which follows a more or less uniform foreign policy and jealously watches to prevent defections, the suggestion that Austria could play the role of a "wedge", at least in the near future, is not a mature appraisal of the situation. Austria will do well to maintain her neutrality and independence in the light of all the opposing forces playing upon her.

Austrian foreign policy must be more or less accommodating to East or West according to the shifting allocation of power between the blocs. The goal of her foreign policy, broadly defined, must be to maintain as high a degree of independent action as is possible for a small state in her situation. Any movement on her part to influence the distribution of power between the blocs by enticing satellites away from the Soviet Union would destroy her permanent neutrality. Perhaps Austria's neutral example might be influential with some of the states of communist East Europe,³⁵ however, as it was in 1956 with Hungary, albeit unsuccessfully. The term "bloc" while broadly descriptive of a solidarity in the furtherance of

34 The New York World Telegram, op.cit., "Austria" p. 338

35 Vide supra, 147-148

ideals more or less imposed by a senior partner, may be misleading if it is understood as an absolute denoting iron inflexibility as the example of the defection of Yugoslavia and Albania from the Soviet bloc reveals. Following the example of Yugoslavia, Czechoslovakia and Poland might conceivably declare their neutrality, at an opportune moment, and assume a less rigorous communist position, or perhaps even adopt another political system.

In coming years Austria's strong sympathy for the social ideals of the West, coupled with her marked aversion for Communism, will make a permanently neutral course difficult to follow, especially in view of her situation on the rim of a communist empire. Her present status will allow of no other course, however. If she successfully maintains her status her statesmen will deserve much credit. So far the Austrians have shown a non-doctrinaire, pragmatic and adaptable attitude which combines a certain degree of flexibility with due observance of her legal duties as a permanent neutral. This augurs well for the future.

SUMMARY AND CONCLUSIONS

The development of neutrality was retarded until the advent of modern times by 1. the institution of feudalism characterized by a hierarchic social structure which made neutrality impossible because of the military obligations of feudal subordinates to their overlords in time of war, and 2. the Mission of Peace and moral leadership of the Church which entailed that Christian Princes in an ideally universal society should participate militarily in measures against the infidel or other disturbers of the Peace in a "Just War" at the behest of the Church. The resurgence of this latter idea of "bellum justum" characterized the present epoch, but for practical reasons it should not be overstressed.

In the last two centuries, especially, neutrality has undergone many changes as reflected in the varying co-relative rights and duties envisaged for neutrals and belligerents at different times, and the rigour with which the neutral duties of impartiality and self-defence are insisted upon. In general, the trend has been towards more strictness in defining such rights and duties in theory, although it has been difficult to secure literal observance of the new legal norms. At present, voluntary neutrals 1. refrain from military participation in war and military alliances. 2. act impartially towards all belligerents (although the latter duty is not as rigorously observed as the former) and 3. defend themselves if attacked from any quarter. Co-relatively, belligerents must abstain from warlike acts in neutral territory and protect neutral envoys and neutral goods in transit (except contraband) in their own territory or territory over which they exercise control. Toleration by belligerents of breaches of a neutral's duties generally depends on the capacity of such belligerents to take effective counter-measures against such breaches. In international law, reparation in the form of pecuniary damages may be exacted by a belligerent for an infraction

of neutral duties or by a neutral for the non-observance of a belligerent's duties towards it.

Permanent neutrals assume duties in respect of their legal status in peace as well as war, hence the adjective "permanent". Their neutrality, to be cognizable in international law, must be recognized and may be guaranteed by other states. Such neutrals must refrain in peace time from any action which would compromise their neutrality in time of war. They must also abide by the terms of any treaty or other international agreement originating their status. Austria has interpreted her duties as a permanent neutral to be: 1. abstaining from membership in military alliances; 2. prohibiting the establishment of foreign military bases on her territory, and 3. accepting no economic or other obligations in peace time that would be inconsistent with her status in time or war. The three foregoing duties would seem to be necessary ingredients in the foreign policy of any permanent neutral. There is no obligation for such a state to remain ideologically neutral, however, or to refrain from courteously voicing opposition to the acts and policies of belligerents, either officially or unofficially.

The advent of the League of Nations and the United Nations Organization were at first considered to have rendered neutrality obsolete as a permissive legal status. The Covenant of the League of Nations and the United Nations Charter were thought by some to universalize the obligation to resort to force or to assist those resorting to force by non-violent means, in order to restrain aggressors and thus to further collective security. However, the continued existence of neutrals for example, in the Korean

War shows that neutrality remains as a legal status during hostilities.

The total nature of modern war in mobilizing all resources, scientific, economic and other, for the prosecution of war restricts the possibility of neutrality by affecting alike belligerents and non-belligerents and thus tending to draw neutrals involuntarily into war. Socialized economies which require the branding as acts of state of those acts which were formerly performed mainly by private individuals restricts the trading of neutrals with belligerents since what is permissible for a private individual is not permissible for a neutral state.

"Neutrality" or the abstention from the power struggle by military blocs, must be sharply distinguished from permanent neutrality which is a legal status cognizable in international law characterizing those states which do not participate in war.

Austrian permanent neutrality emerged with the reconstitution of an independent Austrian state in 1955. Austria's new status was defined by the Austrian State Treaty signed by Austria and the Four occupying Powers on May 15, 1955, and the Constitutional Law of October 26, 1955 and the subsequent exchange of notes relative thereto. The Constitutional Law was enacted in pursuance of the Moscow Memorandum, a bilateral agreement between Austria and the Soviet Union signed in Moscow on April 15, 1955. Permanent Neutrality was not mentioned in the Treaty but was required of Austria by the Soviets at the Berlin Conference of 1954 and in the Moscow Memorandum before they would withdraw their troops from Austria. There is accordingly, considerable evidence of Soviet moral duress in dictating a status of permanent neutrality, but this would not affect the validity of

the status in international law. The Austrians have subsequently manifested full acceptance of the status and have shown no disposition to attempt to change it, which could be done only with the consent of the four Powers.

In broad terms, those states recognizing Austrian permanent neutrality have assumed a duty to do nothing directly inconsistent with such status, such as invade Austria or urge its absorption by another state. Their recognition of permanent neutrality, with the possible exception of the Soviet Union, does not import a military guarantee of the inviolability of Austrian territory.

Unlike Switzerland, Austria belongs to the United Nations. An implied exception should be understood in her case with respect to the duties incidental to membership. The collective military action envisaged by the Charter to restrain aggressors could not be joined in by Austria without violating her permanent neutrality. Austrian permanent neutrality may be said to be consistent with the United Nations Charter in so far as it relieves tension in an area of potential international conflict and thus advances the main object of the Charter which is the fostering of international peace and security. In doing this Austria is furthering the main purpose of the Organization, hence any lesser obligations which might be in conflict with permanent neutrality must be subordinated in Austria's case. This interpretation gives the Charter flexibility to adapt itself to different situations which promote its ends without sacrificing any of its overriding aims. In recent years the Security Council has become relatively ineffective because of the veto and quarrels among the Great Powers. As the General Assembly has gradually assumed greater importance

and the smaller states have acquired a larger voice, the role of a permanent neutral has become less difficult. Since in this sphere, at least, it is subject to less pressure.

In addition to Austria, Switzerland, the Vatican City and formerly Belgium and Luxemburg are examples of permanent neutrals, while Sweden, Finland and the other Scandinavian states have followed a policy of "traditional" neutrality with varying degrees of success. Yugoslavia has been forced to follow a neutral policy because of her unacceptability as an ally to either the communist states or the West, and, indeed, her own disinclination to form a military alliance with either bloc.

In each of the foregoing cases, neutrality is the result of a complex of influences, domestic and foreign, and each instance of neutrality is sui-generis; it is consequently impossible to generalize concerning neutrality beyond saying that the necessary ingredients of neutrality for voluntary neutrals are 1. non-participation in war, and 2. impartiality (to a lesser degree). In addition to the foregoing duties which apply, of course, only during war, permanent neutrals have the added duty of refraining from any act in peace time that would compromise their status during war.

Any appraisal of the possibility of sustaining Austria's permanent neutrality must be made with reference to the durability of the Swiss status, which is comparable in theory to the Austrian status but diverges in practice in that the Swiss are not members of the United Nations Organization. Despite repeated European upheavals the Swiss have maintained their permanent neutrality since 1815 and their traditional neutrality

since long before that. Perhaps the greatest challenge of all to the maintenance of their status was the existence of the strongly marked East-West tension just after the Second World War in 1945 and 1946. There is increasing evidence, however, that the solidarity of the communist states is coming to an end with the defections of Yugoslavia and Albania from the Soviet camp and the strained relations presently existing between Moscow and Peking. In addition, there are quarrels in several Marxist parties notably the French and Italian parties, between orthodox and revisionist groups denoting the divisive trends among European Marxists, and, strangely enough, the Chinese claim that their version of Marx is more authentic than that of the Kremlin, since they retain the concept of world revolution forsaken by Kremlin strategists for that of economic penetration and peaceful subversion. The lack of a monolithic foreign policy among communist states makes it relatively easier for a permanently neutral state to create an acceptable foreign policy since to give offence to one communist state does not necessarily alienate a whole bloc.

The Swiss military re-orientation poses a certain threat to her permanent neutrality in that the creation of a mobile armed force which might be integrated with allies armed with nuclear weapons has caused suspicion in Moscow, but the Swiss continue to remain cautiously aloof from any overt military association with other states. The terms of the Austrian State Treaty would make it impossible for Austria to adopt nuclear arms, and a military organization adapted to their use would be a manifest of bad faith and would probably compromise her permanent neutrality.

The major problem confronting both Austria and Switzerland is not

posed by the communist bloc, but by the necessity of ensuring their future economic prosperity through effecting an understanding with the European Economic Community, with whom a very substantial part of their trade is carried on, in order to retain the economic stability on which their political stability and consequently their permanent neutrality must rest. It is probable that they will achieve this, perhaps by becoming associate members of the Community which would not commit them to its political program. For the moment, however, their entry as "neutrals" is opposed by France which regards their present neutrality as unrealistic.

The device of neutralization may prove to be a valuable expedient in stabilizing international relations if potential trouble areas can be neutralized. Although difficult to apply in their respective contexts, Mr. Kennedy's suggested neutralization of Laos and Mr. Khrushchev's suggested neutralization of West Berlin indicate the possibilities for such a device. For neutralization to be workable, however, 1. the state neutralized should be relatively small and should accept such a status willingly, and 2. there must be mutuality of benefit among the neutralizing powers. The former condition is necessary because if a large state were neutralized it would lead to stress and instability through attempted subversion. This would be true of Germany where the occupation regimes have "solidified" into states which would generate faction if the country were reunified and neutralized. The latter condition is necessary to secure general international agreement to neutralization; neutralization by one bloc only would not relieve tension since it would give the state so neutralized the appearance of being a "puppet" of the bloc.

The increasingly important role of international economic associations will tend to involve neutral member states politically by making it more difficult for them to remain politically impartial because of their economic dependence on, and hence the binding up of their vital national interest with, potential belligerent powers. One of the most important problems faced by a permanent neutral is the reconciliation of its international status with membership in an international trading group.

The economic and political spheres have become closely inter-related as is evidenced, especially, by the European Economic Community which envisages close political cooperation and eventual federation of its members. It is becoming difficult to divorce international economic action from associated political action; this would be particularly evident in an inter-bloc "trade war." This is the context in which permanent neutrals must seek to maintain their status.

In any event, permanent neutrality imposes upon the neutral an exacting task of statesmanship in requiring it to refrain from any action which could be construed as intervention on behalf of one of the contending forces in the Cold War. The success of Switzerland in the lengthy maintenance of a comparable status provides encouragement for Austria; however, economic conditions and historical circumstances differ for Austria and she will have to fashion her own distinctive permanent neutrality in her own manner.

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Dr. Kreisky comments that Austria is neutral, yet "committed to the principles of Western civilization". Polarization of political power is on the wane and this will permit a small permanently neutral state to have a freer foreign policy.

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Dr. Kreisky comments on the economic significance of Europe's neutral states, Austria, Switzerland, Sweden and Finland, citing their combined purchase of more than four billion dollars worth of goods from European Common Market Countries in 1961 compared with only 2 billion dollars from the United States. He stressed that the neutrals should have a voice in any plan for the unification of Europe because of their economic importance.

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McNaught, Kenneth, "Can the U.S. Save Face in Asia?" in Saturday Night, Vol. 76, No. 9, Whole No., 3390, issue of April 29, 1961, p. 12-14.

A glimpse at the background of the United States proposal to neutralize Laos and the dangers inherent in the Fall of Laos for the West.

Medicott, W.N., "Economic Warfare", in The War and The Neutrals, London, Oxford University Press, 1956.

The author discusses the economic effects of war on neutrals. The article underlines the difficulty of neutrals remaining impartial when their vital national interests are threatened by the belligerents.

Meyer, F.V., The Seven: A Provisional Appraisal of the European Free Trade Association, London, Barrie and Rockliff, 1960, viii-140 p.

This study may already be dated by recent developments prompting the United Kingdom to withdraw from the Free Trade Area, but it contains an interesting comparison of the Free Trade Area and the European Economic Community (Common Market) and adverts to the political orientation of the latter Organization.

Mikes, George, The Hungarian Revolution, London, Andre Deutsch, 1957, 192 p.

An account of the Magyar Rebellion of 1956 which contains an illuminating narrative of Premier Imre Nagy's attempt to make a declaration of permanent neutrality on the Austrian model.

"Moscow Memorandum" in The American Journal of International Law, Vol. 49, No. 4., issue of October, 1955, p. 191-194.

The text of the bilateral international agreement concluded on April 15, 1955 between Austria and the Soviet Union whereby the former agreed to make a parliamentary declaration of permanent neutrality and seek to obtain international recognition of it from the Great Powers and other nations.

Oppenheim, L., International Law, 7th edition, H. Lauterpacht, ed., 2 vols., London, Longmans, 1960, Vol. I, lvi-1072 p; Vol II, liii-941 p.

A classic reference work written many years ago which is now beginning to show the strain of constant re-editing. The work, however, is a most useful synthesis of law and fact.

Pinder, John, Britain and the Common Market, London, Cresset, 1961, x-134 p.

Mr. Pinder adverts to the hostility of France to the reception of Austria and Switzerland as associate members of the European Economic Community, enabling them to secure economic advantages without assuming political commitments. He refers to the dilemma confronting them because political alignment with the Six would signify an end to their permanent neutrality. On the other hand, to remain outside the Community may seriously affect their economies because of tariffs created by the Community against outsiders.

Queen's Printer, Report of the Department of External Affairs, 1949
Ottawa, Department of External Affairs, 1950, 125 p.

Recounts the official Canadian Government attitude to post-war Austria.

----- Report of the Department of External Affairs, 1955
Ottawa, Department of External Affairs, 1956, 55 p.

Records Canada's recognition of Austrian permanent neutrality.

----- Report of the Department of External Affairs, 1956
Ottawa, Department of External Affairs, 1957, 67 p.

A brief but useful commentary on Austria's foreign relations.

von Rauch, Georg, A History of Soviet Russia, New York, Praeger, 1958, xiii-520 p.

A perceptive study of Soviet Russia from the Revolution to the Khrushchev era.

Secretariat General du Gouvernement, "Dix ans de Coalition Gouvernementale en Autriche", by Edgar Traugett, in Christ und Welt, issue of February 17, 1961, reprinted in La Documentation Française, No. o. 1075, issue of 25 March, 1961, p. 1-4.

The reviewer speaks of the many problems, domestic and foreign, confronting the remarkable red-black coalition now governing Austria. He contends that any supra-national movement would be incompatible with Austria's present status because (1) it would probably contravene the prohibition against Anschluss in the Austrian State Treaty, and (2) it would be inconsistent with Austria's duties as a permanent neutral. He concedes that the coalition has been beneficial, but regards its indefinite continuance as an evil because it would make Austrian democracy a hollow form devoid of vitality.

-----, "L'Autriche peut-elle Défendre sa Neutralité?" by Annelise Schulz, in The Daily Telegraph, London, issue of 25 April, 1961, reprinted in La Documentation Française, No. O.1108 issue of 20 June, 1961, p. 7-8.

The author concludes that the Austrian government wishes to rearm so that the small state will possess sufficient strength to deter aggressors from using Austria as a thoroughfare to the domains of larger opponents, but finds that the Austrians themselves are only lukewarm about rearming.

-----, "La Suede Sort de son Isolement", by Victor Vinde, in The Guardian, Manchester, issue of 3 May, 1961, reprinted in La Documentation Française, No. O.1108, issue of 20 June, 1961, p. 1-2.

Mr. Vinde sees Swedish neutrality primarily in terms of an official policy of military non-alignment. He considers the Swedish press to be relatively more critical of the Soviet Union than many English newspapers, notably the Guardian and the Times.

Secher, Herbert P., "Austria's Survival", in Contemporary Political Ideologies, ed. Joseph S. Roucek, Paterson, New Hersey, Littlefield, 1961, p. 345-378.

The author examines the unusually successful coalition between Austria's Socialist and Christian Social Parties which has ensured the political stability required "for a status of permanent neutrality.

Siegler, Dr. Heinrich, Oesterreichs Weg Zur Souveraenitaet, Neutralitaet, Prosperitaet: 1945 - 1959, Bonn, Verlag fuer Zeitzrchive, 1959, xii-223-25 p.

Dr. Siegler's work is concerned with the broad historical and economic development of Austria both before and after the acquisition of the status of permanent neutrality in 1955. The book is well documented and contains valuable statistical information on Austrian industry, as well as a list of 94 international organizations to which Austria belonged in 1959 and maps showing the historic development of the Austria under the Habsburgs, the dual Monarchy and the Austrian Republic. A relatively short chapter of 15 pages outlines the basis of Austrian permanent neutrality and quotes representative Austrian and foreign views on Austrian neutrality.

Seidl-Hohenveldern, Ignaz, "Relation of International Law to Internal Law in Austria" in American Journal of International Law, Vol. 49, No. 4, issue of October, 1955, p. 451-476.

An extended commentary on Article 9 of the Austrian Federal Constitution which incorporates the "generally recognized rules of international law" into Austrian domestic law.

Shepherd, Gordon, "Austria, The Reluctant Neutral", in The Reporter, Vol. 23 issue of October 27, 1960, p. 31-34.

Especially interesting in that the author documents the Austrian bias towards a western form of social organization which makes her permanent neutrality difficult.

Schwarzenberger, Georg, A Manual of International Law, 4th ed., London, Stevens, 1960, 2 vols., Vol. I, ix-384 p., Vol. II, 385-819 p.

An authoritative work on international law which is more up to date than Oppenheim.

Sherman, Gordon E. "The Neutrality of Switzerland: I, The Vienna Treaties," in The American Journal of International Law, Vol. 12, No. 2, issue of April, 1918, p. 241-250.

-----, "The Neutrality of Switzerland: II, Geneva, The Pays de Gex and Haute Savoie", in The American Journal of International Law, Vol. 12, No. 4, issue of October, 1918, p. 780-795.

Although now somewhat out of date, the above ~~articles~~ provide rich historical background on the origin and development of Swiss permanent neutrality in the nineteenth century and up to the First World War.

Slessor, Marshal of the R.A.F. Sir John, The Great Deterrent, London, Cassell, 1957 xii-322 p.

An anthology of articles and speeches by Sir John on western strategy in the age of nuclear missiles. His comments in the first article on the effects of world opinion of the German violation of Belgian permanent neutrality at the beginning of the First World War are interesting and underline the importance of propaganda in modern war.

Starke, J.G., An Introduction to International Law, London, Butterworths, 1960, xxi-467-27 p.

This work is informative and contains a fuller account of permanent neutrality than other general surveys.

Torngren, Ralf, "The Neutrality of Finland," in Foreign Affairs, Vol. 39, No. 4., issue of July, 1961, p. 601-609.

The late Prime Minister and Foreign Minister of Finland contends that Finland's foreign policy has always been predicated on neutrality which is, indeed, a condition of its continued existence. He contends, like the Austrians and the Swiss, that a policy of neutrality does not connote ideological lukewarmness or abstention from criticism of the Great Powers.

Toynbee, Arnold and Veronica M., ed., The War and the Neutrals, London, Oxford University Press, 1956, x-378.

An anthology of articles recounting the successes and failures of neutral states in maintaining their neutrality during the Second World War. The article on Switzerland is especially good.

U.S. Government Printing Office, "Report of the Joint Committee on the Economic Report to the Congress of the United States", Report No. 1312, 84th Congress, Superintendent of Documents, Washington, D.C., 1956 iv-33 p.

A report on the Foreign economic policy of the United States by a joint committee of the Senate and the House of Representatives.

U.S. Government Printing Office, Foreign Ministers Meeting: Berlin Discussions, January 25 ---February 18, 1954, Department of State Publication 5399, Superintendent of Documents, Washington, D.C., 1954, xxii-241 p.

-----, "Report by the Secretary of State to the President, May 27, 1955", in American Foreign Policy, 1950-1955 Basic Documents, Vol. 1, Superintendent of Documents, Washington, D.C., 1957, p. 676-682.

A report to the President on the signing of the Austrian State Treaty on May 15, 1955 containing information on the preliminaries and implications of the Treaty.

-----, "Report of the Senate Committee on Foreign Relations, June 15, 1955" in American Foreign Policy, 1950-1955: Basic Documents, Vol. II, Superintendent of Documents, Washington, D.C., 1957, p. 682-697.

A report on the signing of the Austrian State Treaty by a Senate Committee of the 84th Congress recommending ratification of the Treaty by the Senate.

-----, "Austrian Neutrality: Note From the Secretary of State to the Austrian Ambassador, December 6, 1955," in American Foreign Policy, 1950-1955: Basic Documents, Vol. II, Superintendent of Documents, Washington, D.C., 1957, p. 1777-1778.

The American Note recognizing (but not guaranteeing) Austrian permanent neutrality.

-----, Review of the United Nations Charter, Document No. 164, 83d Congress, 2d Session, Superintendent of Documents, Washington, D.C. 1955, vii-365 p.

An extensive review of the procedural and substantive law of the United Nations Charter which also sets out United States policy relative thereto.

Verdross, Alfred, "Austria's Permanent Neutrality and the United Nations Organization," in The American Journal of International Law, Vol. 50, No. 1, issue of January, 1956, p. 61-68.

An Austrian appraisal of the problems implicit for Austria in United Nations Membership by the Director of the Institute of International Law of the University of Vienna.

-----, Die Immerwährende Neutralität der Republik Oesterreich, Vienna, Oesterreichischer Bundesverlag, 1958, 31 p.

The author reviews, in brief but clear compass, the main facets of Austrian permanent neutrality including the domestic constitutional and international foundations of Austrian permanent neutrality, the law and practice of permanent neutrality, the duties of private citizens of a permanently neutral state and Austrian membership in the United Nations. Included is a short comparison of Austrian with Swiss permanent neutrality.

Wechsberg, Joseph, "Vienna Newsletter", in The New Yorker, Vol. 36, No. 16, issue of June 4, 1960, p. 104-125.

This despatch from Vienna is especially interesting in that it stresses the importance of Austria arriving at an understanding with the European Economic Community, which takes approximately half of Austria's exports and provides substantially more than half of her imports, if Austrian economic stability is to be maintained. The writer contends that when Austria joined the European Free Trade Association, which plays a much less significant role in Austrian trade, "political sense prevailed over economic sense" i.e. Austria did not wish to compromise her permanent neutrality by joining a trading bloc with a political program.

Werner, Dr. Leopold, and Dr. Hans Klecatsky, Bundesverfassungsrecht, Vienna, Manz'sche Verlags- und Universitätsbuchhandlung, 1961, xix-843 p.

The complete text of Austrian Federal Constitutional Law including the Constitutional Law of October 26, 1955 declaring Austria's permanent neutrality.

Wright, Herbert, "The Legality of the Annexation of Austria by Germany", in The American Journal of International Law, Vol. 38, No. 4, issue of October, 1944, p. 621-635.

An enquiry into the legality of the Anschluss of 1938 whereby Austria became a Land of the Third Reich. The author shows that the Anschluss was contrary to provisions in the Treaty of Versailles and the Treaty of St. Germain.

Zemanek, Karl, "Neutral Austria and the United Nations," in International Organization, Vol. 15, No. 3, summer issue, 1961, p. 408-422.

The author shows that on many issues, such as apartheid in South Africa and the reception of Hungarian refugees in 1956, Austrian permanent neutrality has not impeded its constructive role at the United Nations Organization, and he argues that the membership of Austria is compatible with its international status.

1
APPENDIX 1

STATE TREATY FOR THE RE-ESTABLISHMENT OF AN INDEPENDENT AND DEMO-
CRATIC AUSTRIA

Vienna, May 15, 1955

PREAMBLE

The Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, the United States of America, and France, hereinafter referred to as "the Allied and Associated Powers," of the one part, and Austria, of the other part;

Whereas on 13th March, 1938, Hitlerite Germany annexed Austria by force and incorporated its territory in the German Reich;

Whereas in the Moscow Declaration published on 1st November, 1943 the Governments of the Union of Soviet Socialist Republics, the United Kingdom and the United States of America declared that they regarded the annexation of Austria by Germany on 13th March, 1938, as null and void and affirmed their wish to see Austria re-established as a free and independent State, and the French Committee of National Liberation made a similar declaration on 16th November, 1943;

Whereas as a result of the Allied victory Austria was liberated from the domination of Hitlerite Germany:

Whereas the Allied and Associated Powers, and Austria, taking into account the importance of the efforts which the Austrian people themselves have made and will have to continue to make for the restoration and democratic reconstruction of their country, desire to conclude a treaty re-establishing Austria as a free, independent and democratic State, thus contributing to the restoration of peace in Europe;

Whereas the Allied and Associated Powers desire by means of the present Treaty to settle in accordance with the principles of justice all questions which are still outstanding in connexion with the events referred to above, including the annexation of Austria by Hitlerite Germany and participation of Austria in the war as an integral part of Germany; and

Whereas the Allied and Associated Powers and Austria are desirous for these purposes of concluding the present Treaty to serve as the basis

1. Only the Preamble and Part I of the Treaty are reproduced here. For the remaining portion of the Treaty please see the pamphlet in the pocket on the inside back cover.

of friendly relations between them, thereby enabling the Allied and Associated Powers to support Austria's application for admission to the United Nations Organisation;

Have therefore appointed the undersigned Plenipotentiaries who, after presentation of their Full Powers found in good and due form, have agreed on the following provisions:

PART I

Political and Territorial Clauses

Article 1

Re-Establishment of Austria as a Free and Independent State

The Allied and Associated Powers recognize that Austria is re-established as a sovereign, independent and democratic State.

Article 2

Maintenance of Austria's Independence

The Allied and Associated Powers declare that they will respect the independence and territorial integrity of Austria as established under the present Treaty.

Article 3

Recognition by Germany of Austrian Independence

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

Article 4

Prohibition of Anschluss

1. The Allied and Associated Powers declare that political or economic union between Austria and Germany is prohibited. Austria fully recognises its responsibilities in this matter and shall not enter into political or economic union with Germany in any form whatsoever.

2. In order to prevent such union Austria shall not conclude any agreement with Germany, nor do any act, nor take any measures likely, directly or indirectly, to promote political or economic union with Germany

or to impair its territorial integrity or political or economic independence. Austria further undertakes to prevent within its territory any act likely, directly or indirectly, to promote such union and shall prevent the existence, resurgence and activities of any organizations having as their aim political or economic union with Germany, and pan-German propaganda in favour of union with Germany.

Article 5

Frontiers of Austria

The frontiers of Austria shall be those existing on 1st January, 1938.

Article 6

Human Rights

1. Austria shall take all measures necessary to secure to all persons under Austrian jurisdiction, without distinction as to race, sex, language or religion, the enjoyment of human rights and of the fundamental freedoms, including freedom of expression, of press and publication, of religious worship, of political opinion and of public meeting.

2. Austria further undertakes that the laws in force in Austria shall not, either in their content or in their application, discriminate or entail any discrimination between persons of Austrian nationality on the ground of their race, sex, language or religion, whether in reference to their persons, property, business, professional or financial interests, status, political or civil rights or any other matter.

Article 7

Rights of the Slovene and Croat Minorities

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

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

3. In the administrative and judicial districts of Carinthia, Burgenland and Styria, where there are Slovene, Croat or mixed populations, the Slovene or Croat language shall be accepted as an official

language in addition to German. In such districts topographical terminology and inscriptions shall be in the Slovene or Croat language as well as in German.

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

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

Article 8

Democratic Institutions

Austria shall have a democratic government based on elections by secret ballot and shall guarantee to all citizens free, equal and universal suffrage as well as the right to be elected to public office without discrimination as to race, sex, language, religion or political opinion.

Article 9

Dissolution of Nazi Organizations

1. Austria shall complete the measures, already begun by the enactment of appropriate legislation approved by the Allied Commission for Austria, to destroy the National Socialist Party and its affiliated and supervised organizations, including political, military and paramilitary organizations, on Austrian territory. Austria shall also continue the efforts to eliminate from Austrian political, economic and cultural life all traces of Nazism, to ensure that the above-mentioned organizations are not revived in any form, and to prevent all Nazi and militarist activity and propaganda in Austria.

2. Austria undertakes to dissolve all Fascist-type organizations existing on its territory, political, military and paramilitary, and likewise any other organizations carrying on activities hostile to any United Nation or which intend to deprive the people of their democratic rights.

3. Austria undertakes not to permit, under threat of penal punishment which shall be immediately determined in accordance with procedures established by Austrian Law, the existence and the activity on Austrian territory of the above-mentioned organizations.

Article 10

Special Clauses on Legislation

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

2. Austria further undertakes to maintain the law of 3rd April, 1919, concerning the House of Hapsburg-Lorraine.

Article 11

Recognition of Peace Treaties

Austria undertakes to recognize the full force of the Treaties Of Peace with Italy, Roumania, Bulgaria, Hungary and Finland and other agreements or arrangements which have been or will be reached by the Allied and Associated Powers in respect of Germany and Japan for the restoration of peace.

APPENDIX 2

1

MEMORANDUM

Concerning the Results of the Conversations Between the Government Delegation of the Republic of Austria and the Government Delegation of the Soviet Union.

I.

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

1.) In the sense of the declaration already given by Austria at the conference in Berlin in 1954 to join no military alliances and to permit no military bases on its territory, the Austrian Federal Government will make a declaration in a form which will obligate Austria internationally to practice in perpetuity a neutrality of the type maintained by Switzerland.

2.) The Austrian Federal Government will submit this Austrian declaration in accordance with the terms of the Federal Constitution to the Austrian Parliament for decision immediately after ratification of the State Treaty.

3.) The Federal Government will take all suitable steps to obtain international recognition for the declaration confirmed by the Austrian Parliament.

4.) The Austrian Federal Government will welcome a guarantee by the four great powers of the inviolability and integrity of the Austrian State Territory.

5.) The Austrian Federal Government will seek to obtain from the Governments of France, Great Britain and the United States of America such a guarantee by the four great powers.

6.) The Federal Government will, after return of German assets in the Soviet Zone of Occupation to Austria, take measures which will exclude a transfer of these assets to the possession of foreigners including juridical persons of private or public character.

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

II

The Deputy Chairman of the Council of Ministers, V.M. Molotov and A. I. Mikhoyan, made the following declaration in the name of the Soviet Government with regard to the declarations of the Austrian Government delegation:

1.) The Soviet Government is prepared to sign the Austrian State Treaty without delay.

2.) The Soviet Government declares itself to be in agreement that all occupation troops of the four powers be withdrawn from Austria after the entry into force of the State Treaty, no later than on the 31st of December 1955.

3.) The Soviet Government considers Articles 6, 11, 15, 16-bis and 36 as obsolete or superfluous and is prepared to drop these Articles. It is prepared, moreover, to drop also Article 48-bis if Austria is simultaneously prepared to drop its demands against the Soviet Union for the so-called "civilian occupation costs." It will support, moreover, the Austrian Government in its efforts to attain further possible changes in the draft of the State Treaty, and will agree to such changes. However, agreement exists that the negotiations leading to the conclusion of the State Treaty between the four powers and Austria are not to be drawn out unnecessarily by proposals to change the Treaty.

4.) The Soviet Government is prepared to recognize the declaration concerning the neutrality of Austria.

5.) The Soviet Government is prepared to participate in a guarantee by the four powers of the inviolability and integrity of the Austrian State Territory---according to the model of Switzerland.

III

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

Concerning the Delivery of Goods to the U.S.S.R., in Compensation for the Value of Soviet Enterprises in Austria as Handed Over in Accordance¹ with the Austrian State Treaty. (Article 35)

1.) The Soviet Government is prepared, in the sense of its pledge given at the conference in Berlin in 1954, to accept Austrian goods in the equivalent of 150 million American dollars provided for in Article 35 as a lump sum:

2.) The Soviet delegation takes note of the declaration of the Austrian delegation that the latter accepts as a basis the list of goods which it has received from the Soviet delegation, and in this connection specially authorized representatives of the Austrian Government will go to Moscow not later than the end of May of this year.

3.) The Soviet Delegation also takes note of the declaration of the Austrian delegation that the Austrian Government will form a special commission which will concern itself with the terminal dates and quality of the shipments of goods to the Soviet Union, and specifically in the agreed upon amounts for the lump sum of 150 million American dollars, that is 25 million American dollars annually.

4.) The Austrian delegation has declared itself prepared to guarantee to representatives of the Soviet purchaser the possibility to carry out examinations upon receipt of the goods which are destined to be delivered to the Soviet Union on account of the above-named sum. It is agreed that the delivery of the goods should be free to the Austrian border and at world market prices. The prices and the amount of goods will be agreed upon by both parties annually three months before the beginning of each year. The Austrian National Bank will issue promissory notes to guarantee the above delivery of goods for the sum of 150 million American dollars indicated in the draft of the State Treaty. The promissory notes of the Austrian National Bank will be returned according to the liquidation of the sum by the delivery of goods.

Concerning the Transfer to Austria of the Oil Enterprises Held by the
U.S.S.R. in Austria

1.) The Soviet delegation accepts the proposal of the Austrian delegation, according to which the Austrian Government in return for the oil fields and oil refineries held by the U.S.S.R. and transferred to Austria will pay the Soviet Union by delivery of crude oil to the extent of one

1 Article 22 of final text

million tons annually for a period of ten years, therefore a total of ten million tons.

The Soviet Delegation takes note of the declaration of the Austrian delegation that the Austrian Government reserves the right to carry out deliveries of the aforementioned quantity of crude oil to the Soviet Union also in shorter periods of time. The crude oil is to be delivered under the following conditions: delivered free to the Austrian border, duty and customs free.

2.) The Austrian delegation has taken note of the declaration of the Soviet delegation that the oil enterprises and oil fields transferred by the Soviet Union to Austria include also the refineries and the company for marketing oil products (OROP).

Concerning the Transfer to Austria of Assets of the Danube Steamship

Company in Eastern Austria

The Soviet side transfers to Austria all properties of the Danube Steamship Company, which are located in Eastern Austria, including the shipyard in Korneuburg, the ships and dock facilities, for which the Austrian Government will pay simultaneously with the transfer the amount of two million American dollars to the Soviet Union.

Concerning Trade Between the Soviet Union and Austria

1.) Agreement was reached between the Soviet Union and Austria to conclude a trade treaty for a period of five years with an automatic extension as long as no termination of the treaty is brought about by one of the parties.

2.) Furthermore, agreement was reached that a treaty regarding the exchange of goods and payments between Austria and the Soviet Union be concluded for a period of five years, according to which the amount of goods is to be agreed upon annually.

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

In verification of the above this Memorandum is signed by

For the Government Delegation
of the Soviet Union:
V.M. Molotov
A.I. Mikhoyan

For the Austrian Delegation;
J. Raab
A. Schaerf
L. Figl
B. Kreisky

Moscow, 15 April 1955

APPENDIX 3

HAGUE CONVENTION V OF 1907 ON RIGHTS AND DUTIES OF NEUTRAL

POWERS AND PERSONS IN WAR ON LAND

Art. I. The territory of neutral Powers is inviolable.

Art. II. Belligerents are forbidden to move troops or convoys of either munitions of war or supplies across the territory of a neutral Power.

Art. III. Belligerents are likewise forbidden to:

(a) Erect on the territory of a neutral Power a wireless telegraphy station or other apparatus for the purpose of communicating with belligerent forces on land or sea:

(b) Use any installation of this kind established by them before the war on the territory of a neutral Power for purely military purposes, and which has not been opened for the service of public messages.

Art. IV. Corps of combatants cannot be formed nor recruiting agencies opened on the territory of a neutral Power to assist the belligerents.

Art. V. A neutral Power must not allow any of the acts referred to in Articles II to IV to occur on its territory.

It is not called upon to punish acts in violation of its neutrality unless the said acts have been committed on its own territory.

Art. VI. The responsibility of a neutral Power is not engaged by the fact of persons crossing the frontier separating to offer their services to one of the belligerents.

Art. VII. A neutral Power is not called upon to prevent the export or transport on behalf of one or other of the belligerents, of arms, munitions of war, or, in general, of anything which can be of use to an army or fleet.

Art. VIII. A neutral Power is not called upon to forbid or restrict the use on behalf of the belligerents of telegraph or telephone cables or of wireless telegraphy apparatus belonging to it or to Companies or private individuals.

Art. IX. Every measure of restriction or prohibition taken by a neutral Power in regard to the matters referred to in Articles VII and VIII must be impartially applied by it to both belligerents.

A neutral Power must see to the same obligation being observed by companies or private individuals owning telegraph or telephone cables or wireless telegraphy apparatus.

Art. X. The fact of a neutral Power resisting, even by force, attempts to violate its neutrality cannot be regarded as a hostile act.

Art. XI. A neutral Power which receives on its territory troops belonging to the belligerent armies shall intern them, as far as possible, at a distance from the theatre of war.

It may keep them in camps and even confine them in fortresses or in places set apart for this purpose.

It shall decide whether officers can be left at liberty on giving their parole not to leave the neutral territory without permission.

Art. XII. In the absence of a special convention to the contrary, the neutral Power shall supply the interned with the food, clothing, and relief required by humanity.

At the conclusion of peace the expenses caused by the internment shall be made good.

Art. XIII. A neutral Power which receives escaped prisoners of war shall leave them at liberty. If it allows them to remain in its territory it may assign them a place of residence.

The same rule applies to prisoners of war brought by troops taking refuge in the territory of a neutral Power...

Art. XVI. The nationals of a state which is not taking part in the war are considered as neutrals.

Art. XVII. A neutral cannot avail himself of his neutrality:

- (a) If he commits hostile acts against a belligerent;
- (b) If he commits acts in favour of a belligerent, particularly if he voluntarily enlists in the ranks of the armed force of one of the parties.

In such a case, the neutral shall not be more severely treated by the belligerent as against whom he has abandoned his neutrality than a national of the other belligerent state could be for the same act.

Art. XVIII. The following acts shall not be considered as committed in favour of one belligerent in the sense of Article XVII, letter (b):

- (a) Supplies furnished or loans made to one of the belligerents, provided that the person who furnishes the supplies or who makes the loans lives neither in the territory of the other party nor in the territory occupied by him, and that the supplies do not come from these territories;
- (b) Services rendered in matters of police or civil administration.

APPENDIX 4

ABSTRACT OF

The Permanent Neutrality of Austria: 1955-1962¹

The independence of Austria was restored with the signing of the Austrian State Treaty on May 15, 1955 by Austria, the United States, the United Kingdom, France and the Soviet Union. Pursuant to the Moscow Memorandum of April 15, 1955, on October 26, 1955, Austria enacted a law declaring a status of permanent neutrality, and the status thus announced became valid in international law when it was recognized by the Four Powers and other states in diplomatic notes. Austria conceived herself to be thereby pledged to military, but not to ideological, non-alignment, and this interpretation is valid even within the context of narrowly-construed legal duty. The Great Powers, with the exception of the Soviet Union, construe Austrian permanent neutrality to be unassociated with a military guarantee.

The example of Switzerland shows that a status of permanent neutrality is feasible. Interpretations of the duties of such a status differ. Switzerland considers that permanent neutrality is inconsistent with United Nations membership but Austria disagrees. A broad interpretation of the United Nations Charter reconciles Austrian membership with the obligation of promoting collective security since Austria contributes to the desired end in her own fashion. Likewise, there are variations in practice between the other European neutrals, partly because each is confronted with unique problems, but there is a consensus that a neutral must

¹ W. H. McConnell, master's thesis presented to the Faculty of Social, Economic and Political Sciences of the University of Ottawa, Ontario, viii-190 p.

not participate in war and must be impartial in fulfilling its responsibilities during war. Any act done in peacetime which incapacitates it from so acting will disable it from maintaining neutrality during war and this imposes a difficult diplomatic task on all neutrals. A major problem which Austria must solve is her relationship with the politically-oriented European Economic Community which accounts for a highly substantial part of her foreign trade. Associate membership involving economic but not political participation may provide the answer here, if French opposition to such limited participation can be overcome. The lessening solidarity of the communist states may provide a more flexible framework in which to work out such problems.



CANADA

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AUSTRIA

State Treaty for the Re-establishment of an
Independent and Democratic Austria

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AUTRICHE

Traité d'État portant rétablissement d'une
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STATE TREATY FOR THE RE-ESTABLISHMENT OF AN INDEPENDENT AND DEMOCRATIC AUSTRIA

Vienna, May 15, 1955

PREAMBLE

The Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, the United States of America, and France, hereinafter referred to as "the Allied and Associated Powers," of the one part, and Austria, of the other part;

Whereas on 13th March, 1938, Hitlerite Germany annexed Austria by force and incorporated its territory in the German Reich;

Whereas in the Moscow Declaration published on 1st November, 1943, the Governments of the Union of Soviet Socialist Republics, the United Kingdom and the United States of America declared that they regarded the annexation of Austria by Germany on 13th March, 1938, as null and void and affirmed their wish to see Austria re-established as a free and independent State, and the French Committee of National Liberation made a similar declaration on 16th November, 1943;

Whereas as a result of the Allied victory Austria was liberated from the domination of Hitlerite Germany;

Whereas the Allied and Associated Powers, and Austria, taking into account the importance of the efforts which the Austrian people themselves have made and will have to continue to make for the restoration and democratic reconstruction of their country, desire to conclude a treaty re-establishing Austria as a free, independent and democratic State, thus contributing to the restoration of peace in Europe;

Whereas the Allied and Associated Powers desire by means of the present Treaty to settle in accordance with the principles of justice all questions which are still outstanding in connexion with the events referred to above, including the annexation of Austria by Hitlerite Germany and participation of Austria in the war as an integral part of Germany; and

Whereas the Allied and Associated Powers and Austria are desirous for these purposes of concluding the present Treaty to serve as the basis of friendly relations between them, thereby enabling the Allied and Associated Powers to support Austria's application for admission to the United Nations Organisation;

Have therefore appointed the undersigned Plenipotentiaries who, after presentation of their Full Powers found in good and due form, have agreed on the following provisions:—

PART I

Political and Territorial Clauses

ARTICLE 1

Re-Establishment of Austria as a Free and Independent State

The Allied and Associated Powers recognize that Austria is re-established as a sovereign, independent and democratic State.

TRAITÉ D'ÉTAT PORTANT RÉTABLISSEMENT D'UNE AUTRICHE INDÉPENDANTE ET DÉMOCRATIQUE

Vienne, le 15 mai 1955

PRÉAMBULE

L'Union des Républiques Soviétiques Socialistes, le Royaume-Uni de Grande-Bretagne et d'Irlande du Nord, les États-Unis d'Amérique et la France ci-dessous désignés comme les Puissances Alliées et Associées d'une part, et l'Autriche d'autre part;

Considérant que le 13 mars 1938, l'Allemagne hitlérienne a annexé l'Autriche par la force et a incorporé son territoire au Reich allemand;

Considérant que, par la déclaration de Moscou publiée le 1^{er} novembre 1943, les gouvernements de l'Union des Républiques Soviétiques Socialistes, du Royaume-Uni et des États-Unis d'Amérique ont déclaré qu'ils considéraient comme nulle et non avenue l'annexion de l'Autriche par l'Allemagne à la date du 13 mars 1938 et ont affirmé leur désir de voir l'Autriche rétablie en tant qu'État libre et indépendant, et que le Comité français de Libération Nationale a fait une déclaration analogue le 16 novembre 1943;

Considérant que, par suite de la victoire des Alliés, l'Autriche a été libérée de la domination de l'Allemagne hitlérienne;

Considérant que les Puissances Alliées et Associées et l'Autriche, tenant compte de l'importance des efforts que le peuple autrichien lui-même a déjà entrepris et devra encore entreprendre pour la reconstruction et la réorganisation démocratique de son pays, sont désireuses de conclure un Traité rétablissant l'Autriche en tant qu'État libre, indépendant et démocratique, contribuant ainsi à la restauration de la paix en Europe;

Considérant que les Puissances Alliées et Associées sont désireuses de régler par le présent Traité, en conformité avec les principes de justice, toutes les questions demeurées en suspens du fait des événements ci-dessus rappelés, y compris l'annexion de l'Autriche par l'Allemagne hitlérienne et la participation de l'Autriche à la guerre en tant que partie intégrante de l'Allemagne;

Considérant que les Puissances Alliées et Associées et l'Autriche sont désireuses de conclure à cet effet le présent Traité pour former la base de relations amicales entre elles, permettant ainsi aux Puissances Alliées et Associées d'appuyer la demande que l'Autriche présentera pour devenir membre de l'Organisation des Nations Unies;

Pour ces motifs ont désigné les Plénipotentiaires soussignés lesquels, après présentation de leurs pleins pouvoirs, reconnus en bonne et due forme, sont convenus des dispositions suivantes:

PARTIE I

Clauses politiques et territoires

ARTICLE 1

Rétablissement de l'Autriche en tant qu'État libre et indépendant

Les Puissances Alliées et Associées reconnaissent que l'Autriche est rétablie en tant qu'État souverain, indépendant et démocratique.

ARTICLE 2

Maintenance of Austria's Independence

The Allied and Associated Powers declare that they will respect the independence and territorial integrity of Austria as established under the present Treaty.

ARTICLE 3

Recognition by Germany of Austrian Independence

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

ARTICLE 4

Prohibition of Anschluss

1. The Allied and Associated Powers declare that political or economic union between Austria and Germany is prohibited. Austria fully recognises its responsibilities in this matter and shall not enter into political or economic union with Germany in any form whatsoever.

2. In order to prevent such union Austria shall not conclude any agreement with Germany, nor do any act, nor take any measures likely, directly or indirectly, to promote political or economic union with Germany, or to impair its territorial integrity or political or economic independence. Austria further undertakes to prevent within its territory any act likely, directly or indirectly, to promote such union and shall prevent the existence, resurgence and activities of any organizations having as their aim political or economic union with Germany, and pan-German propaganda in favour of union with Germany.

ARTICLE 5

Frontiers of Austria

The frontiers of Austria shall be those existing on 1st January, 1938.

ARTICLE 6

Human Rights

1. Austria shall take all measures necessary to secure to all persons under Austrian jurisdiction, without distinction as to race, sex, language or religion, the enjoyment of human rights and of the fundamental freedoms, including freedom of expression, of press and publication, of religious worship, of political opinion and of public meeting.

2. Austria further undertakes that the laws in force in Austria shall not, either in their content or in their application, discriminate or entail any discrimination between persons of Austrian nationality on the ground of their race, sex, language or religion, whether in reference to their persons, property, business, professional or financial interests, status, political or civil rights or any other matter.



ARTICLE 2

Maintien de l'indépendance de l'Autriche

Les Puissances Alliées et Associées déclarent qu'elles respecteront l'indépendance et l'intégrité territoriale de l'Autriche, telles qu'elles sont établies par le présent Traité.

ARTICLE 3

Reconnaissance par l'Allemagne de l'indépendance de l'Autriche

Les Puissances Alliées et Associées feront figurer dans le Traité de Paix allemand des dispositions assurant la reconnaissance par l'Allemagne de la souveraineté et de l'indépendance de l'Autriche et la renonciation par l'Allemagne à toutes revendications territoriales et politiques à l'encontre de l'Autriche et du territoire autrichien.

ARTICLE 4

Interdiction de l'Anschluss

1. Les Puissances Alliées et Associées déclarent que toute union politique ou économique entre l'Autriche et l'Allemagne est interdite. L'Autriche reconnaît pleinement les responsabilités qui lui incombent à ce sujet et s'engage à ne participer à aucune union politique ou économique avec l'Allemagne sous quelque forme que ce soit.

2. Afin d'empêcher une union de cette nature, l'Autriche s'engage à s'abstenir de tout accord avec l'Allemagne, ainsi que de tout acte ou de toute mesure de nature à favoriser, directement ou indirectement, une union politique ou économique avec l'Allemagne ou à compromettre son intégrité territoriale ou son indépendance politique ou économique. L'Autriche s'engage en outre à interdire sur son territoire tout acte susceptible de favoriser directement ou indirectement une union de cette nature et à interdire l'existence, la reconstitution et l'activité de toute organisation ayant pour objectif l'union politique ou économique avec l'Allemagne, ainsi que la propagande pan-germaniste en faveur de l'union avec l'Allemagne.

ARTICLE 5

Frontières de l'Autriche

Les frontières de l'Autriche demeureront telles qu'elles étaient au 1^{er} janvier 1938.

ARTICLE 6

Droits de l'homme

1. L'Autriche prendra toutes les mesures nécessaires pour assurer à toutes les personnes relevant de sa juridiction, sans distinction de race, de sexe, de langue ou de religion, la jouissance des droits de l'homme et des libertés fondamentales, y compris la liberté d'expression de la pensée, la liberté de presse et de publication, la liberté de culte, la liberté d'opinion et de réunion.

2. L'Autriche s'engage en outre à ce que les lois en vigueur en Autriche n'entraînent, ni par leur texte, ni par les modalités de leur application, aucune discrimination directe ou indirecte entre les ressortissants autrichiens, en raison de leur race, de leur sexe, de leur langue, ou de leur religion, tant en ce qui concerne leur personne, leurs biens, leurs intérêts commerciaux, professionnels ou financiers, leur statut, leurs droits politiques et civils qu'en toute autre matière.

ARTICLE 7

Rights of the Slovene and Croat Minorities

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

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

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

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

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

ARTICLE 8

Democratic Institutions

Austria shall have a democratic government based on elections by secret ballot and shall guarantee to all citizens free, equal and universal suffrage as well as the right to be elected to public office without discrimination as to race, sex, language, religion or political opinion.

ARTICLE 9

Dissolution of Nazi Organizations

1. Austria shall complete the measures, already begun by the enactment of appropriate legislation approved by the Allied Commission for Austria, to destroy the National Socialist Party and its affiliated and supervised organizations, including political, military and para-military organizations, on Austrian territory. Austria shall also continue the efforts to eliminate from Austrian political, economic and cultural life all traces of Nazism, to ensure that the above-mentioned organizations are not revived in any form, and to prevent all Nazi and militarist activity and propaganda in Austria.

2. Austria undertakes to dissolve all Fascist-type organizations existing on its territory, political, military and para-military, and likewise any other organizations carrying on activities hostile to any United Nation or which intend to deprive the people of their democratic rights.

3. Austria undertakes not to permit, under threat of penal punishment which shall be immediately determined in accordance with procedures established by Austrian Law, the existence and the activity on Austrian territory of the above-mentioned organizations.

ARTICLE 7

Droits des minorités slovène et croate

1. Les ressortissants autrichiens appartenant aux minorités slovène et croate en Carinthie, Burgenland et Styrie jouiront de pair avec tous les autres ressortissants autrichiens des mêmes droits que ceux-ci, y compris le droit d'avoir leurs propres organisations, de tenir leurs réunions et de posséder une presse dans leur propre langue.

2. Ils ont droit à l'enseignement primaire en langue slovène ou croate et à un nombre proportionnel d'établissements propres d'enseignement secondaire; à cet effet, les programmes scolaires seront revus et une section de l'inspection de l'enseignement sera créée pour les écoles slovènes et croates.

3. Dans les circonscriptions administratives et judiciaires de Carinthie, Burgenland et Styrie où réside une population slovène ou croate, ou une population mixte, le slovène ou le croate seront admis comme langue officielle en plus de l'allemand. Dans ces circonscriptions, la terminologie et les inscriptions topographiques seront en langue slovène ou croate aussi bien qu'en allemand.

4. Les ressortissants autrichiens appartenant aux minorités slovène et croate en Carinthie, Burgenland et Styrie participeront dans les mêmes conditions que les autres ressortissants autrichiens aux activités des organismes culturels, administratifs et judiciaires dans ces territoires.

5. Sera interdite l'activité des organisations qui ont pour but de priver les populations croate ou slovène de leur caractère et de leurs droits de minorité.

ARTICLE 8

Institutions démocratiques

L'Autriche aura un gouvernement démocratique fondé sur des élections au scrutin secret, et garantira à tous les citoyens le suffrage libre, égal et universel, ainsi que le droit d'être élu à une fonction publique, sans distinction de race, de sexe, de langue, de religion ou d'opinion.

ARTICLE 9

Dissolution des organisations nazies

1. L'Autriche complètera les mesures déjà prises sous forme de lois appropriées approuvées par la Commission Alliée pour l'Autriche, en vue de liquider le parti national-socialiste et les organisations qui lui étaient affiliées ou qui étaient placées sous son contrôle, y compris les organisations politiques, militaires ou para-militaires qui existaient en territoire autrichien; l'Autriche poursuivra également les efforts entrepris pour éliminer de sa vie politique, économique et culturelle toute trace de nazisme, pour s'assurer que les organisations mentionnées ci-dessus ne seront pas reconstituées sous une forme quelconque et pour prévenir toute activité et propagande nazie et militariste en Autriche.

2. L'Autriche s'engage à dissoudre toutes les organisations politiques, militaires et para-militaires de type fasciste existant sur son territoire, ainsi que toutes autres organisations menant des activités hostiles à l'une quelconque des Nations Unies ou ayant pour objet de priver le peuple de ses droits démocratiques.

3. L'Autriche s'engage à interdire, sous peine de sanctions judiciaires qui seront déterminées sans délai conformément aux lois autrichiennes, l'existence et l'activité sur le territoire autrichien des organisations mentionnées ci-dessus.

ARTICLE 10

Special Clauses on Legislation

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

2. Austria further undertakes to maintain the law of 3rd April, 1919, concerning the House of Hapsburg-Lorraine.

ARTICLE 11

Recognition of Peace Treaties

Austria undertakes to recognize the full force of the Treaties of Peace with Italy, Roumania, Bulgaria, Hungary and Finland and other agreements or arrangements which have been or will be reached by the Allied and Associated Powers in respect of Germany and Japan for the restoration of peace.

PART II

Military and Air Clauses

ARTICLE 12

Prohibition of Service in the Austrian Armed Forces of Former Members of Nazi Organizations, and Certain Other Categories of Persons

The following shall in no case be permitted to serve in the Austrian Armed Forces:—

1. Persons not of Austrian nationality;
2. Austrian nationals who had been German nationals at any time before 13th March, 1938;
3. Austrian nationals who served in the rank of Colonel or in any higher rank in the German Armed Forces during the period from 13th March, 1938, to 8th May, 1945;
4. With the exception of any persons who shall have been exonerated by the appropriate body in accordance with Austrian law, Austrian nationals falling within any of the following categories:—
 - (a) Persons who at any time belonged to the National Socialist Party ("N.S.D.A.P.") or the "S.S.", "S.A.", or "S.D." organizations; the Secret State Police ("Gestapo"); or the National Socialist Soldiers' Association ("N.S. Soldatenring"); or the National Socialist Officers' Association ("N.S. Offiziersvereinigung");
 - (b) Officers in the National Socialist Fliers' Corps ("N.S.F.K.") or the National Socialist Motor Corps ("N.S.K.K.") of rank not lower than "Untersturmführer" or its equivalent;

ARTICLE 10

Dispositions spéciales concernant la législation

1. L'Autriche s'engage à maintenir et à continuer à appliquer les principes inclus dans les lois et décrets adoptés par le Gouvernement et le Parlement autrichiens depuis le 1^{er} mai 1945 et approuvés par la Commission Alliée pour l'Autriche, ayant pour objet la liquidation des vestiges du régime nazi et le rétablissement du système démocratique, à compléter les mesures législatives et administratives déjà prises ou en cours d'exécution depuis le 1^{er} mai 1945, à codifier et à appliquer les principes énoncés dans les articles 6, 8 et 9 du présent Traité et pour autant qu'elle ne l'a déjà fait, à rapporter ou à modifier toutes les mesures législatives et administratives adoptées entre le 5 mars 1933 et le 30 avril 1945 qui sont incompatibles avec les principes énoncés dans les articles 6, 8 et 9.

2. L'Autriche s'engage en outre à maintenir en vigueur la loi du 3 avril 1919 relative à la maison de Habsbourg-Lorraine.

ARTICLE 11

Reconnaissance des Traités de Paix

L'Autriche s'engage à reconnaître la pleine valeur des Traités de Paix avec l'Italie, la Roumanie, la Bulgarie, la Hongrie et la Finlande, ainsi que des autres accords ou arrangements qui ont été ou seront conclus par les Puissances Alliées et Associées en ce qui concerne l'Allemagne et le Japon, en vue du rétablissement de la Paix.

PARTIE II

Clauses Militaires et Aériennes

ARTICLE 12

Interdiction aux anciens membres d'organisations nazies et à certaines autres catégories de personnes de servir dans les forces armées autrichiennes

Ne pourront en aucun cas faire partie des forces armées autrichiennes:

1. les personnes qui ne possèdent pas la nationalité autrichienne;
2. les ressortissants autrichiens qui ont été ressortissants allemands à un moment quelconque avant le 13 mars 1938;
3. les ressortissants autrichiens ayant servi avec le grade de colonel ou un grade supérieur dans les forces armées allemandes au cours de la période du 13 mars 1938 au 8 mai 1945;
4. à l'exception des personnes qui auront été réhabilitées par l'autorité compétente conformément à la loi autrichienne, les ressortissants autrichiens entrant dans l'une quelconque des catégories ci-après:
 - a) personnes qui, à un moment quelconque, ont appartenu: au parti national-socialiste (N.S.D.A.P.) ou aux organisations dénommées "S.S.", "S.A." ou "S.D."; à la police secrète d'État (Gestapo); à l'association des soldats nationaux-socialistes (N.S. Soldatenring) ou à l'association des officiers nationaux-socialistes (N.S. Offiziersvereinigung);
 - b) officiers du "Corps des aviateurs nationaux-socialistes" (N.S.F.K.) ou du "Corps motorisé national-socialiste" (N.S.K.K.) ayant exercé un commandement correspondant au moins au grade d'"Untersturmführer" ou à son équivalent;

- (c) Functionaries in any supervised or affiliated organisations of the N.S.D.A.P. of rank not lower than that equivalent to "Ortsgruppen-leiter";
- (d) Authors of printed works or scenarios placed by the competent commissions set up by the Government of Austria in the category of prohibited works because of their Nazi character;
- (e) Leaders of industrial, commercial and financial undertakings who according to the official and authenticated reports of existing industrial, commercial and financial associations, trade unions and party organisations are found by the competent commission to have co-operated actively in the achievement of the aims of the N.S.D.A.P. or of any of its affiliated organisations, supported the principles of National Socialism or financed or spread propaganda for National Socialist organisations or their activities, and by any of the foregoing to have damaged the interests of an independent and democratic Austria.

ARTICLE 13

Prohibition of Special Weapons

1. Austria shall not possess, construct or experiment with—(a) Any atomic weapon, (b) any other major weapon adaptable now or in the future to mass destruction and defined as such by the appropriate organ of the United Nations, (c) any self-propelled or guided missile or torpedoes, or apparatus connected with their discharge or control, (d) sea mines, (e) torpedoes capable of being manned, (f) submarines or other submersible craft, (g) motor torpedo boats, (h) specialised types of assault craft, (i) guns with a range of more than 30 kilometers, (j) asphyxiating, vesicant or poisonous materials or biological substances in quantities greater than, or of types other than, are required for legitimate civil purposes, or any apparatus designed to produce, project or spread such materials or substances for war purposes.

2. The Allied and Associated Powers reserve the right to add to this Article prohibitions of any weapons which may be evolved as a result of scientific development.

ARTICLE 14

Disposal of War Material of Allied and German Origin

1. All war material of Allied origin in Austria shall be placed at the disposal of the Allied or Associated Power concerned according to the instructions given by that Power.

Austria shall renounce all rights to the above-mentioned war material.

2. Within one year from the coming into force of the present Treaty Austria shall render unusable for any military purpose or destroy:

all excess war material of German or other non-Allied origin;

in so far as they relate to modern war material, all German and Japanese drawings, including existing blueprints, prototypes, experimental models and plans;

- c) fonctionnaires d'une organisation quelconque affiliée au N.S.D.A.P. ou contrôlée par lui et qui y ont exercé un commandement au moins équivalent à celui d' "Ortsgruppenleiter";
- d) auteurs d'œuvres imprimées ou de scénarios classés par les commissions compétentes instituées par le Gouvernement autrichien dans la catégorie des œuvres interdites en raison de leur caractère nazi;
- e) chefs d'entreprises industrielles, commerciales et financières qui, sur la base de rapports officiels et d'authenticité reconnue, établis par les associations industrielles, commerciales ou financières existantes, par les syndicats ou par les partis politiques ont été reconnus par la Commission compétente comme ayant collaboré activement à la réalisation des fins du N.S.D.A.P. ou de l'une quelconque de ses organisations affiliées, soutenu les principes du national-socialisme, subventionné la propagande des organisations nationales-socialistes ou leurs activités, ou ont fait en faveur de ces organisations ou de leurs activités de la propagande et qui, par l'un quelconque de ces moyens, ont agi au détriment de l'Autriche indépendante et démocratique.

ARTICLE 13

Interdiction d'armes spéciales

1. L'Autriche ne possédera, ne fabriquera ni n'expérimentera: a) aucune arme atomique; b) aucune autre arme principale adaptable actuellement ou dans l'avenir à la destruction en masse et définie comme telle par les organismes compétents de l'Organisation des Nations Unies; c) aucun projectile auto-propulsé ou dirigé, aucune torpille, aucun dispositif destiné à leur lancement ou à leur contrôle; d) aucune mine marine; e) aucune torpille humaine; f) aucun sous-marin ou autre bâtiment submersible; g) aucune vedette lance-torpilles; h) aucun type spécialisé de bâtiment d'assaut; i) aucun canon d'une portée supérieure à 30 km; j) aucun produit asphyxiant, vésicant ou toxique ou substance biologique en quantités plus grandes ou de type autre que ceux nécessaires pour les besoins civils normaux et aucun appareil conçu pour produire et lancer ou répandre ces produits ou substances pour fins de guerre.

2. Les Puissances Alliées et Associées se réservent le droit d'ajouter au présent article des interdictions relatives à toute arme qui pourrait être inventée à la suite de découvertes scientifiques.

ARTICLE 14

Sort du matériel de guerre d'origine alliée ou allemande

1. Tout le matériel de guerre d'origine alliée se trouvant en Autriche sera mis à la disposition de la Puissance Alliée ou Associée intéressée, conformément aux instructions données par cette Puissance.

L'Autriche renoncera à tous droits sur le matériel de guerre ci-dessus mentionné.

2. Dans un délai d'un an à partir de la date d'entrée en vigueur du présent Traité, l'Autriche devra rendre impropre à tout usage militaire ou détruire:

tout le matériel de guerre en excédent d'origine allemande ou de toute autre origine non alliée;

dans la mesure où ils se rapportent à du matériel de guerre moderne, tous les dessins allemands et japonais, y compris les bleus, les prototypes, les modèles expérimentaux et les plans existants;

all war material prohibited by Article 13 of the present Treaty;

all specialised installations, including research and production equipment prohibited by Article 13 which are not convertible for authorised research, development or construction.

3. Within six months from the coming into force of the present Treaty Austria shall provide the Governments of the Soviet Union, of the United Kingdom, of the United States of America, and of France with a list of the war material and installations enumerated in paragraph 2.

4. Austria shall not manufacture any war material of German design.

Austria shall not acquire or possess, either publicly or privately, or by any other means, any war material of German manufacture, origin or design except that the Austrian Government may utilise, for the creation of the Austrian armed forces, restricted quantities of war material of German manufacture, origin or design remaining in Austria after the Second World War.

5. A definition and list of war material for the purposes of the present Treaty are contained in Annex I.

ARTICLE 15

Prevention of German Rearmament

1. Austria shall co-operate fully with the Allied and Associated Powers in order to ensure that Germany is unable to take steps outside German territory towards rearmament.

2. Austria shall not employ or train in military or civil aviation or in the experimentation, design, production or maintenance of war material:

persons who are, or were at any time previous to 13th March, 1938, nationals of Germany;

or Austrian nationals precluded from serving in the Armed Forces under Article 12;

or persons who are not Austrian nationals.

ARTICLE 16

Prohibition relating to Civil Aircraft of German and Japanese Design

Austria shall not acquire or manufacture civil aircraft which are of German or Japanese design or which embody major assemblies of German or Japanese manufacture or design.

ARTICLE 17

Duration of Limitations

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

tout le matériel de guerre interdit en vertu de l'article 13 du présent Traité;

toutes les installations spécialisées, y compris l'équipement de recherche et de production, interdites en vertu de l'article 13 qui ne sont pas convertibles pour des recherches, des études ou des constructions autorisées.

3. Dans les six mois qui suivront la date d'entrée en vigueur du présent Traité, l'Autriche devra fournir aux Gouvernements de l'Union Soviétique, du Royaume-Uni, des États-Unis d'Amérique et de la France, une liste du matériel de guerre et des installations énumérés au paragraphe 2.

4. L'Autriche ne devra fabriquer aucun matériel de guerre de conception allemande.

L'Autriche ne devra ni acquérir, ni posséder, soit à titre public, soit à titre privé, ou de toute autre façon, aucun matériel de guerre de fabrication, d'origine ou de conception allemande, avec la seule exception que le Gouvernement autrichien pourra utiliser, pour la mise sur pied des forces armées autrichiennes, des quantités limitées de matériel de guerre de fabrication, d'origine ou de conception allemandes, resté en Autriche après la seconde guerre mondiale.

5. La définition et la liste du matériel de guerre, aux fins du présent Traité, figurent à l'annexe I.

ARTICLE 15

Action préventive contre le réarmement de l'Allemagne

1. L'Autriche s'engage à apporter son entière collaboration aux Puissances Alliées et Associées en vue de mettre l'Allemagne dans l'impossibilité de prendre, hors du territoire allemand, des mesures tendant à son réarmement.

2. L'Autriche ne devra pas employer ou entraîner dans son aviation civile ou militaire, ou dans l'expérimentation, la conception, la production ou l'entretien du matériel de guerre:

des personnes qui sont ou ont été à un moment quelconque, antérieurement au 13 mars 1938, ressortissants allemands;

ou des ressortissants autrichiens à qui l'article 12 interdit d'appartenir aux forces armées;

ou des personnes qui ne sont pas ressortissants autrichiens.

ARTICLE 16

Interdictions relatives aux avions civils de conception allemande ou japonaise

L'Autriche s'engage à n'acquérir ou fabriquer aucun avion civil de modèle allemand ou japonais ou comportant des éléments importants de fabrication ou de conception allemande ou japonaise.

ARTICLE 17

Durée d'application des limitations

Chacune des clauses militaires et aériennes du présent Traité demeurera en vigueur aussi longtemps qu'elle n'aura pas été modifiée entièrement ou partiellement par accord entre les Puissances Alliées et Associées et l'Autriche, ou, après que l'Autriche sera devenue membre de l'Organisation des Nations Unies, par accord entre le Conseil de Sécurité et l'Autriche.

ARTICLE 18

Prisoners of War

1. Austrians who are now prisoners of war shall be repatriated as soon as possible, in accordance with arrangements to be agreed upon by the individual Powers detaining them and Austria.

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

ARTICLE 19

War Graves and Memorials

1. Austria undertakes to respect, preserve and maintain the graves on Austrian territory of the soldiers, prisoners of war and nationals forcibly brought to Austria of the Allied Powers as well as of the other United Nations which were at war with Germany, the memorials and emblems on these graves, and the memorials to the military glory of the armies which fought on Austrian territory against Hitlerite Germany.

2. The Government of Austria shall recognise any commission, delegation or other organisation authorised by the State concerned to identify, list, maintain or regulate the graves and edifices referred to in paragraph 1; shall facilitate the work of such organisations; and shall conclude in respect of the above-mentioned graves and edifices such agreements as may prove necessary with the State concerned or with any commission or delegation or other organisation authorised by it. It likewise agrees to render, in conformity with reasonable sanitary requirements, every facility for the disinterment and despatch to their own country of the remains buried in the said graves, whether at the request of the official organisations of the State concerned or at the request of the relatives of the persons interred.

PART III

ARTICLE 20

Withdrawal of Allied Forces

1. The Agreement on the Machinery of Control in Austria of 28th June, 1946, shall terminate on the coming into force of the present Treaty.

2. On the coming into force of the present Treaty, the Inter-Allied Command established under paragraph 4 of the Agreement on Zones of Occupation in Austria and the Administration of the City of Vienna of 9th July, 1945, shall cease to exercise any functions with respect to the administration of the City of Vienna. The Agreement on Zones of Occupation of Austria shall terminate upon completion of the withdrawal from Austria of the forces of the Allied and Associated Powers in accordance with paragraph 3 of the present Article.

3. The forces of the Allied and Associated Powers and members of the Allied Commission for Austria shall be withdrawn from Austria within ninety days from the coming into force of the present Treaty, and in so far as possible not later than 31st December, 1955.

ARTICLE 18

Prisonniers de guerre

1. Les Autrichiens qui sont actuellement prisonniers de guerre seront rapatriés dès que possible conformément aux arrangements qui devront être conclus entre chacune des Puissances qui détiennent ces prisonniers et l'Autriche.

2. Tous les frais, y compris les frais de subsistance, entraînés par le transfert des Autrichiens qui sont actuellement prisonniers de guerre depuis leurs centres de rapatriement respectifs, choisis par le Gouvernement de la Puissance Alliée ou Associée intéressée, jusqu'au lieu d'entrée sur le territoire autrichien, seront à la charge du Gouvernement autrichien.

ARTICLE 19

Sépultures de guerre et monuments aux morts

1. L'Autriche s'engage à respecter, à préserver et à entretenir sur le territoire autrichien les sépultures des combattants, des prisonniers de guerre et des ressortissants transférés de force en Autriche, des Puissances Alliées et autres Nations Unies qui furent en état de guerre avec l'Allemagne, ainsi que les monuments et emblèmes placés sur ces sépultures, de même que les monuments érigés à la gloire des armées qui ont combattu sur le territoire de l'Autriche contre l'Allemagne hitlérienne.

2. Le Gouvernement de l'Autriche reconnaîtra toute commission, délégation ou autre organisme autorisé par l'État intéressé en vue d'identifier, relever, entretenir ou réglementer les sépultures et constructions visées au premier paragraphe; il facilitera la tâche de ces organismes, et conclura avec l'État intéressé ou avec la commission, délégation ou autre organisme autorisé par cet État, les conventions relatives aux sépultures et constructions précitées qui pourront être nécessaires. Il accepte également, sous réserve de l'observation des prescriptions sanitaires raisonnables, d'accorder toutes facilités pour l'exhumation et le transport dans leur patrie des restes inhumés dans les sépultures susvisées, et ce, soit à la demande des organes officiels de l'État intéressé, soit à la demande des parents des personnes inhumées.

PARTIE III

ARTICLE 20

Retrait des forces alliées

1. L'Accord de Contrôle pour l'Autriche du 28 juin 1946 prendra fin à la date de l'entrée en vigueur du présent Traité.

2. Dès l'entrée en vigueur du présent Traité, le commandement interallié institué en vertu du paragraphe 4 de l'accord du 9 juillet 1945 sur les zones d'occupation en Autriche et sur l'administration de la Ville de Vienne cessera d'exercer toutes fonctions relatives à l'administration de la Ville de Vienne. L'Accord sur les zones d'occupation en Autriche prendra fin dès que le retrait d'Autriche des forces des Puissances Alliées et Associées sera terminé dans le délai prévu au paragraphe 3.

3. Les forces des Puissances Alliées et Associées et les membres de la Commission Alliée pour l'Autriche seront retirés d'Autriche dans un délai de quatre-vingt-dix jours à partir de la date de l'entrée en vigueur du présent Traité et, dans toute la mesure possible, au plus tard le 31 décembre 1955.

4. The Government of Austria shall accord to the forces of the Allied and Associated Powers and the members of the Allied Commission for Austria pending their withdrawal from Austria the same rights, immunities and facilities as they enjoyed immediately before the coming into force of the present Treaty.

5. The Allied and Associated Powers undertake to return to the Government of Austria after the coming into force of the present Treaty and within the period specified in paragraph 3 of this Article:—

- (a) All currency which was made available free of cost to the Allied and Associated Powers for the purpose of the occupation and which remains unexpended at the time of completion of withdrawal of the Allied Forces;
- (b) All Austrian property requisitioned by Allied forces or the Allied Commission, and which is still in their possession. The obligations under this sub-paragraph shall be applied without prejudice to the provisions of Article 22 of the present Treaty.

PART IV

Claims Arising Out of the War

ARTICLE 21

Reparation

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

ARTICLE 22

German Assets in Austria

The Soviet Union, the United Kingdom, the United States of America and France have the right to dispose of all German assets in Austria in accordance with the Protocol of the Berlin Conference of 2nd August, 1945.

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

2. The Soviet Union shall receive concessions to 60 per cent. of all exploration areas located in Eastern Austria that are German assets to which the Soviet Union is entitled in conformity with the Potsdam Agreement and which are in its possession at the present time, in accordance with list No. 2 and map No. 2 annexed to the Treaty.

The Soviet Union shall have the right to carry out explorations on the exploration areas mentioned in the present paragraph for eight years and to subsequent extraction of oil for a period of twenty-five years beginning from the moment of the discovery of oil.

3. The Soviet Union shall receive oil refineries having a total annual production capacity of 420,000 tons of crude oil, in accordance with list No. 3.

4. The Soviet Union shall receive those undertakings concerned in the distribution of oil products which are at its disposal, in accordance with list No. 4.

4. Le Gouvernement autrichien accordera aux forces des Puissances Alliées et Associées et aux membres de la Commission Alliée pour l'Autriche jusqu'au moment de leur retrait du territoire autrichien, les mêmes droits, immunités et privilèges dont ils jouissaient immédiatement avant l'entrée en vigueur du présent Traité.

5. Les Puissances Alliées et Associées s'engagent à restituer au Gouvernement autrichien après l'entrée en vigueur du présent Traité et dans le délai prévu au paragraphe 3 de cet article:

- a) toute la monnaie mise gratuitement à la disposition des Puissances Alliées et Associées pour les besoins de l'occupation et qui n'aura pas été utilisée au moment où prendra fin le retrait des forces alliées;
- b) tous les biens autrichiens réquisitionnés par les forces alliées ou la Commission Alliée et se trouvant encore en leur possession. L'engagement stipulé dans cet alinéa s'applique sans préjudice des dispositions de l'article 22 du présent Traité.

PARTIE IV

Réclamations nées de la guerre

ARTICLE 21

Réparations

Aucune réparation ne sera exigée de l'Autriche du fait de l'état de guerre ayant existé en Europe depuis le 1^{er} septembre 1939.

ARTICLE 22

Avoirs allemands en Autriche

L'Union Soviétique, le Royaume-Uni, les États-Unis d'Amérique et la France ont le droit de disposer de tous les avoirs allemands en Autriche, conformément au protocole de la Conférence de Berlin du 2 août 1945.

1. L'Union Soviétique recevra, pour une durée de trente ans, des concessions sur les zones d'extraction de pétrole correspondant à 60% de l'extraction en Autriche pour l'année 1947, ainsi que le droit de propriété sur tous les bâtiments, installations, équipements et autres biens qui appartiennent à ces zones d'extraction, conformément à la liste N° 1 ci-dessous et à la charte N° 1 annexée au Traité.

2. L'Union Soviétique recevra des concessions sur 60% de toutes les zones de prospection situées en Autriche orientale qui sont des avoirs allemands auxquels l'Union Soviétique a droit en vertu de l'accord de Potsdam, et qui sont actuellement en sa possession, conformément à la liste N° 2 ci-dessous et à la carte N° 2 annexée au Traité.

L'Union Soviétique aura pendant huit ans le droit de procéder à des recherches dans les zones de prospection visées au présent paragraphe; elle aura un droit sur l'extraction subséquente du pétrole pendant une durée de vingt-cinq ans à partir de la date de la découverte du pétrole.

3. L'Union Soviétique recevra des raffineries de pétrole représentant une capacité annuelle totale de production de 420,000 tonnes de pétrole brut, conformément à la liste N° 3 ci-dessous.

4. L'Union Soviétique recevra celles des entreprises employées à la distribution des produits pétroliers qui sont à sa disposition, conformément à la liste N° 4 ci-dessous.

5. The Soviet Union shall receive the assets of the Danube Shipping Company (D.D.S.G.), located in Hungary, Roumania and Bulgaria; and, likewise, in accordance with list No. 5, 100 per cent. of the assets of the Danube Shipping Company located in Eastern Austria.

6. The Soviet Union shall transfer to Austria property, rights and interests held or claimed as German assets, together with existing equipment, and shall also transfer war industrial enterprises, together with existing equipment, houses and similar immovable property, including plots of land, located in Austria and held or claimed as war booty with the exception of the assets mentioned in paragraphs 1, 2, 3, 4 and 5 of the present Article. Austria for its part undertakes to pay the Soviet Union 150,000,000 United States dollars in freely convertible currency within a period of six years.

The said sum will be paid by Austria to the Soviet Union in equal three-monthly instalments of 6,250,000 United States dollars in freely convertible currency. The first payment will be made on the first day of the second month following the month of the entry into force of the present Treaty. Subsequent three-monthly payments will be made on the first day of the appropriate month. The last three-monthly payment will be made on the last day of the six-year period after the entry into force of this Treaty.

The basis for payments provided for in this Article will be the United States dollar at its gold parity on 1st September, 1949, that is, 35 dollars for one ounce of gold.

As security for the punctual payment of the above-mentioned sums due to the Soviet Union the Austrian National Bank shall issue to the State Bank of the U.S.S.R. within two weeks of the coming into force of the present Treaty promissory notes to the total sum of 150,000,000 United States dollars to become payable on the dates provided for in the present Article.

The promissory notes to be issued by Austria will be non-interest bearing. The State Bank of the U.S.S.R. does not intend to discount these notes provided that the Austrian Government and the Austrian National Bank carry out their obligations punctually and exactly.

7. Legal Position of Assets:

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

5. L'Union Soviétique recevra les avoirs de la D.D.S.G. situés en Hongrie, en Roumanie et en Bulgarie, et aussi, conformément à la liste N° 5 ci-dessous, 100% des avoirs en Autriche orientale de la Compagnie de Navigation du Danube.

6. L'Union Soviétique cédera à l'Autriche les biens, droits et intérêts détenus ou revendiqués au titre des avoirs allemands, y compris l'équipement industriel existant: elle cédera également les entreprises d'industrie de guerre, avec l'équipement industriel existant, les maisons et biens immobiliers de nature similaire, y compris les parcelles de terrain situées en Autriche, détenus ou revendiqués à titre de butin de guerre, à l'exception des avoirs visés aux paragraphes 1, 2, 3, 4 et 5 du présent article. L'Autriche, de son côté, s'engage à payer à l'Union Soviétique 150,000,000 de dollars américains en devises librement convertibles, dans un délai de six ans.

L'Autriche versera à l'Union Soviétique la somme précitée par tranches trimestrielles égales d'un montant de 6,250,000 dollars américains en devises librement convertibles. Le premier paiement sera effectué le premier jour du deuxième mois suivant le mois de l'entrée en vigueur du présent Traité. Les versements trimestriels subséquents seront effectués le premier jour du mois approprié. Le dernier versement trimestriel se fera le dernier jour de la période de six ans après l'entrée en vigueur du Traité.

Les paiements prévus au présent article se feront sur la base du dollar américain, au taux de sa parité-or au 1^{er} septembre 1949, à savoir 35 dollars pour une once d'or.

En garantie du paiement ponctuel des sommes précitées dues à l'Union Soviétique, la Banque Nationale d'Autriche remettra à la Banque d'État de l'U.R.S.S., dans un délai de deux semaines à partir de la date d'entrée en vigueur du présent Traité, des billets à ordre à concurrence d'un montant global de 150,000,000 de dollars américains, venant à échéance aux dates prévues par le présent article.

Les billets à ordre émis par l'Autriche ne seront pas productifs d'intérêts. La Banque d'État de l'U.R.S.S. n'a pas l'intention d'escompter ces billets, à condition que le Gouvernement autrichien et la Banque Nationale d'Autriche remplissent leurs obligations fidèlement et ponctuellement.

7. Situation juridique des avoirs:

- a) Tous les anciens avoirs allemands qui sont devenus la propriété de l'Union Soviétique, conformément aux paragraphes 1, 2, 3, 4 et 5 du présent article resteront, en règle générale, soumis à la juridiction autrichienne et, en conséquence, la législation autrichienne leur sera applicable.
- b) En ce qui concerne les charges qui les grèveront ainsi que la législation industrielle, commerciale et fiscale qui leur sera applicable, ces avoirs ne pourront être placés dans des conditions moins favorables que celles auxquelles sont ou seront soumises les entreprises appartenant à l'Autriche, à ses ressortissants ou à d'autres états ou personnes auxquels le traitement de la nation la plus favorisée aura été accordé.
- c) Aucun des anciens avoirs allemands qui sont devenus la propriété de l'Union Soviétique ne pourra être exproprié sans le consentement de l'Union Soviétique.
- d) L'Autriche n'élèvera aucun obstacle à l'exportation des bénéfices ou autres revenus (c'est-à-dire loyers), qu'il s'agisse de la production des entreprises intéressées ou de toutes devises librement convertibles reçues en contrepartie.

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

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

9. The Soviet Union shall likewise own the rights, property and interests in respect of all assets, wherever they may be situated in Eastern Austria, created by Soviet organisations or acquired by them by purchase after 8th May, 1945, for the operation of the properties enumerated in Lists 1, 2, 3, 4 and 5 below.

The provisions as set forth in sub-paragraphs (a), (b), (c) and (d) of paragraph 7 of the present Article shall correspondingly apply to these assets.

10. Disputes which may arise in connection with the application of the provisions of the present Article shall be settled by means of bilateral negotiations between the interested parties.

In the event of failure to reach agreement by bilateral negotiations between the Governments of the Soviet Union and of Austria within three months, disputes shall be referred for settlement to an Arbitration Commission consisting of one representative of the Soviet Union and one representative of Austria with the addition of a third member, a national of a third country, selected by mutual agreement between the two Governments.

11. The United Kingdom, the United States of America and France hereby transfer to Austria all property, rights and interests held or claimed by or on behalf of any of them in Austria as former German assets or war booty.

Property, rights and interests transferred to Austria under this paragraph shall pass free from any charges or claims on the part of the United Kingdom, the United States of America or France arising out of the exercise of their control of these properties, rights or interests after 8th May, 1945.

12. After fulfilment by Austria of all obligations stipulated in the provisions of the present Article or derived from such provisions, the claims of the Allied and Associated Powers with respect to former German assets in Austria, based on the Decision of the Berlin Conference of 2nd August, 1945, shall be considered as fully satisfied.

13. Austria undertakes that, except in the case of educational, cultural, charitable and religious property, none of the properties, rights and interests transferred to it as former German assets shall be returned to ownership of German juridical persons or where the value of the property, rights and interests exceeds 260,000 schillings, to the ownership of German natural persons.

- e) Les biens, droits et intérêts transférés à l'Union Soviétique, de même que les biens, droits et intérêts cédés par l'Union Soviétique à l'Autriche, seront transférés sans aucune charge ou revendication de la part de l'Union Soviétique ou de la part de l'Autriche. Par les termes "charges et revendications", on entend non seulement les créances découlant après le 8 mai 1945 du Contrôle Allié sur ces biens, droits et intérêts, mais aussi toutes les autres revendications, y compris celles qui ont trait aux impôts. La renonciation réciproque par l'Union Soviétique et par l'Autriche aux charges et revendications vise l'ensemble des charges et des revendications définies ci-dessus, telles qu'elles existeront à la date à laquelle l'Autriche aura formellement transféré à l'Union Soviétique les anciens avoirs allemands cédés à celle-ci, et à la date du transfert formel à l'Autriche des avoirs cédés par l'Union Soviétique.

8. Le transfert à l'Autriche de tous les biens, droits et intérêts visés au paragraphe 6 du présent article, ainsi que la reconnaissance formelle par l'Autriche des droits de l'Union Soviétique sur les anciens avoirs allemands qui seront transférés à cette dernière auront lieu dans un délai de deux mois à partir de la date d'entrée en vigueur du présent Traité.

9. L'Union Soviétique conservera également la propriété des biens, droits et intérêts, où qu'ils se trouvent en Autriche orientale, qui ont été créés ou achetés par des organismes soviétiques, après le 8 mai 1945, pour l'exploitation et la gestion des biens énumérés dans les listes 1, 2, 3, 4 et 5 ci-dessous.

Les dispositions des alinéas (a), (b), (c) et (d) du paragraphe 7 du présent article s'appliqueront également à ces avoirs.

10. Les différends qui pourront s'élever à l'occasion de l'application des dispositions du présent article devront être réglés sur la base de négociations bilatérales entre les parties intéressées.

Au cas où, dans un délai de trois mois, un accord ne serait pas intervenu par voie de négociations bilatérales entre les Gouvernements de l'Union Soviétique et de l'Autriche, les différends seront portés devant une Commission d'arbitrage composée d'un représentant de l'Union Soviétique et d'un représentant de l'Autriche auxquels sera adjoint un troisième membre choisi d'un commun accord par les deux Gouvernements parmi les ressortissants d'un pays tiers.

11. Le Royaume-Uni, les États-Unis d'Amérique et la France transfèrent à l'Autriche tous les biens, droits et intérêts détenus ou revendiqués par l'un d'eux ou pour le compte de l'un d'eux en Autriche, au titre des anciens avoirs allemands ou du butin de guerre.

Les biens, droits et intérêts cédés à l'Autriche en vertu de ce paragraphe seront transférés libres de toutes charges ou revendications de la part du Royaume-Uni, des États-Unis d'Amérique et de la France, nées de l'exercice de leur contrôle sur ces biens, droits et intérêts après le 8 mai 1945.

12. Après que l'Autriche aura rempli tous les engagements stipulés par le présent article, ou résultant de ses dispositions, les revendications des Puissances Alliées et Associées concernant les anciens avoirs allemands en Autriche, fondées sur les décisions de la Conférence de Berlin du 2 août 1945, seront considérées comme étant entièrement satisfaites.

13. L'Autriche s'engage à ce que, à l'exception des biens, droits et intérêts des organisations ayant un but éducatif, culturel, charitable ou religieux, aucun des biens, droits et intérêts qui lui sont cédés au titre des

Austria further undertakes not to pass to foreign ownership those rights and properties indicated in Lists 1 and 2 of this Article which will be transferred to Austria by the Soviet Union in accordance with the Austro-Soviet Memorandum of April 15, 1955.

14. The provisions of this Article shall be subject to the terms of Annex II of this Treaty.

List No. 1

OIL FIELDS IN EASTERN AUSTRIA ON WHICH CONCESSIONS SHALL BE GRANTED TO THE SOVIET UNION

<i>Serial No.</i>	<i>Name of oil field</i>	<i>Name of company</i>
1.	Mühlberg	ITAG
2.	St. Ulrich-DEA	D.E.A.
3.	St. Ulrich-Niederdonau	Niederdonau
4.	Gösting-Kreutzfeld-Pionier (50% of production)	E.P.G.

NOTE:—

A.—All properties of the oil fields listed above shall be transferred to the Soviet Union, including all wells, both productive and non-productive, with all their surface and underground equipment, oil collecting networks, installations and equipment for drilling, compressor and pumping stations, mechanical workshops, gasoline installations, steam-generating plants, electric generating plants and sub-stations with transmission networks, pipe-lines, water-supply systems and water mains, electric networks, steam lines, gas mains, oilfield roads, approach roads, telephone lines, fire-fighting equipment, motor vehicle and tractor parks, office and living accommodation serving the fields, and other property connected with the exploitation of the oil fields listed above.

B.—The right of ownership and leasehold rights to all the properties of the above-mentioned producing fields shall be transferred to the Soviet Union to the extent that any natural or juridical person who owned these fields, exploited them or participated in their exploitation, had rights in, title to, or interest in the said properties.

In cases where any property was held on lease, the periods of the leases, as provided for in the lease agreements, shall be calculated from the date of the entry into force of the present Treaty, and the lease agreements cannot be terminated without the consent of the Soviet Union.

List No. 2

CONCESSIONS TO OIL EXPLORATION AREAS IN EASTERN AUSTRIA TO BE TRANSFERRED TO THE SOVIET UNION

<i>Serial No.</i>	<i>Name of concession</i>	<i>Name of company</i>	<i>Hectarage of the area to be ceded to the U.S.S.R.</i>
1.	Neusiedlersee	Elverat	122,480
2.	Leithagebirge	Kohle Oel Union ..	52,700
3.	Gross Enzersdorf (including the Aderklaa field)	Niederdonau	175,000
4.	Hauskirchen (including the Alt Lichtenwarth field)	ITAG	4,800
5.	St. Ulrich	D.E.A.	740
6.	Schrattenberg	Kohle Oel Union ..	3,940
7.	Grosskrut	Wintershal	8,000
8.	Mistelbach	Preussag	6,400
9.	Paasdorf (50% of the area)	E.P.G.	3,650

anciens avoirs allemands ne redeviennent la propriété de personnes morales allemandes ni, quand la valeur de ces biens, droits et intérêts excède 260,000 schillings, la propriété de personnes physiques allemandes.

L'Autriche s'engage également à ne pas transférer à un propriétaire étranger les droits et biens qui figurent dans les listes 1 et 2 du présent article et qui seront transférés à l'Autriche par l'Union Soviétique conformément au mémorandum austro-soviétique du 15 avril 1955.

14. Les stipulations de cet article seront appliquées conformément aux dispositions de l'annexe II au Traité.

Liste N° 1

CONCESSIONS SUR LES ZONES DE PRODUCTION DU PÉTROLE EN AUTRICHE ORIENTALE À TRANSFÉRER À L'UNION SOVIÉTIQUE

N°	Désignation de la zone de la production du pétrole	Nom de la compagnie
1.	Mühlberg	ITAG
2.	St. Ulrich-D.E.A.	D.E.A.
3.	St. Ulrich-Niederdonau	Niederdonau
4.	Gösting-Kreutzfeld-Pionnier (50% de la production)	E.P.G.

NOTE RELATIVE À LA LISTE N° 1

A.—Seront transférés à l'Union Soviétique tous les biens des zones de production énumérées ci-dessus, y compris tous les puits productifs et non productifs, avec tout leur équipement de surface et équipement souterrain, réseau collecteur de pétrole, installations et matériel de forage, centrales de compresseur et de pompage, ateliers, installations de dégazolinage, installations génératrices de vapeur, installations génératrices d'électricité et sous-centrales avec réseau de transmission, pipe-lines, installations d'amenée d'eau, réseaux électriques, conduites de vapeur, conduites d'eau, conduites de gaz, routes d'exploitation pétrolière, voies d'accès, lignes téléphoniques, matériel pour combattre l'incendie, garages pour automobiles et tracteurs, bureaux et locaux d'habitation desservant les zones et autres biens utilisés à l'occasion de l'exploitation des zones de production du pétrole énumérées ci-dessus.

B.—Le droit de propriété et les droits de bail sur l'ensemble des biens des zones de production susvisées seront transférés à l'Union Soviétique dans la mesure où les personnes physiques ou morales, qui possédaient ou qui exploitaient ces zones ou qui participaient à leur exploitation, avaient un droit, titre ou intérêt portant sur lesdites installations.

Dans le cas où des biens étaient utilisés en vertu d'un droit de bail, la durée stipulée dans les contrats de bail sera calculée comme partant de la date d'entrée en vigueur du présent Traité; la jouissance en vertu de ces contrats ne pourra prendre fin sans le consentement de l'Union Soviétique.

Liste N° 2

CONCESSIONS SUR LES ZONES DE PROSPECTION DU PÉTROLE EN AUTRICHE ORIENTALE À TRANSFÉRER À L'UNION SOVIÉTIQUE

N°	Nom de la concession	Nom de la Compagnie	Surface en hec- tares à concéder à l'Union Soviétique
1.	Neusiedlersee	Elverat	122.480
2.	Leithagebirge	Kohle Oel Union	52.700
3.	Gross Enzersdorf (y compris le ter- rain d'Aderklaa)	Niederdonau ...	175.000
4.	Hauskirchen (y compris le terrain d'Alt-Lichtenwarth)	ITAG	4.800
5.	St. Ulrich	D.E.A.	740
6.	Schrattenberg	Kohle Oel Union	3.940
7.	Groskrut	Wintershall	8.000
8.	Mistelbach	Preussag	6.400
9.	Paasdorf (50% de la surface)	E.P.G.	3.650

<i>Serial No.</i>	<i>Name of concession</i>	<i>Name of company</i>	<i>Hectarage of the area to be ceded to the U.S.S.R.</i>
10.	Steinberg	Steinberg Naphta ..	100
11.	Hausbrunn	D.E.A.	350
12.	Drasenhofen (area on Austrian territory) ..	Kohle Oel Union ..	8,060
13.	Ameis	Preussag	7,080
14.	Siebenhirten	Elverat	5,000
15.	Leis	ITAG	14,800
16.	Korneuburg	Ritz	30,000
17.	Klosterneuburg (50% of the area)	E.P.G.	7,900
18.	Oberlaa	Preussag	51,400
19.	Enzersdorf	Deutag	25,800
20.	Oedenburger Pforte	Kohle Oel Union ..	55,410
21.	Tulln	Donau Oel	38,070
22.	Kilb (50% of the area)	E.P.G.	18,220
23.	Pullendorf	Kohle Oel Union ..	60,700
24.	Nord Steiermark (50% of the area in the Soviet Zone)	E.P.G.	55,650
25.	Mittel Steiermark (area in the Soviet Zone)	Wintershal	9,840
26.	Gösting (50% of the area)	E.P.G.	250
Total 26 concessions			766,340 ha.

NOTE:—

A.—All the properties of the above-mentioned oil exploration areas shall be transferred to the Soviet Union.

B.—The right of ownership and leasehold rights to all the properties of the above-mentioned oil exploration areas shall be transferred to the Soviet Union to the extent that any natural or juridical person who owned these oil exploration areas, exploited them or participated in their exploitation, had rights in, title to, or interest in the said properties.

In cases where any property was held on lease, the periods of the leases, as provided for in the lease agreements, shall be calculated from the date of the entry into force of the present Treaty, and the lease agreements cannot be terminated without the consent of the Soviet Union.

List No. 3

OIL REFINERIES IN EASTERN AUSTRIA THE PROPERTY RIGHTS TO WHICH ARE
TO BE TRANSFERRED TO THE SOVIET UNION

<i>Serial No.</i>	<i>Name of the refinery</i>	<i>Annual productive capacity in 1,000 tons of crude oil in 1947</i>
1.	Lobau	240.0
2.	Nova	120.0
3.	Korneuburg	60.0
4.	Okeros (re-refining)	—
5.	Oil refinery "Moosbierbaum" excluding the equip- ment belonging to France and subject to restitu- tion.	
Total		420.0

<i>N°</i>	<i>Nom de la concession</i>	<i>Nom de la Compagnie</i>	<i>Surface en hec- tare à concéder à l'Union Soviétique</i>
10.	Steinberg	Steinberg Naphta	100
11.	Hausbrunn	D.E.A.	350
12.	Drasenhofen (surface en territoire autrichien)	Kohle Oel Union	8.060
13.	Ameis	Preussag	7.080
14.	Siebenhirten	Elverat	5.000
15.	Leis	ITAG	14.800
16.	Korneuburg	Ritz	30.000
17.	Klosterneuburg (50% de la surface)	E.P.G.	7.900
18.	Oberlaa	Preussag	51.400
19.	Enzersdorf	Deutag	25.800
20.	Odenburger Pforte	Kohle Oel Union	55.410
21.	Tulln	Donau Oel	38.070
22.	Kilb (50% de la surface)	E.P.G.	18.220
23.	Pullendorf	Kohle Oel Union	60.700
24.	Nordsteiermark (50% de la surface en zone soviétique)	E.P.G.	55.650
25.	Mittelsteiermark (surface en zone soviétique)	Wintershall	9.840
26.	Gösting (50% de la surface)	E.P.G.	250
Total 26 concessions			766.340

NOTE RELATIVE À LA LISTE N° 2

A.—Seront transférés à l'Union Soviétique les biens des zones de prospection énumérées ci-dessus.

B.—Le droit de propriété et les droits de bail sur l'ensemble des biens des zones de prospection énumérées ci-dessus seront transférés à l'Union Soviétique dans la mesure où les personnes physiques ou morales qui possédaient ou qui exploitaient ces zones ou qui participaient à leur exploitation avaient un droit, titre ou intérêt portant sur les biens en question.

Dans les cas où les biens étaient utilisés en vertu d'un droit de bail, la durée stipulée dans les contrats de bail sera calculée comme partant de la date d'entrée en vigueur du présent Traité; la jouissance en vertu de ces contrats ne pourra prendre fin sans le consentement de l'Union Soviétique.

Liste N° 3

RAFFINERIES DE PÉTROLE EN AUTRICHE ORIENTALE À TRANSFÉRER
À L'UNION SOVIÉTIQUE

<i>N°</i>	<i>Nom de la raffinerie</i>	<i>Capacité annuelle de production par 1.000 tonnes de pétrole brut en 1947</i>
1.	Lobau	240.0
2.	Nova	120.0
3.	Korneuburg	60.0
4.	Okeros (re-raffinage)	—
5.	La raffinerie "Moosbierbaum" à l'exclusion de l'équipement appartenant à la France et sujet à restitution	—
Total		420.0

NOTE:—

A.—The properties of the refineries shall be transferred with all their equipment including technological installations, electric generating stations, steam generating plants, mechanical workshops, oil depot equipment and storage parks, loading ramps and river moorings, pipe lines including the pipe line Lobau-Zistersdorf, roads, approach roads, office and living quarters, fire-fighting equipment, &c.

B.—The right of ownership and leasehold rights to all the properties of the above-mentioned oil refineries shall be transferred to the Soviet Union to the extent that any natural or juridical person who owned these refineries, exploited them or participated in their exploitation, had rights in, title to, or interest in the said properties.

In cases where any property was held on lease, the periods of the leases, as provided for in the lease agreements, shall be calculated from the date of the entry into force of the present Treaty, and the lease agreements cannot be terminated without the consent of the Soviet Union.

List No. 4

UNDERTAKINGS IN EASTERN AUSTRIA ENGAGED IN THE DISTRIBUTION OF OIL PRODUCTS, THE PROPERTY RIGHTS TO WHICH ARE TO BE TRANSFERRED TO THE SOVIET UNION

Name of the Undertaking

1. Deutsche Gasolin A.G.—Distributing branch in Austria G.m.b.H.
2. "A.G. der Kohlenwerkstoffverband Gruppe Benzin-Benzol-Verband-Bochum"—branch in Austria including the oil depot belonging to it at Praterspitz.
3. "Nova" Mineral Oel Vertrieb Gesellschaft m.b.H.
4. "Donau-Oel G.m.b.H."
5. "Nitag" with the oil depot at Praterspitz.
6. Firms engaged in gas distribution.—"Erdgas G.m.b.H.", "Ferngas A.G.", "Zaya Gas G.m.b.H.", "Reintal Gas G.m.b.H." and "B.F. Methane G.m.b.H."
7. Oil depots "Praterspitz Winter Hafen" and "Mauthausen".
8. "Wirtschaftliche Forschungsgesellschaft m.b.H." (W.I.F.O.) Oil depot at Lobau and plots of land.
9. Pipe line Lobau (Austria)—Raudnitz (Czechoslovakia) on the section from Lobau to the Czechoslovak frontier.

NOTE:—

A.—The undertakings shall be transferred with all their property located in Eastern Austria, including oil depots, pipe lines, distributing pumps, filling and emptying ramps, river moorings, roads, approach roads, &c.

In addition, the property rights over the whole park of railway tank wagons now in the possession of Soviet organisations shall be transferred to the Soviet Union.

B.—The right of ownership and leasehold rights to all the equipment of the abovementioned undertakings situated in Eastern Austria and engaged in the distribution of oil products shall be transferred to the Soviet Union to the extent that any natural or juridical person who owned these undertakings, exploited them or participated in their exploitation, had rights in, title to, or interest in the said equipment.

In cases where any property was held on lease, the periods of the leases, as provided for in the lease agreements, shall be calculated from the date of the entry into force of the present Treaty, and the lease agreements cannot be terminated without the consent of the Soviet Union.

NOTE RELATIVE À LA LISTE N° 3

A.—L'ensemble des biens des raffineries seront transférés, y compris établissements techniques, installations génératrices d'électricité, installations génératrices de vapeur, ateliers, équipement des dépôts de pétrole et des entrepôts, dépôts et rampes de chargement et appontements, pipe-lines, y inclus la pipe-line Lobau-Zistersdorf, voies, voies d'accès, bureaux et locaux d'habitation, matériels pour combattre l'incendie, etc. . .

B.—Le droit de propriété et les droits de bail sur l'ensemble des biens des raffineries énumérées ci-dessus seront transférés à l'Union Soviétique dans la mesure où les personnes physiques ou morales qui possédaient ou qui exploitaient ces zones ou qui participaient à leur exploitation avaient un droit, titre ou intérêt portant sur les biens en question.

Dans les cas où les biens étaient utilisés en vertu d'un droit de bail, la durée stipulée dans les contrats de bail sera calculée comme partant de la date d'entrée en vigueur du présent Traité; ces contrats ne pourront prendre fin sans le consentement de l'Union Soviétique.

Liste N° 4

ENTREPRISES EN AUTRICHE ORIENTALE EMPLOYÉES À LA DISTRIBUTION
DES PRODUITS PÉTROLIERS À TRANSFÉRER À L'UNION SOVIÉTIQUE

N°	Nom de l'entreprise
1.	Deutsche Gasolin A. G. (Agence de distribution en Autriche G.m.b.H.).
2.	A. G. der Kohlewerkstoffverbände (Gruppe Benzin-Benzol-Verband-Bochum)—agence d'Autriche, y compris l'entrepôt de pétrole lui appartenant à Praterspitz.
3.	"Nova" Mineral Oel Vertrieb Gesellschaft m.b.H.
4.	"Donau-Oel G.m.b.H."
5.	"Nitag" avec l'entrepôt de pétrole à Praterspitz.
6.	Firmes employées à la distribution du gaz: "Erdgas G.m.b.H.", "Ferngas A.G.", "Zaya Gas G.m.b.H.", "Reintal Gas G.m.b.H.", et "B.F. Methane G.m.b.H."
7.	Entrepôts de pétrole "Praterspitz Winter Hafen" et "Mauthausen."
8.	Wirtschaftliche Forschungsgesellschaft m.b.H. (W.I.F.O.), entrepôt de pétrole à Lobau et terrains.
9.	Pipe-line Lobau (Autriche)—Raudnitz (Tchécoslovaquie) dans la section de Lobau et la frontière tchécoslovaque.

NOTE RELATIVE À LA LISTE N° 4

A.—Les entreprises seront transférées à l'Union Soviétique dans leur ensemble avec toutes les propriétés situées en Autriche orientale, y compris entrepôts de pétrole, pipe-lines, pompes de distribution, rampes de chargement et de déchargement, appontements, voies, voies d'accès, etc. . .

En outre, seront transférés à l'Union Soviétique les droits de propriété sur le parc entier des wagons-citernes à présent en possession des organisations soviétiques.

B.—Le droit de propriété et les droits de bail sur l'ensemble de l'équipement des entreprises énumérées ci-dessus situées en Autriche orientale qui sont employées à la distribution des produits pétroliers seront transférés à l'Union Soviétique dans la mesure où les personnes physiques ou morales qui possédaient ou qui exploitaient ces entreprises ou qui participaient à leur exploitation, avaient un droit, titre ou intérêt portant sur l'équipement en question.

Dans les cas où les biens étaient utilisés en vertu d'un droit de bail, la durée stipulée dans les contrats de bail sera calculée comme partant de la date d'entrée en vigueur du présent Traité; ces contrats ne pourront prendre fin sans le consentement de l'Union Soviétique.

List No. 5

**ASSETS OF THE D.D.S.G. IN EASTERN AUSTRIA TO BE TRANSFERRED
TO THE SOVIET UNION**

I.—SHIPYARD IN THE TOWN OF KORNEUBURG

The property rights of the shipyard in the town of Korneuburg situated on the left bank of the Danube at Kilometre 1943 and occupying territory on both sides of the old bed of the river Danube, with an aggregate area estimated at 220,770 square metres are to be transferred to the Soviet Union. The wharf area is equal to 61,300 square metres and the berth accommodation to 177 metres.

Furthermore, rights in the lease of the shipyard area of 2,946 square metres are to be transferred to the Soviet Union.

Property rights and other rights to all the equipment of the shipyard to the extent that the D.D.S.G. had rights, or title to or interest in the said equipment, including all plots of land, buildings, dockyards and slips, floating tackle, workshops, buildings and premises, power stations and transformer sub-stations, railway sidings, transport equipment, technological and operational equipment, tools and inventory, communications and all communal welfare installations, dwelling houses and barracks, and also all other property belonging to the shipyard are to be transferred to the Soviet Union.

II.—AREAS OF THE PORT OF THE CITY OF VIENNA

(a) First Area (Nordbahnbrücke)

1. Port area from point 1931, 347.35 kilometres along the course of the Danube to point 1931, 211.65 kilometres, including in it the "Donau-Sandwerkplatz" area, and from point 1931, 176.90 kilometres to point 1930, 439.35 kilometres along the course of the Danube, including in it the areas "Norbahnbrücke" and "Zwischenbrücke", extending along the wharfside for a total distance of 873.2 metres and with an average width of about 70 metres.

(b) Second Area (Nordbahnlande)

2. Port area from point 1929, 803.00 kilometres to point 1929, 618.00 kilometres along the course of the Danube, extending along the wharfside for a distance of 185.00 metres and with an average width of about 15 metres with the two adjacent railways and also the plot of the "Kommunal Bäder" area.

(c) Third Area (Praterkai)

Port area from point 1928, 858.90 kilometres to point 1927, 695.30 kilometres along the course of the Danube, for a distance of 1,163.60 metres and with an average width of about 70 metres.

(d) Fourth Area

Port area, bordering on point 1925, 664.7 kilometres, on the Danube on the area of the port used by the Hungarian Steamship Company, to point 1925, 529.30 kilometres on the area occupied by the railway (Kaibahnhof), extending along the wharfside for a total distance of 135.4 metres and with an average width of about 70 metres.

The four areas of the Port enumerated shall be transferred with all the hydro-technical constructions, warehouse, magazines, sheds, river station, operational, service and dwelling houses, auxiliary buildings and constructions, mechanical and loading and unloading equipment and mechanisms, repair shops with equipment, transformer sub-stations and electrical equipment, communications, communal welfare installations, all road and transport installations and also all equipment and inventory.

Liste N° 5

AVOIRS DE LA D.D.S.G. EN AUTRICHE ORIENTALE À TRANSFÉRER
À L'UNION SOVIÉTIQUE

I.—CHANTIER DE CONSTRUCTION DE KORNEUBURG

Sera transféré en toute propriété à l'Union Soviétique le chantier de construction de la ville de Korneuburg situé sur la rive gauche du fleuve Danube, au kilomètre fluvial 1943 et occupant sur les deux rives de l'ancien lit du Danube une superficie totale estimée à 220.770 m². La surface des quais égale 61.300 m² et les installations d'amarrage s'étendent sur 177 mètres.

En outre, seront transférés à l'Union Soviétique les droits de bail sur des zones du chantier d'une superficie de 2.946 m².

Seront transférés à l'Union Soviétique les droits de propriété et autres droits sur toutes les installations du chantier, dans la mesure où la D.D.S.G. avait les droits, titres ou intérêts portant sur lesdites installations, y compris toutes les parcelles de terrain, constructions, cales et bassins, engins flottants, ateliers, bâtiments et locaux, centrales électriques et postes de transformateur, voies de garage ferroviaires, matériel de transport, matériel technique et matériel d'exploitation, outillages et inventaires, moyens de communication et installations d'assistance sociale, maisons d'habitation et baraques, ainsi que tous autres biens appartenant au chantier de construction.

II.—ZONES DU PORT DE LA VILLE DE VIENNE

a) *Première zone (Nordbahnbrücke)*

1. Zone du port s'étendant du point kilométrique 1931, 347.35 sur le Danube au point kilométrique 1931, 211.65, y compris la zone du "Donau-Sandwerk-platz" ainsi que du point kilométrique 1931, 176.90 au point kilométrique 1930, 439.35 le long du Danube, y compris les zones de "Nordbahnbrücke" et de "Zwischenbrücke" situées le long des quais sur une longueur totale de 873.2 mètres, avec une largeur de 70 mètres environ.

b) *Deuxième zone (Nordbahnlande)*

2. Zone du port s'étendant du point kilométrique 1929, 803.00 au point kilométrique 1929, 618.00 du cours du Danube, le long des quais sur une longueur de 185 mètres, avec une largeur moyenne de 15 mètres environ, ainsi que les deux chemins de fer adjacents et la parcelle de la zone des "Kommunal Bäder."

c) *Troisième zone (Praterquay)*

Zone du port s'étendant du point kilométrique 1928, 858.90 au point kilométrique 1927, 695.30 le long du Danube sur une distance de 1163.60 mètres avec une largeur moyenne de 70 mètres environ.

d) *Quatrième zone*

Zone du port qui confine, au point kilométrique 1925, 664.7 du Danube, à la zone de ce port utilisée par la Compagnie hongroise de navigation et au point kilométrique 1925, 529.30 de la zone occupée par le chemin de fer de (Quay Bahnhof) et s'étendant le long des quais sur une longueur totale de 135.40 mètres, avec une largeur moyenne de 70 mètres environ.

Les quatre zones de port énumérées seront transférées avec toutes les installations hydrotechniques, entrepôts, magasins, hangars, stations fluviales, bâtiments d'opération, de service et d'habitation, bâtiments d'installation auxiliaires, équipement mécanique et matériel et outillage mécanique de chargement et de déchargement, ateliers de réparations avec équipement, postes de transformateur et équipement électrique, moyens de communication, installations d'assistance sociale, toutes les installations de voies et moyens, ainsi que tout l'équipement et l'inventaire.

III.—PROPERTY AND PLANT OF THE AGENCIES, OF RIVER STATIONS AND STORES

<i>Serial No.</i>	<i>Name</i>
	<i>Niederranna</i>
1.	Agency and warehouse building.
	<i>Obermühl</i>
2.	Agency and warehouse building.
3.	Land plot 536 square metres.
	<i>Neuhaus</i>
4.	Waiting room.
	<i>Mauthausen</i>
5.	Agency building.
	<i>Wallsee</i>
6.	Agency building.
7.	Warehouse.
	<i>Grein</i>
8.	Agency and warehouse building.
	<i>Sarmingstein</i>
9.	Agency building.
	<i>Ybbs</i>
10.	Agency building.
	<i>Pöchlarn</i>
11.	Living premises.
12.	Agency building.
13.	Land plot 1,598 square metres.
	<i>Melk</i>
14.	Warehouse (in the city).
15.	Waiting room and office.
16.	Warehouse.
	<i>Schönbühel</i>
17.	Waiting room.
	<i>Aggsbach-Dorf</i>
18.	Agency building.
19.	Warehouse
	<i>Spitz</i>
20.	Agency building.
21.	Warehouse.
22.	Land plot 1,355 square metres.
	<i>Weissenkirchen</i>
23.	Office and waiting room.
24.	Warehouse.
25.	Land plot 516 square metres.
	<i>Dürnstein</i>
26.	Agency building.
	<i>Stein</i>
27.	Living premises.
28.	Waiting room and warehouse building.
29.	Land plot alongside house.
	<i>Krems</i>
30.	Agency building.
	<i>Hollenburg</i>
31.	Waiting room.

III.—BIENS ET INSTALLATIONS DES AGENCES, DES GARES ET
ENTREPÔTS FLUVIAUX

N°	Nom
	<i>Niederranna</i>
1.	Bâtiment pour agence et entrepôt.
	<i>Obermühl</i>
2.	Bâtiment pour agence et entrepôt.
3.	Terrain de 536 m ² .
	<i>Neuhaus</i>
4.	Salle d'attente.
	<i>Mauthausen</i>
5.	Bâtiment pour agence.
	<i>Wallsee</i>
6.	Bâtiment pour agence.
7.	Entrepôt.
	<i>Grein</i>
8.	Bâtiment pour agence et entrepôt.
	<i>Sarmingstein</i>
9.	Bâtiment pour agence.
	<i>Ybbs</i>
10.	Bâtiment pour agence.
	<i>Pöchlarn</i>
11.	Locaux d'habitation.
12.	Bâtiment pour agence.
13.	Terrain de 1598 m ² .
	<i>Melk</i>
14.	Entrepôt (en ville).
15.	Salle d'attente et bureau.
16.	Entrepôt.
	<i>Schönbühel</i>
17.	Salle d'attente.
	<i>Aggsbach-Dorf</i>
18.	Bâtiment pour agence.
19.	Entrepôt.
	<i>Spitz</i>
20.	Bâtiment pour agence.
21.	Entrepôt.
22.	Terrain de 1355 m ² .
	<i>Weissenkirchen</i>
23.	Bureau et salle d'attente.
24.	Entrepôt.
25.	Terrain de 516 m ² .
	<i>Dürnstein</i>
26.	Bâtiment pour agence.
	<i>Stein</i>
27.	Locaux d'habitation.
28.	Salle d'attente et bâtiment pour entrepôt.
29.	Terrains contigus à l'immeuble.
	<i>Krems</i>
30.	Bâtiment pour agence.
	<i>Hollenburg</i>
31.	Salle d'attente.

<i>Serial No.</i>	<i>Name</i>
	<i>Tulln</i>
32.	Agency building.
	<i>Greifenstein</i>
33.	Shed.
	<i>Korneuburg</i>
34.	Waiting room and booking office building.
	<i>Hainburg</i>
35.	Living premises.
36.	Agency building.
37.	Warehouse.
38.	Land plot 754 square metres.
	<i>Arnsdorf</i>
39.	Agency building.
	<i>Landing Stages</i>
40.	Melkstrom.
41.	Isperdorf.
42.	Marbach.
43.	Weitenegg.
44.	Deutsch-Altenburg.
45.	Zwentendorf.
46.	Kritzendorf.

The property enumerated in Section III. is to be transferred with all equipment and inventory.

IV.—PROPERTY IN THE CITY OF VIENNA

1. Living house at No. 11, Archduke Karl Square (formerly house No. 6), 2nd District, standing on its own land.
2. Freehold land and house at 204 Handelskai, 2nd District.
3. Freehold building plots in Wehlstrasse, 2nd District, Catastral Registry Nos. 1660, 1661, 1662.
4. Leased land plot at No. 286 Handelskai, 2nd District.

The property enumerated in Section IV. is to be transferred with all equipment and inventory.

Note to Sections II., III and IV.

The land, occupied by the Port area mentioned in Section II. of the present list, and also by the agency buildings, river stations, warehouses and other buildings, enumerated in Sections III. and IV. of the present list and also all property indicated in Sections II., III. and IV. are to be transferred to the U.S.S.R. on the same legal basis on which this land and other property were held by the D.D.S.G., with the proviso that the land and other property owned by the D.D.S.G. on 8th May, 1945, pass into the ownership of the U.S.S.R.

In cases where agreements which established the legal basis for the transfer of land to the D.D.S.G. did not provide for the transfer to the D.D.S.G. of the ownership rights to this land, the Austrian Government shall be obliged to formalise the transfer to the U.S.S.R. of rights, acquired by the D.D.S.G. by such agreements, and to prolong the validity of the latter for an indefinite period with the proviso that in the future the validity of such agreements shall not be cancelled without the consent of the Government of the U.S.S.R.

<i>N°</i>	<i>Nom</i>
	<i>Tulln</i>
32.	Bâtiment pour agence.
	<i>Greifenstein</i>
33.	Hangar.
	<i>Korneuburg</i>
34.	Bâtiment contenant salle d'attente et guichets.
	<i>Hainburg</i>
35.	Locaux d'habitation.
36.	Bâtiment pour agence.
37.	Entrepôt.
38.	Terrain de 754 m ² .
	<i>Arnsdorf</i>
39.	Bâtiment pour agence.
	<i>Débarcadères</i>
40.	Melkstrom.
41.	Isperdorf.
42.	Marbach.
43.	Waitenegg.
44.	Deutsch Altenburg.
45.	Zwentendorf.
46.	Kritzendorf.

Les biens énumérés à la Section III sont transférés avec tout l'équipement et l'inventaire.

IV.—BIENS DE LA VILLE DE VIENNE

1. Maison d'habitation sise au N° 11, square Archiduc Karl (anciennement au N° 6), 2^e arrondissement, érigée sur son propre terrain.

2. Terrain en pleine propriété et maison au 204, Handelskai, 2^e arrondissement.

3. Terrain de construction en pleine propriété de la Wehlstrasse, 2^e arrondissement, immatriculé au registre du cadastre sous les N° 1660, 1661, 1662.

4. Parcelle de terrain en bail au 286, Handelskai, 2^e arrondissement.

Les biens énumérés à la Section IV sont transférés avec tout l'équipement et l'inventaire.

Note pour les Sections II, III et IV

Le terrain occupé par les zones de port visées à la Section II de la présente liste, ainsi que par les bâtiments d'agence, gares fluviales, entrepôts et autres constructions énumérées aux Sections III et IV de la présente liste, ainsi que tous les biens mentionnés dans les Sections II, III et IV, seront transférés à l'Union Soviétique sur les mêmes bases juridiques que celles sur lesquelles ils étaient détenus par la D.D.S.G., étant entendu que tel terrain ou autre bien qui était la propriété de la D.D.S.G. au 8 mai 1945, deviendra la propriété de l'Union Soviétique.

Dans les cas où les contrats qui fixaient les bases juridiques sur lesquelles un terrain avait passé en la possession de la D.D.S.G. ne prévoyaient pas le transfert à la D.D.S.G. des droits de propriété sur ledit terrain, le Gouvernement autrichien sera tenu de régulariser le transfert à l'Union Soviétique des droits acquis par la D.D.S.G. en vertu de ces contrats, et de prolonger l'effet de ces derniers pour une durée indéterminée, étant entendue qu'à l'avenir l'effet de ces contrats ne pourra prendre fin sans le consentement du Gouvernement de l'Union Soviétique.

The extent of the Soviet Union's liabilities in respect of these agreements is to be determined by agreement between the Government of the U.S.S.R. and the Government of Austria. These liabilities shall not exceed the liabilities undertaken by the D D S G in accordance with agreements concluded on or before 8th May, 1945.

V —VESSELS, BELONGING TO THE D D S.G. LOCATED IN EASTERN AUSTRIA AND TO BE TRANSFERRED TO U S S.R.

No	Type of vessel	Present name	Old name	Horse power	Cargo carrying capacity
1	Tug	"Vladivostok"	"Persenbeug"	1,000	—
2	Tug	"Cronstadt"	"Bremen"	800	—
3	Passenger steamer	"Caucasus"	"Hellios"	1,100	—
4	Dumb tanker barge	104	"DDSG-09714"	—	967
5	Dumb tanker barge	144	"DDSG-09756"	—	974
6	Dumb tanker barge	161	"DDSG-05602"	—	548
7	Dumb tanker barge	09765	"DDSG-09765"	—	952
8	Dumb tanker barge	29	"DDSG-XXIX"	—	1,030
9	Dumb dry cargo barge	22	(Taken over after completion)	—	972
10	Dumb dry cargo barge	23	(Taken over after completion)	—	972
11	Dumb dry cargo barge	EL-72	"DDSG-EL-72"	—	180
12	Dumb dry cargo barge	654	"DDSG-67277"	—	669
13	Dumb dry cargo barge	689	"DDSG-6566"	—	657
14	Dumb dry cargo barge	1058	"DDSG-1058"	—	950
15	Dumb dry cargo barge	5016	"DDSG-5016"	—	520
16	Dumb dry cargo barge	5713	"DDSG-5713"	—	576
17	Dumb dry cargo barge	5728	"DDSG-5728"	—	602
18	Dumb dry cargo barge	6746	"DDSG-6746"	—	670
19	Dumb dry cargo barge	65204	"DDSG-65204"	—	650
20	Dumb dry cargo barge	67173	"DDSG-67173"	—	670
21	Dumb dry cargo barge	10031	"DDSG-10031"	—	942
22	Dumb dry cargo barge	5015	"DDSG-5015"	—	511
23	Dumb dry cargo barge	6525	"DDSG-6525"	—	682
24	Dumb dry cargo barge	67266	"DDSG-67266"	—	680
25	Lighter	304	"Johanna"	—	30
26	Lighter	411	"V-238"	—	40
27	Double funnel pontoon	RP-IV	"RP-IV"	—	—
28	Double funnel pontoon	RP-VI	"DDSG-RP-VI"	—	—
29	Double funnel pontoon	RP-XX	"DDSG-RP-XX"	—	—
30	Landing stage	EP-97	"DDSG-EP-9721"	—	—
31	Pontoon	EP-120	"DDSG-EP-120"	—	—
32	Deckless lighter	"Trauner"	"Trauner"	—	—
33	Floating crane	P-1	(Nameless)	—	—
34	Floating crane	P-2	"DDSG-21"	—	—
35	Pontoon	PT-7	—	—	—
36	Pontoon	PT-8	—	—	—

ARTICLE 23

Austrian Property in Germany and Renunciation of Claims by Austria on Germany

1 From the date of the coming into force of the present Treaty the property in Germany of the Austrian Government or of Austrian nationals, including property forcibly removed from Austrian territory to Germany after 12th March, 1938, shall be returned to its owners. This provision shall not apply to the property of war criminals or persons who have been subjected to the penalties of denazification measures, such property shall be placed at the disposal of the Austrian Government if it has not been subjected to blocking or confiscation in accordance with the laws or ordinances in force in Germany after 8th May, 1945

2 The restoration of Austrian property rights in Germany shall be effected in accordance with measures which will be determined by the Powers in occupation of Germany in their zones of occupation.

L'étendue des obligations de l'Union Soviétique en vertu de ces contrats devra être fixée d'un commun accord entre le Gouvernement de l'Union Soviétique et le Gouvernement de l'Autriche, étant entendu que ces obligations ne devront pas dépasser les obligations assumées par la D.D.S.G. en vertu des contrats conclus avant le 8 mai 1945.

V.—BATEAUX APPARTENANT À LA D.D.S.G. QUI SE TROUVENT EN AUTRICHE ORIENTALE ET QUI SONT À TRANSFÉRER À L'UNION SOVIÉTIQUE

No	Type de bateau	Nom actuel	Ancien nom	Puissance HP	Tonnage utile
1.	Remorqueur	"Vladivostok".	"Persenbeug"	1,000	—
2.	Remorqueur	"Cronstadt"	"Bremen"	800	—
3.	Vapeur de passagers	"Caucasus"	"Helios"	1,100	—
4.	Chalands-citernes	104	"DDSG-09714"	—	967
5.	Chalands-citernes	144	"DDSG-09756"	—	974
6.	Chalands-citernes	161	"DDSG-05602"	—	548
7.	Chalands-citernes	09765	"DDSG-09765"	—	952
8.	Chalands-citernes	29	"DDSG-XXIX"	—	1,030
9.	Chalands pour cargaisons sèches	22	Repris après avoir été terminés	—	972
10.	Chalands pour cargaisons sèches	23	Repris après avoir été terminés	—	972
11.	Chalands pour cargaisons sèches	EL-72	"DDSG-EL-72"	—	180
12.	Chalands pour cargaisons sèches	654	"DDSG-67277"	—	669
13.	Chalands pour cargaisons sèches	689	"DDSG-6566"	—	657
14.	Chalands pour cargaisons sèches.	1058	"DDSG-1058"	—	950
15.	Chalands pour cargaisons sèches.	5016	"DDSG-5016"	—	520
16.	Chalands pour cargaisons sèches.	5713	"DDSG-5713"	—	576
17.	Chalands pour cargaisons sèches	5728	"DDSG-5728"	—	602
18.	Chalands pour cargaisons sèches.	6746	"DDSG-6746"	—	670
19.	Chalands pour cargaisons sèches	65204	"DDSG-65204"	—	650
20.	Chalands pour cargaisons sèches.	67173	"DDSG-67173"	—	670
21.	Chalands pour cargaisons sèches.	10031	"DDSG-10031"	—	942
22.	Chalands pour cargaisons sèches.	5015	"DDSG-5015"	—	511
23.	Chalands pour cargaisons sèches	6525	"DDSG-6525"	—	682
24.	Chalands pour cargaisons sèches	67266	"DDSG-67266"	—	680
25.	Péniche	304	"Iohanna"	—	30
26.	Péniche	411	"V-238"	—	40
27.	Ponton à 2 cheminées	RP-IV	"RP-IV"	—	—
28.	Ponton à 2 cheminées	RP-VI	"DDSG-RP-VI"	—	—
29.	Ponton à 2 cheminées	RP-XX	"DDSG-RP-XX"	—	—
30.	Plate-forme de débarquement	EP-97	"DDSG-EP-9721"	—	—
31.	Ponton	EP-120	"DDSG-EP-120"	—	—
32.	Péniche sans pont	"Trauner"	"Trauner"	—	—
33.	Grue flottante	P-1	Sans nom	—	—
34.	Grue flottante	P-2	"DDSG-21"	—	—
35.	Ponton	PT-7	—	—	—
36.	Ponton	PT-8	—	—	—

ARTICLE 23

Biens autrichiens en Allemagne et abandon des réclamations de l'Autriche à l'encontre de l'Allemagne

1. A partir de l'entrée en vigueur du présent Traité, les biens en Allemagne du Gouvernement Autrichien ou de ses ressortissants, y compris les biens qui ont été enlevés par la force du territoire autrichien et emportés en Allemagne après le 12 mars 1938 seront restitués à leurs propriétaires. Cette disposition ne s'appliquera pas aux biens des criminels de guerre et des personnes qui ont été l'objet de mesures pénales au titre de la dénazification. Ces biens seront mis à la disposition du Gouvernement autrichien, à la condition qu'ils n'aient pas été bloqués ou confisqués conformément aux lois et ordonnances en vigueur en Allemagne après le 8 mai 1945.

2. Le rétablissement des droits de propriété sur les biens autrichiens en Allemagne sera effectué conformément aux mesures qui seront déterminées par les Puissances d'Occupation de l'Allemagne dans leurs zones d'occupation.

3. Without prejudice to these and to any other disposition in favour of Austria and Austrian nationals by the Powers occupying Germany, and without prejudice to the validity of settlements already reached, Austria waives on its own behalf and on behalf of Austrian nationals all claims against Germany and German nationals outstanding on 8th May, 1945, except those arising out of contract and other obligations entered into, and rights acquired, before 13th March, 1938. This waiver shall be deemed to include all claims in respect of transactions effected by Germany during the period of the annexation of Austria and all claims in respect of loss or damage suffered during the said period, particularly in respect of the German public debt held by the Austrian Government or its nationals and of currency withdrawn at the time of the monetary conversion. Such currency shall be destroyed upon the coming into force of the present Treaty.

ARTICLE 24

Renunciation by Austria of Claims against the Allies

1. Austria waives all claims of any description against the Allied and Associated Powers on behalf of the Austrian Government or Austrian nationals arising directly out of the war in Europe after 1st September, 1939, or out of actions taken because of the existence of a state of war in Europe after that date whether or not such Allied or Associated Power was at war with Germany at the time. This renunciation of claims includes the following:—

- (a) Claims for losses or damages sustained as a consequence of acts of armed forces or authorities of Allied or Associated Powers;
- (b) Claims arising from the presence, operations or actions of armed forces or authorities of Allied or Associated Powers in Austrian territory;
- (c) Claims with respect to the decrees or orders of Prize Courts of Allied or Associated Powers, Austria agreeing to accept as valid and binding all decrees and orders of such Prize Courts on or after 1st September 1939, concerning ships or goods belonging to Austrian nationals or concerning the payment of costs;
- (d) Claims arising out of the exercise or purported exercise of belligerent rights.

2. The provisions of this Article shall bar, completely and finally, all claims of the nature referred to herein, which shall henceforward be extinguished, whoever may be the parties in interest. The Austrian Government agrees to make equitable compensation in schillings to persons who furnished supplies or services on requisition to the forces of Allied or Associated Powers in Austrian territory and in satisfaction of non-combat damage claims against the forces of the Allied or Associated Powers arising in Austrian territory.

3. Austria likewise waives all claims of the nature covered by paragraph 1 of this Article on behalf of the Austrian Government or Austrian nationals against any of the United Nations whose diplomatic relations with Germany were broken off between 1st September, 1939, and 1st January, 1945, and which took action in co-operation with the Allied and Associated Powers.

4. The Government of Austria shall assume full responsibility for Allied military currency of denominations of five schillings and under issued in Austria by the Allied Military Authorities, including all such currency in circulation at the coming into force of the present Treaty. Notes issued by the Allied

3. Sans préjudice de ces dispositions et de toutes autres qui seraient prises en faveur de l'Autriche et des ressortissants autrichiens par les Puissances occupant l'Allemagne et sans préjudice des règlements déjà opérés, l'Autriche renonce, en son nom et au nom des ressortissants autrichiens, à toutes réclamations contre l'Allemagne et les ressortissants allemands, qui n'étaient pas réglées au 8 mai 1945, à l'exception de celles qui résultent de contrats et d'autres obligations qui étaient en vigueur avant le 13 mars 1938, ainsi que de droits qui étaient acquis avant cette date. Cette renonciation sera considérée comme s'appliquant à toutes les réclamations relatives à des transactions conclues par l'Allemagne pendant la période d'annexion de l'Autriche par l'Allemagne et à toutes les réclamations portant sur des pertes ou des dommages survenus au cours de la même période, et notamment aux créances représentées par les titres de la dette publique allemande détenus par le Gouvernement autrichien ou ses ressortissants et par les monnaies retirées de la circulation lors de la conversion monétaire, qui devront être détruites dès l'entrée en vigueur du présent Traité.

ARTICLE 24

Renonciation par l'Autriche à ses revendications à l'égard des Alliés

1. L'Autriche renonce, au nom du Gouvernement autrichien ou des ressortissants autrichiens, à faire valoir contre les Puissances Alliées et Associées, toute réclamation de quelque nature que ce soit, résultant directement de la guerre en Europe ou de mesures prises par suite de l'existence d'un état de guerre en Europe après le 1^{er} septembre 1939, que la Puissance Alliée ou Associée intéressée ait été ou non en guerre avec l'Allemagne à l'époque. Sont incluses dans cette renonciation:

- (a) les réclamations relatives à des pertes ou dommages subis par suite de l'action des forces armées ou des autorités des Puissances Alliées ou Associées;
- (b) les réclamations résultant de la présence, des opérations ou de l'action des forces armées ou des autorités des Puissances Alliées ou Associées sur le territoire autrichien;
- (c) les réclamations portant sur les décisions ou les ordonnances des tribunaux de prises de Puissances Alliées ou Associées, l'Autriche acceptant de reconnaître comme valides et comme ayant force obligatoire toutes les décisions et ordonnances desdits tribunaux de prises, rendues au 1^{er} septembre 1939 ou postérieurement à cette date et concernant les navires ou marchandises appartenant à des ressortissants autrichiens ou le paiement des frais;
- (d) les réclamations résultant de l'exercice des droits de belligérance ou de mesures prises dans l'intention d'exercer ces droits.

2. Les dispositions du présent article excluront complètement et définitivement toutes réclamations de la nature de celles qui y sont visées, qui seront dès lors éteintes, quelles que soient les parties intéressées. Le Gouvernement autrichien accepte de verser, en schillings, une indemnité équitable pour satisfaire les réclamations des personnes qui ont fourni, sur réquisition, des marchandises ou des services aux forces armées des Puissances Alliées ou Associées sur le territoire autrichien, ainsi que les réclamations portées contre les forces armées des Puissances Alliées ou Associées relatives à des dommages causés sur le territoire autrichien et ne résultant pas de faits de guerre.

3. L'Autriche renonce également, au nom du Gouvernement autrichien ou des ressortissants autrichiens, à faire valoir des réclamations de la nature de celles qui sont visées au paragraphe 1 du présent article, contre l'une quelconque des Nations Unies, dont les relations diplomatiques avec l'Allemagne ont été

Military Authorities of denominations higher than five schillings shall be destroyed and no claims may be made in this connexion against any of the Allied or Associated Powers.

5. The waiver of claims by Austria under paragraph 1 of this Article includes any claims arising out of actions taken by any of the Allied or Associated Powers with respect to ships belonging to Austrian nationals between 1st September, 1939, and the coming into force of the present Treaty as well as any claims and debts arising out of the Conventions on prisoners of war now in force.

PART V

Property, Rights and Interests

ARTICLE 25

United Nations Property in Austria

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

2. The Austrian Government undertakes that all property, rights and interests falling under this Article shall be restored free of all encumbrances and charges of any kind to which they may have become subject as a result of the war with Germany and without the imposition of any charges by the Austrian Government in connexion with their return. The Austrian Government shall nullify all measures of seizure, sequestration or control taken against United Nations property in Austria between the day of commencement of hostilities between Germany and the United Nation concerned and the coming into force of the present Treaty. In cases where the property has not been returned within six months from the coming into force of the present Treaty, applications for the return of property shall be made to the Austrian authorities not later than twelve months from the coming into force of the Treaty, except in cases in which the claimant is able to show that he could not file his application within this period.

3. The Austrian Government shall invalidate transfers involving property, rights and interests of any description belonging to United Nations nationals, where such transfers resulted from force exerted by Axis Governments or their agencies between the beginning of hostilities between Germany and the United Nation concerned and 8th May, 1945.

4.—(a) In cases in which the Austrian Government provides compensation for losses suffered by reason of injury or damage to property in Austria which occurred during the German occupation of Austria or during the war, United Nations nationals shall not receive less favourable treatment than that accorded to Austrian nationals; and in such cases United Nations nationals who hold, directly or indirectly, ownership interests in corporations or associations which are not United Nations nationals within the meaning of paragraph 8 (a) of this Article shall receive compensation based on the total loss or damage suffered by the corporations or associations and bearing the same proportion to such loss or damage as the beneficial interest of such nationals bears to the capital of the corporation or association.

rompues au cours de la période qui s'est écoulée entre le 1^{er} septembre 1939 et le 1^{er} janvier 1945 et qui a pris des mesures en coopération avec les Puissances Alliées et Associées.

4. Le Gouvernement autrichien assumera l'entière responsabilité de toute la monnaie militaire alliée émise en Autriche par les autorités militaires alliées en coupures dont la valeur n'excède pas cinq schillings, y compris toute la monnaie de cette nature en circulation à la date d'entrée en vigueur du présent Traité. Les billets de plus de cinq schillings émis par les autorités militaires alliées seront détruits et aucune réclamation ne sera recevable à cet égard à l'encontre de l'une quelconque des Puissances Alliées et Associées.

5. La renonciation à laquelle l'Autriche souscrit aux termes du paragraphe 1 du présent article s'étend à toutes les réclamations portant sur les mesures prises par l'une quelconque des Puissances Alliées ou Associées à l'égard des navires appartenant à des ressortissants autrichiens, entre le 1^{er} septembre 1939 et la date d'entrée en vigueur du présent Traité, ainsi qu'à toutes les réclamations et créances résultant des conventions sur les prisonniers de guerre actuellement en vigueur.

PARTIE V

Biens, Droits et Intérêts

ARTICLE 25

Biens des Nations Unies en Autriche

1. Pour autant qu'elle ne l'a déjà fait, l'Autriche rétablira tous les droits et intérêts légaux en Autriche des Nations Unies et de leurs ressortissants, tels qu'ils existaient au jour où les hostilités ont commencé entre l'Allemagne et la Nation Unie intéressée, et restituera tous les biens appartenant en Autriche aux Nations Unies et à leurs ressortissants dans l'état où ils se trouvent actuellement.

2. Le Gouvernement autrichien restituera tous les biens, droits et intérêts visés au présent article, libres de toutes hypothèques ou charges quelconques dont ils auraient pu être grevés du fait de la guerre avec l'Allemagne sans que la restitution donne lieu à la perception d'aucune somme de la part du Gouvernement autrichien. Le Gouvernement autrichien annulera toutes mesures de saisie, de séquestre et de contrôle prises à l'encontre des biens des Nations Unies en Autriche entre la date de l'ouverture des hostilités entre l'Allemagne et la Nation Unie intéressée et la date d'entrée en vigueur du présent Traité. Dans les cas où le bien n'aurait pas été restitué dans les six mois à compter de la date d'entrée en vigueur du présent Traité, la demande de restitution devra être présentée aux autorités autrichiennes dans un délai maximum de douze mois à compter de la date d'entrée en vigueur du présent Traité, sauf dans les cas où le demandeur sera en mesure d'établir qu'il lui a été impossible de présenter sa demande dans ce délai.

3. Le Gouvernement autrichien annulera les transferts portant sur les biens, droits et intérêts de toute nature, appartenant à des ressortissants des Nations Unies, lorsque ces transferts résultent de mesures de force prises par les Gouvernements des Puissances de l'Axe ou par leurs services, entre le commencement des hostilités entre l'Allemagne et la Nation Unie intéressée et le 8 mai 1945.

4.—(a) Dans le cas où le Gouvernement autrichien assure l'indemnisation des pertes subies par suite d'une atteinte ou d'un dommage infligé à des biens en Autriche au cours de l'occupation de l'Autriche par l'Allemagne ou au cours de la guerre, les ressortissants des Nations Unies ne devront pas

(b) The Austrian Government shall accord to United Nations and their nationals the same treatment in the allocation of materials for the repair or rehabilitation of their property in Austria and in the allocation of foreign exchange for the importation of such materials as applies to Austrian nationals.

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

6. United Nations nationals and their property shall be exempted from any exceptional taxes, levies, or imposts imposed on their capital assets in Austria by the Austrian Government or by any Austrian authority between the date of surrender of the German armed forces and the coming into force of the present Treaty for the specific purpose of meeting charges arising out of the war or of meeting the costs of occupying forces. Any sums which have been so paid shall be refunded.

7. The owner of the property concerned and the Austrian Government may agree upon arrangements in lieu of the provisions of this Article.

8. As used in this Article:

(a) "United Nations nationals" means individuals who are nationals of any of the United Nations, or corporations or associations organised under the laws of any of the United Nations, at the coming into force of the present Treaty, provided that the said individuals, corporations or associations also had this status on 8th May, 1945.

The term "United Nations nationals" also includes all individuals, corporations or associations which, under the laws in force in Austria during the war, were treated as enemy.

(b) "Owner" means one of the United Nations, or a national of one of the United Nations, as defined in sub-paragraph (a) above, who is entitled to the property in question, and includes a successor of the owner, provided that the successor is also a United Nation or a United Nations national as defined in sub-paragraph (a). If the successor has purchased the property in its damaged state, the transferor shall retain his rights to compensation under this Article, without prejudice to obligations between the transferor and the purchaser under domestic law.

(c) "Property" means all movable or immovable property, whether tangible or intangible, including industrial, literary and artistic property, as well as all rights or interests of any kind in property.

9. The provisions of this Article do not apply to transfers of property, rights or interests of United Nations or United Nations nationals in Austria made in accordance with laws and enactments which were in force as Austrian Law on 28th June, 1946.

10. The Austrian Government recognises that the Brioni Agreement of 10th August, 1942, is null and void. It undertakes to participate with the other signatories of the Rome Agreement of 21st March, 1923, in any negotiations having the purpose of introducing into its provisions the modifications necessary to ensure the equitable settlement of the annuities which it provides.

être l'objet d'un traitement moins favorable que celui qui est accordé aux ressortissants autrichiens; dans ce cas, les ressortissants des Nations Unies qui détiennent, directement ou indirectement, des parts d'intérêts dans des sociétés ou associations qui ne possèdent pas la nationalité des Nations Unies au sens du paragraphe 8 (a) du présent article, recevront une indemnité calculée en fonction de la perte ou du dommage total subi par la société ou l'association, et son montant par rapport au total de la perte et du dommage subis sera dans la même proportion que celle de la part détenue par lesdits ressortissants dans le capital de ladite société ou association.

(b) Le Gouvernement autrichien accordera aux Nations Unies et à leurs ressortissants le même traitement qu'à ses propres nationaux pour l'attribution des matériaux nécessaires à la réparation et à la remise en état de leurs biens situés en Autriche et pour l'attribution de devises étrangères destinées à l'importation de ces matériaux.

5. Tous les frais raisonnables auxquels donnera lieu, en Autriche, l'établissement des demandes, y compris l'évaluation des pertes et des dommages, seront à la charge du Gouvernement autrichien.

6. Les ressortissants des Nations Unies ainsi que leurs biens seront exemptés de tous impôts, contributions ou taxes exceptionnels auxquels le Gouvernement autrichien ou une autorité autrichienne quelconque aurait soumis leurs avoirs en capital en Autriche, entre la date de la capitulation des forces armées allemandes et celle de l'entrée en vigueur du présent Traité, spécialement en vue de couvrir les dépenses résultant de la liquidation de la guerre et de l'entretien des forces d'occupation. Toutes les sommes qui auraient été ainsi perçues seront remboursées.

7. Le propriétaire des biens en question et le Gouvernement autrichien pourront conclure des arrangements qui se substitueront aux dispositions du présent article.

8. Aux fins du présent article:

(a) l'expression "ressortissants des Nations Unies" s'applique aux personnes physiques qui sont ressortissants de l'une quelconque des Nations Unies, ainsi qu'aux sociétés ou associations constituées sous le régime des lois de l'une des Nations Unies lors de l'entrée en vigueur du présent Traité, à condition que les personnes physiques, sociétés ou associations aient déjà possédé ce statut au 8 mai 1945.

L'expression "ressortissants des Nations Unies" comprend également toutes les personnes physiques et les sociétés ou associations qui, aux termes de la législation en vigueur en Autriche pendant la guerre, ont été traitées comme ennemies.

(b) le terme "propriétaire" désigne une des Nations Unies ou le ressortissant d'une des Nations Unies tels qu'ils sont définis à l'alinéa (a) ci-dessus et qui ont un titre légitime aux biens en question, et s'applique au successeur du propriétaire à condition que ce successeur soit aussi une des Nations Unies ou un ressortissant d'une des Nations Unies au sens de l'alinéa (a). Si le successeur a acheté le bien lorsque celui-ci était déjà endommagé, le vendeur conservera ses droits à l'indemnisation résultant du présent article, sans que les obligations existant entre le vendeur et l'acquéreur en vertu de la législation interne en soient affectées.

(c) le terme "biens" désigne tous les biens mobiliers ou immobiliers, corporels ou incorporels, y compris les droits de propriété industrielle, littéraire et artistique, ainsi que tous droits ou intérêts de nature quelconque dans des biens.

9. Les dispositions du présent article ne s'appliquent pas aux transferts de biens, droits et intérêts en Autriche des Nations Unies ou des ressortissants des Nations Unies si ces transferts ont été effectués conformément à la législation en vigueur en Autriche au 28 juin 1946.

ARTICLE 26

Property, Rights and Interests of Minority Groups in Austria

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

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

ARTICLE 27

Austrian Property in the Territory of the Allied and Associated Powers

1. The Allied and Associated Powers declare their intention to return Austrian property, rights and interests as they now exist in their territories or the proceeds arising out of the liquidation, disposal or realisation of such property, rights or interests, subject to accrued taxes, expenses of administration, creditor claims and other like charges, where such property, rights or interests have been liquidated, disposed of or otherwise realised. The Allied and Associated Powers will be prepared to conclude agreements with the Austrian Government for this purpose.

2. Notwithstanding the foregoing provisions, the Federal Peoples' Republic of Yugoslavia shall have the right to seize, retain or liquidate Austrian property, rights and interests within Yugoslav territory on the coming into force of the present Treaty. The Government of Austria undertakes to compensate Austrian nationals whose property is taken under this paragraph.

ARTICLE 28

Debts

1. The Allied and Associated Powers recognise that interest payments and similar charges on Austrian Government securities falling due after 12th March, 1938, and before 8th May, 1945, constitute a claim on Germany and not on Austria.

10. Le Gouvernement autrichien reconnaît que l'accord de Brioni du 10 août 1942 est nul et non avenue. Il s'engage à participer avec les autres signataires de l'accord de Rome du 21 mars 1923, à toutes négociations ayant pour objet d'introduire dans ses dispositions les modifications nécessaires en vue d'assurer un règlement équitable des annuités qu'il prévoit.

ARTICLE 26

Biens, droits et intérêts des groupes minoritaires en Autriche

1. Pour autant qu'elle ne l'a déjà fait, l'Autriche prend l'engagement, dans tous les cas où les biens, droits ou intérêts légaux en Autriche ont fait, après le 13 mars 1938, l'objet de transferts forcés ou de mesures de séquestre, de saisie ou de contrôle, en raison de l'origine raciale ou de la religion de leurs propriétaires, de restituer lesdits biens et de rétablir lesdits droits et intérêts légaux ainsi que leurs accessoires. Lorsque cette restitution ou ce rétablissement est impossible, le Gouvernement autrichien versera, pour les pertes subies du fait de ces mesures, une indemnité calculée sur les mêmes bases que l'indemnité qui est ou pourra être généralement attribuée aux ressortissants autrichiens en matière de dommages de guerre.

2. L'Autriche s'engage à assurer le contrôle de tous les biens, droits et intérêts légaux en Autriche de personnes, d'organisations ou de communautés qui, individuellement ou collectivement, ont été l'objet de mesures de persécution pour un motif racial ou religieux ou pour tout autre motif d'inspiration nazie, si, lorsqu'il s'agit de personnes, ces biens, droits et intérêts sont restés en déshérence ou n'ont fait l'objet d'aucune revendication pendant une période de six mois à partir de la date d'entrée en vigueur du présent Traité, ou si, lorsqu'il s'agit d'organisations ou de communautés, ces organisations ou communautés ont cessé d'exister. L'Autriche sera tenue de transférer ces biens, droits et intérêts aux institutions ou organisations appropriées qui seront désignées par les quatre chefs de missions diplomatiques à Vienne, en accord avec le Gouvernement autrichien, afin qu'ils soient employés à l'assistance et au relèvement des victimes des persécutions des Puissances de l'Axe, étant entendu que l'Autriche ne sera pas tenue, en vertu de ces dispositions, d'effectuer des paiements en devises étrangères ou de procéder à d'autres transferts à l'étranger, qui constitueraient une charge pour l'économie autrichienne. Ces transferts seront effectués dans un délai de dix-huit mois à partir de la date d'entrée en vigueur du présent Traité et porteront également sur les biens qui doivent être restitués et les droits et intérêts qui doivent être rétablis aux termes du paragraphe 1 du présent article.

ARTICLE 27

Biens autrichiens sur le territoire des Puissances Alliées et Associées

1. Les Puissances Alliées et Associées déclarent qu'elles ont l'intention de restituer les biens, droits et intérêts autrichiens dans l'état où il se trouvent actuellement sur leurs territoires ou, lorsque ces biens, droits ou intérêts ont fait l'objet de mesures de liquidation ou de disposition ou ont été réalisés d'autre manière, le produit résultant de l'exécution de ces mesures de liquidation, de disposition ou de réalisation, après paiement des impôts échus, des dépenses d'administration, des droits des créanciers et des autres charges analogues. Les Puissances Alliées et Associées seront prêtes à conclure à cette fin des accords avec le Gouvernement autrichien.

2. Nonobstant les dispositions précédentes, la République Fédérative Populaire de Yougoslavie aura le droit de saisir, retenir ou liquider les biens, droits et intérêts autrichiens qui, à la date d'entrée en vigueur du présent

2. The Allied and Associated Powers declare their intention not to avail themselves of the provisions of loan agreements made by the Government of Austria before 13th March, 1938 in so far as those provisions granted to the creditors a right of control over the government finances of Austria.

3. The existence of the state of war between the Allied and Associated Powers and Germany shall not, in itself, be regarded as affecting the obligation to pay pecuniary debts arising out of obligations and contracts that existed, and rights that were acquired before the existence of the state of war, which became payable prior to the coming into force of the present Treaty, and which are due by the Government or nationals of Austria to the Government or nationals of one of the Allied and Associated Powers or are due by the Government or nationals of one of the Allied and Associated Powers to the Government or nationals of Austria.

4. Except as otherwise expressly provided in the present Treaty, nothing therein shall be construed as impairing debtor-creditor relationships arising out of contracts concluded at any time prior to 1st September, 1939, by either the Government of Austria or persons who were nationals of Austria on 12th March 1938.

PART VI

General Economic Relations

ARTICLE 29

1. Pending the conclusion of commercial treaties or agreements between individual United Nations and Austria, the Government of Austria shall, during a period of eighteen months from the coming into force of the present Treaty, grant the following treatment to each of the United Nations which, in fact, reciprocally grants similar treatment in like matters to Austria:—

- (a) In all that concerns duties and charges on importation or exportation, the internal taxation of imported goods and all regulations pertaining thereto, the United Nations shall be granted unconditional most-favoured-nation treatment;
- (b) In all other respects, Austria shall make no arbitrary discrimination against goods originating in or destined for any territory of any of the United Nations as compared with like goods originating in or destined for territory of any other of the United Nations or of any other foreign country;
- (c) United Nations nationals, including juridical persons, shall be granted national and most-favoured-nation treatment in all matters pertaining to commerce, industry, shipping and other forms of business activity within Austria. These provisions shall not apply to commercial aviation;
- (d) Austria shall grant no exclusive or preferential rights to any country with regard to the operation of commercial aircraft in international traffic, shall afford all the United Nations equality of opportunity in obtaining international commercial aviation rights in Austrian ter-

Traité, se trouvent sur le territoire yougoslave. Le Gouvernement autrichien s'engage à indemniser les ressortissants autrichiens dont les biens auront été saisis en vertu de ce paragraphe.

ARTICLE 28

Dettes

1. Les Puissances Alliées et Associées reconnaissent que le paiement d'intérêts et les charges analogues concernant les fonds d'État autrichiens venus à échéance après le 12 mars 1938 et avant le 8 mai 1945 doivent être réclamés à l'Allemagne et non à l'Autriche.

2. Les Puissances Alliées et Associées déclarent leur intention de ne pas se prévaloir des dispositions des contrats d'emprunt conclus par le Gouvernement autrichien avant le 13 mars 1938, dans la mesure où ces dispositions accordent aux créanciers un droit de contrôle sur les finances publiques de l'Autriche.

3. L'existence de l'état de guerre entre les Puissances Alliées et Associées et l'Allemagne ne doit pas être considérée en soi comme affectant l'obligation d'acquitter les dettes pécuniaires résultant d'obligations et de contrats qui étaient en vigueur, et de droits qui étaient acquis, avant l'existence de l'état de guerre, dettes qui étaient devenues exigibles avant l'entrée en vigueur du présent Traité et qui sont dues soit par le Gouvernement ou les ressortissants autrichiens au Gouvernement ou aux ressortissants de l'une des Puissances Alliées et Associées, soit par le Gouvernement ou les ressortissants de l'une des Puissances Alliées et Associées au Gouvernement ou aux ressortissants autrichiens.

4. Sauf dispositions expressément contraires du présent Traité, aucune clause de ce Traité ne devra être interprétée comme affectant les rapports de débiteurs à créanciers résultant de contrats conclus à un moment quelconque avant le 1^{er} septembre 1939, soit par le Gouvernement autrichien, soit par des personnes qui étaient au 12 mars 1938 ressortissants autrichiens.

PARTIE VI

Relations économiques générales

ARTICLE 29

1. En attendant la conclusion de traités ou d'accords commerciaux entre l'une quelconque des Nations Unies et l'Autriche, le Gouvernement autrichien devra, pendant les dix-huit mois qui suivront l'entrée en vigueur du présent Traité, accorder à chacune des Nations Unies, qui, en fait, accorde par voie de réciprocité un traitement analogue à l'Autriche dans ces domaines, le traitement suivant:

- (a) Pour tout ce qui concerne les droits et redevances à l'importation ou à l'exportation, l'imposition à l'intérieur du pays des marchandises importées, et tous les règlements qui s'y rapportent, les Nations Unies bénéficieront de la clause inconditionnelle de la nation la plus favorisée;
- (b) A tous autres égards, l'Autriche ne fera aucune discrimination arbitraire entre des marchandises provenant d'un territoire de l'une des Nations Unies ou destinées à l'un de ces territoires et des marchandises analogues provenant d'un territoire de l'une des autres Nations Unies ou de tout autre pays étranger ou destinées à l'un de ces territoires ou à l'un de ces pays;

ritory, including the right to land for refuelling and repair, and, with regard to the operation of commercial aircraft in international traffic, shall grant on a reciprocal and non-discriminatory basis to all United Nations the right to fly over Austrian territory without landing. These provisions shall not affect the interests of the national defence of Austria.

2. The foregoing undertaking by Austria shall be understood to be subject to the exceptions customarily included in commercial treaties concluded by Austria prior to 13th March, 1938; and the provisions with respect to reciprocity granted by each of the United Nations shall be understood to be subject to the exceptions customarily included in the commercial treaties concluded by that State.

PART VII

Settlement of Disputes

ARTICLE 30

1. Any disputes which may arise in giving effect to the Article entitled "United Nations Property in Austria" of the present Treaty shall be referred to a Conciliation Commission established on a parity basis consisting of one representative of the Government of the United Nation concerned and one representative of the Government of Austria. If within three months after the dispute has been referred to the Conciliation Commission no agreement has been reached, either Government may ask for the addition to the Commission of a third member selected by mutual agreement of the two Governments from nationals of a third country. Should the two Governments fail to agree within two months on the selection of a third member of the Commission, either Government may request the Heads of the Diplomatic Missions in Vienna of the Soviet Union, of the United Kingdom, of the United States of America, and of France to make the appointment. If the Heads of Mission are unable to agree within a period of one month upon the appointment of a third member, the Secretary-General of the United Nations may be requested by either party to make the appointment.

2. When any Conciliation Commission is established under paragraph 1 of this Article, it shall have jurisdiction over all disputes which may thereafter arise between the United Nation concerned and Austria in the application or interpretation of the Article referred to in paragraph 1 of this Article and shall perform the functions attributed to it by those provisions.

3. Each Conciliation Commission shall determine its own procedure, adopting rules conforming to justice and equity.

4. Each Government shall pay the salary of the member of the Conciliation Commission whom it appoints and of any agent whom it may designate to represent it before the Commission. The salary of the third member shall be fixed by special agreement between the Governments concerned and this salary, together with the common expenses of each Commission, shall be paid in equal shares by the two Governments.

- (c) Les ressortissants des Nations Unies, y compris les personnes morales, bénéficieront du traitement national et de celui de la nation la plus favorisée pour tout ce qui a trait au commerce, à l'industrie, à la navigation et aux autres formes d'activité commerciale en Autriche. Ces dispositions ne s'appliqueront pas à l'aviation commerciale;
- (d) L'Autriche n'accordera à aucun pays de droit exclusif ou préférentiel en ce qui concerne l'exploitation des services aériens commerciaux pour les transports internationaux; elle offrira des conditions d'égalité à toutes les Nations Unies pour l'obtention de droits en matière de transports aériens commerciaux internationaux sur le territoire autrichien, y compris le droit d'atterrir à des fins de ravitaillement et de réparation, et, en ce qui concerne l'exploitation des services aériens commerciaux pour les transports internationaux, elle accordera à toutes les Nations Unies, suivant le principe de la réciprocité et de la non-discrimination, le droit de survoler le territoire autrichien sans escale. Ces dispositions n'affecteront pas les intérêts de la défense nationale de l'Autriche.

2. Les engagements ci-dessus pris par l'Autriche doivent s'entendre sous réserve des exceptions usuelles des traités de commerce conclus par l'Autriche avant le 13 mars 1938; les dispositions relatives à la réciprocité accordée par chacune des Nations Unies doivent s'entendre sous réserve des exceptions usuelles des traités de commerce conclus par celle-ci.

PARTIE VII

Règlement des Différends

ARTICLE 30

1. Tous les différends qui pourront s'élever à propos de l'application de l'article intitulé "Biens des Nations Unies en Autriche" du présent Traité seront soumis à une commission paritaire de conciliation composée d'un représentant du Gouvernement de la Nation Unie intéressée et d'un représentant du Gouvernement autrichien. Si un règlement n'est pas intervenu dans les trois mois qui suivront la date à laquelle le différend a été soumis à la commission de conciliation, l'un ou l'autre Gouvernement pourra demander l'adjonction à la commission d'un tiers membre choisi d'un commun accord entre les deux Gouvernements parmi les ressortissants d'un État tiers. A défaut d'accord dans un délai de deux mois entre les deux Gouvernements sur le choix de ce membre, l'un et l'autre d'entre eux s'adresseront aux chefs des missions diplomatiques de l'Union Soviétique, du Royaume-Uni, des États-Unis d'Amérique et de la France à Vienne, qui désigneront le tiers membre de la commission. Si les chefs des missions diplomatiques ne parviennent pas à se mettre d'accord dans le délai d'un mois sur la désignation d'un tiers membre, l'une ou l'autre partie pourra demander au secrétaire général de l'Organisation des Nations Unies de procéder à cette désignation.

2. Lorsqu'une commission de conciliation sera constituée en application du paragraphe 1 du présent article, elle aura compétence pour connaître tous les différends qui pourront s'élever par la suite entre la Nation Unie intéressée et l'Autriche au sujet de l'application ou de l'interprétation de l'article mentionné au paragraphe 1 du présent article et elle remplira les fonctions qui lui sont dévolues par ces dispositions.

3. Chaque commission de conciliation établira elle-même sa procédure en adoptant des règles conformes à la justice et à l'équité.

2. The Four Heads of Mission will give the Government of Austria such guidance, technical advice and clarification as may be necessary to ensure the rapid and efficient execution of the present Treaty both in letter and in spirit.

3. The Government of Austria shall afford to the said Four Heads of Mission all necessary information and any assistance which they may require in the fulfilment of the tasks devolving on them under the present Treaty.

ARTICLE 35

Interpretation of the Treaty

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

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

ARTICLE 36

Force of Annexes

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

ARTICLE 37

Accession to the Treaty

1. Any member of the United Nations which on 8th May, 1945, was at war with Germany and which then had the status of a United Nation and is not a signatory to the present Treaty, may accede to the Treaty and upon accession shall be deemed to be an Associated Power for the purposes of the Treaty.

2. Instruments of accession shall be deposited with the Government of the Union of Soviet Socialist Republics and shall take effect upon deposit.

ARTICLE 38

Ratification of the Treaty

1. The present Treaty, of which the Russian, English, French and German texts are authentic, shall be ratified. It shall come into force immediately upon deposit of instruments of ratification by the Union of Soviet Socialist Republics, by the United Kingdom of Great Britain and Northern Ireland, by

Vienne, agissant de concert, représenteront les Puissances Alliées et Associées pour traiter avec le Gouvernement autrichien de toutes questions relatives à l'exécution et à l'interprétation du présent Traité.

2. Les quatre chefs de mission donneront au Gouvernement autrichien les conseils, avis techniques et éclaircissements qui pourront être nécessaires pour assurer l'exécution rapide et efficace du présent Traité, aussi bien dans sa lettre que dans son esprit.

3. Le Gouvernement autrichien fournira aux quatre chefs de mission ci-dessus désignés toutes les informations et toute l'aide dont ils pourront avoir besoin dans l'accomplissement des tâches qui leur sont dévolues par le présent Traité.

ARTICLE 35

Interprétation du Traité

1. Exception faite des cas pour lesquels une autre procédure est expressément prévue par un article du présent Traité, tout différend relatif à l'interprétation ou à l'exécution de ce Traité, qui n'a pas été réglé par voie de négociations diplomatiques directes, sera soumis aux quatre chefs de mission agissant comme il est prévu à l'article 34, mais en pareil cas, les chefs de mission ne seront pas tenus par les délais fixés dans ledit article. Tout différend de cette nature qu'ils n'auraient pas encore réglé dans un délai de deux mois sera, sauf si les parties au différend conviennent l'une et l'autre d'un autre mode de règlement, soumis à la requête de l'une ou l'autre des parties, à une commission composée d'un représentant de chaque partie et d'un tiers membre choisi d'un commun accord entre les deux parties parmi les ressortissants d'un pays tiers. A défaut d'accord dans un délai d'un mois entre les deux parties au sujet de la désignation de ce tiers membre, l'une ou l'autre partie pourra demander au secrétaire général des Nations Unies de procéder à cette désignation.

2. La décision prise par la majorité des membres de la commission sera considérée comme décision de la commission et acceptée par les parties comme définitive et obligatoire.

ARTICLE 36

Valeur des annexes

Les dispositions des annexes seront considérées comme faisant partie intégrante du présent Traité et auront la même valeur et les mêmes effets.

ARTICLE 37

Accession au Traité

1. Tout membre de l'Organisation des Nations Unies, qui, à la date du 8 mai 1945, était en guerre avec l'Allemagne, jouissait du statut de Nation Unie et qui n'est pas signataire du présent Traité, peut accéder au Traité et sera considéré, dès son accession, comme Puissance Associée pour l'application du Traité.

2. Les instruments d'accession seront déposés près le Gouvernement de l'Union des Républiques Soviétiques Socialistes et prendront effet dès leur dépôt.

ARTICLE 38

Ratification du Traité

1. Le présent Traité, dont les textes russe, anglais, français et allemand feront foi, devra être ratifié. Il entrera en vigueur immédiatement après le dépôt des instruments de ratification par l'Union des Républiques Soviétiques

the United States of America, and by France of the one part and by Austria of the other part. The instruments of ratification shall, in the shortest time possible, be deposited with the Government of the Union of Soviet Socialist Republics.

2. With respect to each Allied and Associated Power whose instrument of ratification is thereafter deposited, the Treaty shall come into force upon the date of deposit. The present Treaty shall be deposited in the archives of the Government of the Union of Soviet Socialist Republics, which shall furnish certified copies to each of the signatory and acceding States.

ANNEX I

Definition and List of War Materiel

The term "war materiel" as used in the present Treaty shall include all arms, ammunition and implements specially designed or adapted for use in war as listed below.

The Allied and Associated Powers reserve the right to amend the list periodically by modification or addition in the light of subsequent scientific development.

Category I

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

Category II

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

Socialistes, par le Royaume-Uni de Grande-Bretagne et d'Irlande du Nord, par les États-Unis d'Amérique et par la France, d'une part, et par l'Autriche, d'autre part. Les instruments de ratification seront, dans le plus bref délai possible, déposés près le Gouvernement de l'Union des Républiques Soviétiques Socialistes.

2. En ce qui concerne chacune des Puissances Alliées ou Associées, dont l'instrument de ratification sera déposé ultérieurement, le Traité entrera en vigueur à la date du dépôt. Le présent Traité sera déposé dans les archives du Gouvernement de l'Union des Républiques Soviétiques Socialistes qui en remettra à chacun des États signataires et à chacun de ceux qui accèderont une copie certifiée conforme.

ANNEXE I

Définition et liste du matériel de guerre

Le terme "matériel de guerre," aux fins du présent Traité, s'applique à toutes les armes et munitions et à tout le matériel spécialement conçu et adaptés à des fins de guerre, qui sont énumérés ci-dessous.

Les Puissances Alliées et Associées se réservent le droit d'amender périodiquement la liste, en la modifiant ou en la complétant, pour tenir compte des faits nouveaux qui pourront se produire dans le domaine de la science.

Catégorie I

1. Fusils, carabines, révolvers et pistolets de type militaire; canons de rechange pour ces armes et autres pièces détachées non aisément adaptables à un usage civil.

2. Mitrailleuses, fusils de guerre automatiques ou à répétition et pistolets mitrailleurs; canons de rechange pour ces armes et autres pièces détachées non aisément adaptables à un usage civil; affûts de mitrailleuses.

3. Canons, obusiers, mortiers, canons spéciaux pour l'aviation; canons sans culasse ou sans recul et lance-flammes; canons de rechange pour ces armes et autres pièces détachées non aisément adaptables à un usage civil; affûts mobiles et supports fixes pour ces armes.

4. Lance-fusées; mécanismes de lancement et de contrôle pour projectiles et appareils autopropulsés et dirigés; supports pour ces appareils.

5. Projectiles et appareils autopropulsés et dirigés, projectiles, fusées, munitions et cartouches chargées ou vides, pour les armes énumérées aux alinéas 1 à 4 ci-dessus, ainsi que de fusées, étoupilles ou appareils servant à les faire exploser ou fonctionner, non compris les amorçages nécessaires pour des besoins civils.

6. Grenades, bombes, torpilles, mines, grenades sous-marines (charges de profondeur) et matériel et charges incendiaires, chargés ou vides; tous dispositifs permettant de les faire exploser ou fonctionner, non compris les amorçages nécessaires pour les besoins civils.

7. Baïonnettes.

Catégorie II

1. Véhicules de combat blindés; trains blindés qui, techniquement, ne peuvent être transformés en vue d'usages civils.

2. Véhicules mécaniques ou automoteurs pour toutes les armes énumérées dans la catégorie I; châssis ou carrosseries militaires de types spéciaux, autres que ceux qui sont énumérés à l'alinéa ci-dessus.

3. Blindage de plus de 3 pouces d'épaisseur, employé dans la guerre à des usages de protection.

Category III

1. Aiming and computing devices for the preparation and control of fire, including predictors and plotting apparatus, for fire control; direction of fire instruments; gun sights; bomb sights; fuse setters; equipment for the calibration of guns and fire control instruments.

2. Assault bridging, assault boats and storm boats.

3. Deceptive warfare, dazzle and decoy devices.

4. Personal war equipment of a specialized nature not readily adaptable to civilian use.

Category IV

1. Warships of all kinds, including converted vessels and craft designed or intended for their attendance or support, which cannot be technically re-converted to civilian use, as well as weapons, armour, ammunition, aircraft and all other equipment, material, machines and installations not used in peace time on ships other than warships.

2. Landing craft and amphibious vehicles or equipment of any kind; assault boats or devices of any type as well as catapults or other apparatus for launching or throwing aircraft, rockets, propelled weapons or any other missile, instruments or devices whether manned or unmanned, guided or uncontrolled.

3. Submersible or semi-submersible ships, craft, weapons, devices, or apparatus of any kind, including specially designed harbour defence booms, except as required by salvage, rescue or other civilian uses, as well as all equipments, accessories, spare parts, experimental or training aids, instruments or installations as may be specially designed for the construction, testing, maintenance or housing of the same.

Category V

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

2. Aerial gun mounts and frames, bomb racks, torpedo carriers and bomb release or torpedo release mechanisms; gun turrets and blisters.

3. Equipment specially designed for and used solely by airborne troops.

4. Catapults or launching apparatus for ship-borne, land- or sea-based aircraft; apparatus for launching aircraft weapons.

5. Barrage balloons.

Category VI

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

Catégorie III

1. Système de pointage et de calcul pour la préparation et le contrôle du tir comprenant les appareils régleurs du tir et appareils d'enregistrement; instruments de direction du tir; hausses de canon; viseurs de bombardement; régleurs de fusées; calibres pour la vérification des canons et des instruments de contrôle du tir.

2. Matériel de pontage d'assaut, bâtiments d'assaut et d'attaques.

3. Dispositifs pour ruses de guerre, dispositifs d'éblouissement et pièges.

4. Équipement militaire du personnel des forces armées de caractère spécialisé, qui n'est pas aisément adaptable à des usages civils.

Catégorie IV

1. Navires de guerre de toute classe, y compris les navires transformés et les embarcations conçues ou prévues pour leur service et leur appui qui, techniquement, ne sont pas transformables en vue d'usages civils, ainsi que les armes, blindages, munitions, avions ou tout autre équipement, matériel, machines et installations qui ne sont pas utilisés en temps de paix sur d'autres bateaux que les navires de guerre.

2. Bâtiments de débarquement et véhicules ou matériel amphibies de toute nature; bâtiments d'assaut ou matériel d'assaut de tout type, ainsi que catapultes ou autres appareils de mise à l'eau de lancement d'avions, fusées, armes propulsées ou tout autre projectile, instrument ou système avec ou sans équipage et qu'ils soient guidés ou non.

3. Navires, engins, armes, systèmes ou appareils de toute sorte, qu'ils soient submersibles ou semi-submersibles, y compris les estacades spécialement conçues pour la défense des ports, à l'exception du matériel nécessaire pour la récupération, le sauvetage et autres usages civils, ainsi que tout l'équipement, tous les accessoires, les pièces détachées, les dispositifs d'expérimentation ou d'instruction, les instruments ou les installations qui peuvent être spécialement conçus en vue de la construction, du contrôle, de l'entretien ou du logement de ces navires, engins, armes, systèmes ou appareils.

Catégorie V

1. Aéronefs montés ou démontés, plus lourds ou plus légers que l'air, conçus ou adaptés en vue du combat aérien par l'emploi de mitrailleuses, de lance-fusées, d'artillerie, ou en vue du transport ou du lancement de bombes, ou qui sont pourvus de l'un quelconque des dispositifs figurant à l'alinéa 2 ci-dessous, ou qui, du fait de leur conception ou de leur construction, peuvent être aisément munis de l'un de ces dispositifs.

2. Supports et bâtis pour canons aériens, lance-bombes, porte-torpilles et dispositifs de largage de bombes ou de torpilles, tourelles et coupoles pour canons.

3. Équipement spécialement conçu pour troupes aéroportées et utilisé seulement par ces troupes.

4. Catapultes ou systèmes de lancement pour avions embarqués, avions terrestres ou hydravions: appareils de lancement de projectiles volants.

5. Ballons de barrage.

Catégorie VI

Tous produits asphyxiants et vésicants, mortels, toxiques ou susceptibles de mettre hors de combat, destinés à des fins de guerre ou fabriqués en quantités qui excèdent les besoins civils.

Category VII

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

Category VIII

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

ANNEX II

Having regard to the arrangements made between the Soviet Union and Austria, and recorded in the Memorandum signed at Moscow on April 15, 1955, Article 22 of the present Treaty shall have effect subject to the following provisions:—

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

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

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

(L.S.)	V. MOLOTOV.
(L.S.)	I. ILICHEV.
(L.S.)	HAROLD MACMILLAN.
(L.S.)	GEOFFREY WALLINGER.
(L.S.)	JOHN FOSTER DULLES.
(L.S.)	LLEWELLYN E. THOMPSON.
(L.S.)	ANT. PINAY.
(L.S.)	R. LALOUTTE.
(L.S.)	LEOPOLD FIGL.

Catégorie VII

Propulseurs, explosifs, matériel pyrotechnique ou gaz liquéfiés destinés à la propulsion, l'explosion, la charge, le remplissage du matériel de guerre décrit dans les catégories ci-dessus ou à tout usage en liaison avec ce matériel qui ne sont pas utilisables à des fins civiles, ou qui sont fabriqués en quantités qui excèdent les besoins civils.

Catégorie VIII

Installations et outillage industriels spécialement conçus en vue de la production et de la conservation des produits et du matériel énumérés dans les catégories ci-dessus et qui ne peuvent pas être techniquement transformés à des fins civiles.

ANNEXE II

En raison des arrangements conclus entre l'Union Soviétique et l'Autriche et relatés dans le mémorandum signé à Moscou le 15 avril 1955, l'article 22 sera appliqué sous réserve des dispositions ci-après:

- (1) Dans les deux mois qui suivront l'entrée en vigueur du présent Traité, l'Union Soviétique transférera à l'Autriche, à l'exception des avoirs de la Compagnie de Navigation du Danube (D.D.S.G.) en Hongrie, en Roumanie et en Bulgarie, aux conditions prévues dans les dispositions économiques relatives à ce transfert qui figurent dans les arrangements du 15 avril 1955 entre l'Union Soviétique et l'Autriche, tous les droits et intérêts qu'elle conserve ou reçoit en application de l'article 22.
- (2) Il est entendu qu'en ce qui concerne tous les biens, droits et intérêts transférés à l'Autriche conformément aux dispositions de la présente annexe, les droits de l'Autriche ne seront limités que par les stipulations du paragraphe 13 de l'article 22.

En foi de quoi les plénipotentiaires soussignés ont apposé leurs signatures et leurs cachets au bas du présent Traité.

Fait en la ville de Vienne, le 15 mai 1955 en langue russe, anglaise, française et allemande.

(L.S.)	V. MOLOTOV.
(L.S.)	I. ILICHEV.
(L.S.)	HAROLD MACMILLAN.
(L.S.)	GEOFFREY WALLINGER.
(L.S.)	JOHN FOSTER DULLES.
(L.S.)	LLEWELLYN E. THOMPSON.
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(L.S.)	LEOPOLD FIGL.