

N° 142.

AUTRICHE ET BELGIQUE.

Convention au sujet du règlement des dettes autrichiennes envers des ressortissants belges, visées par l'article 248 du Traité de Saint-Germain, signée à Bruxelles le 4 octobre 1920.

AUSTRIA AND BELGIUM.

Convention with regard to the settlement of Austrian debts to Belgian nationals, as provided for by Article 248 of the Treaty of Saint-Germain, signed at Brussels, October 4, 1920.

¹ TRADUCTION. — TRANSLATION.

No. 142. — CONVENTION BETWEEN AUSTRIA AND BELGIUM WITH REGARD TO THE SETTLEMENT OF AUSTRIAN DEBTS TO BELGIAN NATIONALS ² AS PROVIDED FOR BY ARTICLE 248 OF THE TREATY OF SAINT-GERMAIN. SIGNED AT BRUSSELS, OCTOBER 4, 1920.

French official text communicated by the Representative of Austria to the Secretariat of the League of Nations. The registration of this Convention took place on July 21, 1921.

CONVENTION.

The BELGIAN GOVERNMENT having so far as it is concerned decided to apply Section III and the Annex thereto of Part X (Economic Clauses) of the Treaty of September 10, 1919, and the AUSTRIAN GOVERNMENT having taken note of this decision, the two Governments have agreed to the following provisions as regards the settlement of the Austrian debts to Belgian nationals referred to in Article 248 of the Treaty of St. Germain.

These provisions shall also apply to the cash assets specified in § 11 of the Annex to Section IV Part X of the Treaty of St. Germain-en-Laye and which shall be converted at the pre-war rate of exchange through the agency of the Clearing Offices, in conformity with § (h) 1, of Article 249 of the aforementioned Treaty.

Article 1.

The Belgian and the Austrian Audit and Clearing Offices shall be established as soon as the present Convention is signed, but they shall only commence operations for the recovery of debts from Austrian debtors on July 1, 1921.

Article 2.

The Governments of the High Contracting Parties being desirous, however, that as soon as this Convention is signed, the settlement of the debts and assets to which it refers should be expedited by the conclusion of numerous and comprehensive friendly arrangements between their nationals, shall take all possible steps within their respective countries to induce their nationals to draw up, before May 1, 1921, either individually or in voluntarily constituted groups, suitable proposals with a view to friendly agreements.

The negotiations will take place directly between Belgian creditors and Austrian debtors without the intervention of the Clearing Offices.

² Traduit par le Secrétariat de la Société des Nations.

¹ Translated by the Secretariat of the League of Nations.

¹ The exchange of ratifications took place at Vienna on June 10, 1921.

The Offices may agree to extend the time limit fixed above for the settlement of certain transactions or classes of transaction involving special difficulties, more particularly for the benefit of Austrian companies which have placed securities on money markets outside the territory of the former Austro-Hungarian Monarchy.

Article 3.

(1) Whenever a friendly agreement has been concluded, the creditors and debtors shall jointly notify the Belgian Clearing Office by registered letter, not later than April 30, 1921, so that the agreement may be registered. The Belgian Clearing Office shall immediately communicate such draft agreements to the Austrian Office.

(2) No friendly agreements providing for the allocation of any portion of Austrian assets under sequestration in Belgium, for the purpose of liquidating a debt, shall be finally concluded without the consent of the Belgian Clearing Office. The Belgian Clearing Office shall inform the parties concerned of its consent, or shall state the reasons for its refusal, within a period of six weeks. This period of six weeks shall be reckoned from the day on which the parties concerned, by means of a registered letter, notify the Belgian Office of the arrangement. Such period may be extended as a result of an agreement between the Clearing Offices.

Article 4.

As soon as creditors and debtors have satisfied themselves that they are unable to arrive at a friendly agreement, they shall notify their Clearing Offices of the fact and shall forward the draft agreement rejected by the other party or by themselves, as the case may be, and shall attach thereto the reasons for their refusal to accept it.

Article 5.

The Clearing Offices shall on receipt, examine all drafts upon which Austrians and Belgians have been unable to conclude an agreement.

If the Offices consider that the refusal of the Austrian debtor or Belgian creditor is not justified, they will use their utmost endeavours to induce their respective nationals to accept the agreement. Should the Austrian nationals refuse, the proposed agreement may, after receiving the approval of the two offices, be submitted to the Mixed Arbitration Tribunal, which may, on its own authority, either declare the agreement binding on the parties, or decide that the debt shall be settled through the Audit and Clearing Offices.

Article 6.

Debts due to Belgian nationals by Austrians which have not, within the period provided for in Article 3, formed the subject either of a friendly agreement duly notified to the Belgian Office or of an agreement accepted as a result of intervention on the part of the two Offices, or of proceedings instituted in accordance with the previous Article, and all debts in regard to which draft agreements have been drawn up but not approved, shall be settled by the Audit and Clearing Offices in accordance with the following principles :

(1) In order to strengthen, in the interests of Belgian creditors, the guarantees provided in the Treaty of Peace, the Austrian Government accepts the principle of the joint responsibility of the Austrian State and of individual Austrian nationals indebted to Belgian creditors — without collective liability on the part of the debtors — as regards both the debts, including capital and interest, contracted in a currency other than Austrian crowns and for the nominal amount of debts, including capital and interest, contracted in crowns. This joint responsibility is limited, however, in the case of each debtor, to the amount by which the total of his debts exceeds the total of his

assets in Belgium. The Belgian Government, on the other hand, agrees that, as regards the Belgian Audit and Clearing Office, the Austrian Government alone shall assume full and entire responsibility for the difference between the capital due in crowns and the capital in francs resulting from the application of Article 248, § (d) of the Treaty of St. Germain.

(2) In order to enable the Austrian Government and Austrian debtors to discharge their debts, they shall be granted periods of grace under the conditions, and in accordance with the procedure laid down in the following Articles.

Article 7.

Subject to the provisions laid down in the following paragraphs, debts originally reckoned in gold, silver or in currency other than Austrian crowns, whatever their nature may be, shall be paid by the Austrian Clearing Office to the Belgian Clearing Office under the conditions laid down in § (d) of Article 248 of the Treaty of St. Germain. This settlement shall be effected in five equal yearly instalments, the first of which shall be paid two months after the expiration of the time limit fixed in Article 1 of the present Convention. In order, however, to allow Belgian creditors to benefit by any improvement in the Austrian exchange, it is understood that the amount in crowns, equivalent to the payments to be made in francs by the Austrian Clearing Office, shall, regardless of the actual rate of exchange at the date of payment, be equal to at least ten times the amount in francs of the instalment due, and shall never be less than the amount necessary to enable the Austrian Office to buy a sufficient sum in francs to pay to the Belgian Office the above-mentioned instalments. Any surplus in francs which remains over and above the instalment due shall be devoted to the reduction by that amount of the instalments still outstanding, beginning with the last.

(a) Debts of manufacturers and traders, with the exception of those referred to in §§ (b) and (f) following, shall be paid by the Austrian Office to the Belgian Office either in five equal yearly instalments (but without guarantee), or in ten equal yearly instalments, in which case the Austrian Office must furnish whatever guarantee the Belgian Office may consider necessary.

(b) With regard to debts arising out of guarantees furnished on behalf of a debtor who, by reason of the dismemberment of the Monarchy, is domiciled in one of the States to which the territory of the Austro-Hungarian Monarchy has been transferred, or in one of the States created by the dismemberment of that Monarchy, the Belgian Government, in order to facilitate the recovery of these debts, agrees that such collateral obligations of Austrian nationals may be transferred to the Belgian Credit Office as security. In this case the Belgian Credit Office will employ all judicial and extra-judicial means to recover the debts so transferred. The amounts obtained on these claims shall be placed to the credit of the Austrian Office.

(c) In the case of all debts above mentioned, with the exception of those referred to in § 1 of No. 22 of the Annex to Section III of Part X (Economic Clauses) of the Treaty of September 10, 1919, for the period preceding the signature of the present Convention, interest at the rate of 3 % shall be added to the capital at the end of each year, and shall be payable without additional charges in the same currency as the principal debt.

For the period following the signature of the present Convention, the annual interest shall be 5 % without additional charges, up to the date of repayment.

(d) In so far as the guarantees to be furnished to the Belgian Clearing Office, in accordance with § (a) of the present Article, shall consist of stock securities or personal property, these shall, unless otherwise decided, be deposited in Austria as pledges with a depositary selected by agreement between the two offices. All rights connected with the ownership of personal securities shall remain the property of the owners of the securities referred to, subject to the right of the Belgian Clearing Office to realise out of these securities any sums due which are still unpaid.

(e) The security earmarked to cover any debt shall be restored as soon as such debt is entirely paid. Whenever a partial repayment of a debt is effected, a proportionate amount of the security shall be released. A security may, in the same way, at any time, be replaced by another equivalent security, subject to previous agreement between the Clearing Offices.

(f) The settlement of the debts of Austrian nationals due to Belgian nationals, arising out of acceptance or guarantee credits opened by the latter for the import, from countries outside the continent, of raw materials and goods, shall form the subject of a subsequent agreement between the High Contracting Parties, in accordance with the spirit of the present Convention, and especially of § (b) of the present Article. This agreement shall take into consideration the difficulties affecting this class of Austrian debtors.

Article 8.

The payment to the Belgian Audit and Clearing Office by the Austrian Office of debts reckoned in crowns, which are referred to in Article 248 of the Treaty of September 10, 1919, shall be effected as follows :

(a) The nominal amount of the debts in crowns plus the interest calculated on this amount, as provided under § (e) of Article 7, shall be paid within four weeks after the expiration of the period laid down in Article 1 and shall be effected in Belgian francs calculated at the average rate of the Belgian franc and of the Austrian crown, as quoted on the Geneva Exchange during the two months preceding the date of payment.

(b) The Austrian Government undertakes the entire responsibility for the payment of the difference between the amount repaid as above and the amount due in virtue of the rate of conversion provided for by Article 248 § (d) of the Treaty of September 10, 1919 ; it is understood that this undertaking shall not prejudice the rights reserved by the Austrian Government to recover any sums from its own nationals. The aforementioned difference shall be paid without interest in Belgian francs in twenty-five equal annual instalments, the first of which shall be due at the beginning of the sixth year after the signature of the present Convention. In order to allow the Belgian Office to benefit by any improvement in the Austrian exchange rates, it is agreed that the amount in crowns to be appropriated to these annuities, without reference to the rate of exchange current on the date of payment, shall be at least ten times as great as the amount in francs of the instalment due. The balance in francs over and above the instalment due, which may result from the application of this provision, shall be devoted to the successive diminution of the instalments due, beginning with the last.

In order to permit the mobilisation of this class of credits, the Austrian Government declares itself ready to enter into negotiations with the Belgian Government for the purpose of consolidating, by the creation of some negotiable security, the payments to be made to the Belgian Clearing Office.

If the Austrian Government should proceed against a debtor, being one of its nationals, for the difference in crowns resulting from the rate of conversion provided for by Article 248 § (d) of the Treaty of St. Germain, a difference for which the Austrian Government has assumed responsibility, and if the debtor has meanwhile concluded an amicable agreement with his Belgian creditors, the Austrian Government shall immediately inform the Belgian Office.

In this case, Belgian creditors who have concluded friendly agreements will have the right to request the Belgian Office to consider these agreements null and void. Effect will be given to this request by means of an agreement between the two Offices, if the proceedings taken by the Austrian Government tend to prevent the carrying out of the friendly agreement concluded between the parties concerned. If the request of the creditor is acceded to, the balance of the debt due to him shall be included in the amounts to be recovered by the Belgian Audit and Clearing Office and in the distribution of funds to be made by this Office.

Article 9.

Whenever the Austrian Clearing Office notifies the Belgian Office that an Austrian debtor has failed to comply with his obligation to pay an instalment, for which he is liable by virtue of Article 7 of the present Convention, the Belgian Office shall be entitled to take direct proceedings against the Austrian debtor under the conditions provided in No. 16 of the Annex to Section III of Part X (Economic Clauses) of the Treaty of September 10, 1919.

The sums obtained as the result of direct proceedings shall be placed to the credit of the Austrian Office.

Article 10.

The whole of the property, rights and interests of Austrian subjects in Belgium, including their bank credits and excluding other debts due to them from Belgian nationals, shall, under the conditions provided in Article 11, and subject to the exceptions laid down in Article 12, be devoted to the liquidation in favour of Belgian nationals, of Austrian debts arising out of the application of Sections III and IV of Part X (Economic Clauses) of the Treaty of St. Germain.

The Belgian Government renounces the right conferred upon it by Article 249 § (b) of the Treaty of September 10, 1919, with regard to any balance of Austrian assets which may remain.

Article 11.

(a) An Austrian debtor may, subject to the control of the Belgian Office, use the whole or such part as is necessary of his assets in Belgium, including any claims against Belgian nationals, to settle debts owing by him to Belgian nationals, in accordance with Article 248 of the Treaty of September 10, 1919.

(b) Provided that their own liabilities have been settled, Austrians who own assets in Belgium may, with the consent of the Belgian Office, earmark these assets, up to an amount of 70 % of their value, for the settlement, by friendly agreement, of debts incurred before and during the war by other Austrian nationals and due to Belgian creditors. The value of these assets shall be fixed in accordance with existing or future Belgian legislation, with regard to enemy property sequestered in Belgium.

(c) The provisions of §§ (a) and (b) of the present Article shall apply to the Austro-Hungarian Bank.

(d) Any assets, including bank credits, which have not been disposed of under the provisions laid down in the previous three paragraphs, the amounts resulting from the reservation of 30 % provided for under § (b) as well as the debts owed by Belgian nationals to Austrian nationals, with the exception of bank credits, shall be taken over by the Belgian Office, which shall place their equivalent value to the credit of the Austrian Office.

The Belgian Office may form a fund for the preferential settlement of the whole or part of such debts due to Belgian creditors as do not exceed 5,000 francs, or of debts owing to Belgian nationals who can satisfy their Office that their economic situation would be seriously affected by the application of any of the provisions of the present Convention.

(e) Austrian nationals who own assets in Belgium shall be authorised, as from the date of signature of the present Convention, to realise these assets subject to the previous consent, and under the supervision of the Belgian Office. These assets shall be realised in accordance with the provisions of Belgian law. The amounts thus realised shall be subject to the same restrictions which apply or shall apply to the assets themselves.

(f) Austrian nationals shall be authorised, by virtue of an agreement with the Belgian Office, to offer an equivalent in lieu of property, rights or interests held by them in Belgium.

In the event of property, rights or interests owned by Austrians in Belgium, being realised by public auction or by any other means, the owners shall have the right to take part in the proceedings and to bid on an equal footing with all other foreigners, subject, of course, to the right of preemption which the Belgian Government proposes to retain.

(g) With regard to real estate, the Belgian Government reserves the right to notify the Austrian Government of any real estate which may not be utilised for the conclusion of amicable agreements.

Article 12.

Furniture, books, pictures, jewellery, plate and, in general, all personal effects belonging to Austrian private persons in Belgium, shall be restored to their owners as soon as the latter shall have satisfied the Belgian Office that they have discharged all their liabilities in Belgium.

Unless otherwise decided by the Belgian Government, the provisions of the present Article shall apply to business capital of moderate dimensions, small industries and plants which are connected with the production of food-stuffs.

Article 13.

Deeds or agreements drawn up by virtue of the present Convention, shall be exempt from all fiscal charges in Austria, and from all registration and stamp duties in Belgium.

The inclusion of a statement of stocks and shares in such deeds or agreements, or in a power of attorney granted for the purpose of drawing up such deeds or agreements, shall not render these documents liable to duties either in Belgium or in Austria.

Article 14.

Debts incurred and property rights and interests lawfully acquired by nationals of the High Contracting Parties after April 26, 1919, the date on which commercial relations between Belgium and Austria were resumed, shall be governed solely by common law and neither the provisions of the Treaty of September 10, 1919, nor those of the present Convention may be cited in connection with such property.

Article 15.

The settlement of the debts referred to in Article 248, §§ 3 and 4, of the Treaty of St. Germain, as well as that of private debts, may form the subject of special agreements between the Austrian State and the Belgian Office. Failing any such agreements these debts shall be settled by the Audit and Clearing Office in accordance with Article 248 §§ 3 and 4.

Article 16.

In so far as they are compatible with the stipulations of the present Convention, the provisions laid down in Sections III, IV, V, VI, VII of Part X (Economic Clauses) of the Treaty of September 10, 1919, and their respective Annexes, shall remain in force.

Article 17.

The High Contracting Parties agree to adopt or bring forward the administrative or legislative measures necessary for the execution of the present Convention.

The present Convention shall be ratified and the ratifications exchanged as soon as possible.

In testimony whereof the undersigned, being duly authorised so to do, have signed the present Convention, and thereto affixed their seals.

Done in duplicate at Brussels, October 4, 1920.

(L.S.) (Signed) RICHARD REISCH.

(L.S.) (Signed) LÉON DELACROIX.

MINUTES.

The undersigned met for the purpose of exchanging ratifications of the Convention concluded on October 4, 1920, between the Austrian Republic and Belgium, with a view to the settlement of Austrian debts owed to Belgian nationals, referred to in Article 248 of the Treaty of St. Germain-en-Laye.

The instruments of ratification having been produced and found in good and due form were duly exchanged.

At the same time the undersigned, by order of their Governments, declare that it is agreed that the periods of time referred to in Articles 1, 2 and 3 of the Convention shall be extended respectively to November 1, September 1 and August 31, 1921.

In faith whereof the undersigned have drawn up and signed the present Minutes.

Done at Vienna in duplicate, June 10, 1921.

(Signed) MAYR.

(Signed) R. LE GHAIT.