

No. 323

UNITED STATES OF AMERICA
and
AUSTRIA

**Economic Cooperation Agreement (with annex). Signed at
Vienna, on 2 July 1948**

*English and German official texts communicated by the Officer in charge of the
New York Office of the United States Mission to the United Nations. The
registration took place on 10 December 1948.*

ETATS-UNIS D'AMERIQUE
et
AUTRICHE

**Accord de coopération économique (avec annexe). Signé à
Vienne, le 2 juillet 1948.**

*Textes officiels anglais et allemand communiqués par le Directeur du Bureau de
New-York de la Mission des Etats-Unis auprès de l'Organisation des
Nations Unies. L'enregistrement a eu lieu le 10 décembre 1948.*

No. 323. ECONOMIC COOPERATION AGREEMENT¹ BETWEEN THE UNITED STATES OF AMERICA AND AUSTRIA. SIGNED AT VIENNA, ON 2 July 1948

PREAMBLE

The Governments of the United States of America and Austria:

Recognizing that the restoration or maintenance in European countries of principles of individual liberty, free institutions, and genuine independence rests largely upon the establishment of sound economic conditions, stable international economic relationships, and the achievement by the countries of Europe of a healthy economy independent of extraordinary outside assistance;

Recognizing that a strong and prosperous European economy is essential for the attainment of the purposes of the United Nations;

Considering that the achievement of such conditions calls for a European recovery plan of self help and mutual cooperation, open to all nations which cooperate in such a plan, based upon a strong production effort, the expansion of foreign trade, the creation or maintenance of internal financial stability and the development of economic cooperation, including all possible steps to establish and maintain valid rates of exchange and to reduce trade barriers;

Considering that in furtherance of these principles the Government of Austria has joined with other like-minded nations in a Convention for European Economic Cooperation signed at Paris on April 16, 1948,² under which the signatories of that Convention agreed to undertake as their immediate task the elaboration and execution of a joint recovery program, and that the Government of Austria is a member of the Organization for European Economic Cooperation created pursuant to the provisions of that Convention;

¹ Came into force on 2 July 1948, as from the date of signature, in accordance with article XI.

² United States of America, Department of State publication 3145.

Considering also that, in furtherance of these principles, the Government of the United States of America has enacted the Economic Cooperation Act of 1948,¹ providing for the furnishing of assistance by the United States of America to nations participating in a joint program for European recovery, in order to enable such nations through their own individual and concerted efforts to become independent of extraordinary outside economic assistance;

Taking note that the Government of Austria has already expressed its adherence to the purposes and policies of the Economic Cooperation Act of 1948;

Desiring to set forth the understandings which govern the furnishing of assistance by the Government of the United States of America under the Economic Cooperation Act of 1948, the receipt of such assistance by Austria, and the measures which the two governments will take individually and together in furthering the recovery of Austria as an integral part of the joint program for European recovery;

Have agreed as follows:

Article I

ASSISTANCE AND COOPERATION

1. The Government of the United States of America undertakes to assist Austria by making available to the Government of Austria or to any person, agency or organization designated by the latter Government such assistance as may be requested by it and approved by the Government of the United States of America. The Government of the United States of America will furnish this assistance under the provisions, and subject to all of the terms, conditions and termination provisions of the Economic Cooperation Act of 1948, acts amendatory and supplementary thereto and appropriation acts thereunder, and will make available to the Government of Austria only such commodities, services and other assistance as are authorized to be made available by such acts.

2. The Government of Austria, acting individually and through the Organization for European Economic Cooperation, consistently with the Con-

¹ United States of America, Public Law 472, 80th Congress; see *Treaties and Other International Acts Series*, 1780.

vention for European Economic Cooperation signed at Paris on April 16, 1948, will exert sustained efforts in common with other participating countries speedily to achieve through a joint recovery program economic conditions in Europe essential to lasting peace and prosperity and to enable the countries of Europe participating in such a joint recovery program to become independent of extraordinary outside economic assistance within the period of this Agreement. The Government of Austria reaffirms its intention to take action to carry out the provisions of the general obligations of the Convention for European Economic Cooperation, to continue to participate actively in the work of the Organization for European Economic Cooperation, and to continue to adhere to the purposes and policies of the Economic Cooperation Act of 1948.

3. With respect to assistance furnished by the Government of the United States of America to Austria and procured from areas outside the United States of America, its territories and possessions, the Government of Austria will cooperate with the Government of the United States of America in ensuring that procurement will be effected at reasonable prices and on reasonable terms and so as to arrange that the dollars thereby made available to the country from which the assistance is procured are used in a manner consistent with any arrangements made by the Government of the United States of America with such country.

Article II

GENERAL UNDERTAKINGS

1. In order to achieve the maximum recovery through the employment of assistance received from the Government of the United States of America, the Government of Austria will use its best endeavors:

a. To adopt or maintain the measures necessary to ensure efficient and practical use of all the resources available to it, including

(1) such measures as may be necessary to ensure that the commodities and services obtained with assistance furnished under this Agreement are used for purposes consistent with this Agreement and, as far as practicable with the general purposes outlined in the schedules furnished by the Government of Austria in support of the requirements

of assistance to be furnished by the Government of the United States of America;

(2) the observation and review of the use of such resources through an effective follow-up system approved by the Organization for European Economic Cooperation; and

(3) to the extent practicable, measures to locate, identify and put into appropriate use in furtherance of the joint program for European recovery assets, and earnings therefrom, which belong to nationals of Austria and which are situated within the United States of America, its territories or possessions. Nothing in this clause imposes any obligation on the Government of the United States of America to assist in carrying out such measures or on the Government of Austria to dispose of such assets.

b. To promote the development of industrial and agricultural production on a sound economic basis; to achieve such production targets as may be established through the Organization for European Economic Cooperation; and when desired by the Government of the United States of America to communicate to that Government detailed proposals for specific projects contemplated by the Government of Austria to be undertaken in substantial part with assistance made available pursuant to this Agreement, including whenever practicable projects for increased production of food.

c. To stabilize its currency, establish or maintain a valid rate of exchange, balance its governmental budget as soon as practicable, create or maintain internal financial stability, and generally restore or maintain confidence in its monetary system.

d. To cooperate with other participating countries in facilitating and stimulating an increasing interchange of goods and services among the participating countries and with other countries and in reducing public and private barriers to trade among themselves and with other countries.

2. Taking into account Article VIII of the Convention for European Economic Cooperation looking toward the full and effective use of manpower available in the participating countries the Government of Austria will accord sympathetic consideration to proposals made in conjunction with the International Refugee Organization directed to the largest practicable utilization of manpower available in any of the participating countries in furtherance of the accomplishment of the purposes of this Agreement.

3. The Government of Austria will take the measures which it deems appropriate and will cooperate with other participating countries, to prevent, on the part of private or public commercial enterprises, business practices or business arrangements affecting international trade which restrain competition, limit access to markets or foster monopolistic control whenever such practices or arrangements have the effect of interfering with the achievement of the joint program for European recovery.

Article III

GUARANTIES

1. The Governments of the United States of America and Austria will, upon the request of either Government, consult respecting projects in Austria proposed by nationals of the United States of America and with regard to which the Government of the United States of America may appropriately make guaranties of currency transfer under Section 111 (b) (3) of the Economic Cooperation Act of 1948.

2. The Government of Austria agrees that if the Government of the United States of America makes payment in United States dollars to any person under such a guaranty, any schillings, or credits in schillings, assigned or transferred to the Government of the United States of America pursuant to that section shall be recognized as property of the Government of the United States of America.

Article IV

LOCAL CURRENCY

1. The provisions of this Article shall apply only with respect to assistance which may be furnished by the Government of the United States of America on a grant basis.

2. The Government of Austria will establish a special account in the Austrian National Bank in the name of the Government of Austria (hereinafter called the "special account") and will make deposits in schillings to this account as follows:

a. The unencumbered balance at the close of business on the day of the signature of this Agreement in the special account in the Austrian National Bank in the name of the Government of Austria established pursuant to the Agreements between the Government of the United States of America and the Government of Austria made on June 25, 1947¹ and January 2, 1948² and any further sums which may, from time to time, be required by such Agreements to be deposited in the special account. It is understood that Subsection (e) of Section 114 of the Economic Cooperation Act of 1948 constitutes the approval and determination of the Government of the United States of America with respect to the disposition of such balance, referred to in these Agreements.

b. The unencumbered balances of the deposits made by the Government of Austria pursuant to the exchange of notes between the two Governments dated April 15, 1948.

c. Amounts commensurate with the indicated dollar cost to the Government of the United States of America of commodities, services and technical information (including any costs of processing, storing, transporting, repairing or other services incident thereto) made available to Austria on a grant basis by any means authorized under the Economic Cooperation Act of 1948, less, however, the amount of the deposits made pursuant to the exchange of notes referred to in sub-paragraph b of this Article. The Government of the United States of America shall from time to time notify the Government of Austria of the indicated dollar cost of any such commodities, services and technical information, and the Government of Austria will thereupon deposit in the special account a commensurate amount of schillings computed at a rate of exchange which shall be the par value agreed at such time with the International Monetary Fund provided that this agreed value is the single rate applicable to the purchase of dollars for imports into Austria. If at the time of notification a par value for the schilling is agreed with the Fund and there are one or more other rates applicable to the purchase of dollars for imports into Austria or, if at the time of notification no par value for the schilling is agreed with the Fund, the rate or rates for this particular purpose shall be mutually agreed upon

¹ United States of America, *Treaties and Other International Acts Series*, 1631.

² United States of America, *Treaties and Other International Acts Series*, 1692.

between the Government of Austria and the Government of the United States of America. The Government of Austria may at any time make advance deposits in the special account which shall be credited against subsequent notifications pursuant to this paragraph.

3. The Government of the United States of America will from time to time notify the Government of Austria of its requirements for administrative expenditures in schillings within Austria incident to operations under the Economic Cooperation Act of 1948, and the Government of Austria will thereupon make such sums available out of any balances in the special account in the manner requested by the Government of the United States of America in the notification.

4. Five per cent of each deposit made pursuant to this Article in respect of assistance furnished under authority of the Foreign Aid Appropriation Act, 1949,¹ shall be allocated to the use of the Government of the United States of America for its expenditures in Austria, and sums made available pursuant to paragraph 3 of this Article shall first be charged to the amounts allocated under this paragraph.

5. The Government of Austria will further make such sums of schillings available out of any balances in the special account as may be required to cover costs (including port, storage, handling and similar charges) of transportation from any point of entry in Austria to the consignee's designated point of delivery in Austria of such relief supplies and packages as are referred to in Article V.

6. The Government of Austria may draw upon any remaining balance in the special account, for such purposes as may be agreed from time to time with the Government of the United States of America. In considering proposals put forward by the Government of Austria for drawings from the special account, the Government of the United States of America will take into account the need for promoting or maintaining internal monetary and financial stabilization in Austria and for stimulating productive activity and international trade and the exploration for and development of new sources of wealth within Austria, including in particular:

a. Expenditures upon projects or programs, including those which are part of a comprehensive program for the development of the productive

¹ United States of America, Public Law 793, 80th Congress.

capacity of Austria and the other participating countries, and projects or programs the external costs of which are being covered by assistance rendered by the Government of the United States of America under the Economic Cooperation Act of 1948 or otherwise, or by loan from the International Bank for Reconstruction and Development; and

b. Effective retirement of the national debt, especially debt held by the Austrian National Bank or other banking institutions.

7. Any unencumbered balance, other than unexpended amounts allocated under paragraph 4 of this Article, remaining in the special account on June 30, 1952, shall be disposed of within Austria for such purposes as may hereafter be agreed between the Governments of the United States of America and Austria, it being understood that the agreement of the United States of America shall be subject to approval by act or joint resolution of the Congress of the United States of America.

Article V

TRAVEL ARRANGEMENTS AND RELIEF SUPPLIES

1. The Government of Austria will cooperate with the Government of the United States of America in facilitating and encouraging the promotion and development of travel by citizens of the United States of America to and within participating countries.

2. The Government of Austria will, when so desired by the Government of the United States of America, enter into negotiations for agreements (including the provision of duty-free treatment under appropriate safeguards) to facilitate the entry into Austria of supplies of relief goods donated to or purchased by United States voluntary non-profit relief agencies and of relief packages originating in the United States of America and consigned to individuals residing in Austria.

Article VI

CONSULTATION AND TRANSMITTAL OF INFORMATION

1. The two Governments will, upon the request of either of them, consult regarding any matter relating to the application of this Agreement or to operations or arrangements carried out pursuant to this Agreement.

2. The Government of Austria will communicate to the Government of the United States of America in a form and at intervals to be indicated by the latter after consultation with the Government of Austria:

a. Detailed information of projects, programs and measures proposed or adopted by the Government of Austria to carry out the provisions of this Agreement and the general obligations of the Convention for European Economic Cooperation.

b. Full statement of operations under this Agreement, including a statement of the use of funds, commodities and services received thereunder, such statements to be made in each calendar quarter.

c. Information necessary to supplement that obtained by the Government of the United States of America from the Organization for European Economic Cooperation, which the Government of the United States of America may need to determine the nature and scope of operations under the Economic Cooperation Act of 1948, and to evaluate the effectiveness of assistance furnished or contemplated under this Agreement and generally the progress of the joint recovery program.

Article VII

PUBLICITY

1. The Governments of the United States of America and Austria recognize that it is in their mutual interest that full publicity be given to the objectives and progress of the joint program for European recovery and of the actions taken in furtherance of that program. It is recognized that wide dissemination of information on the progress of the program is desirable in order to develop the sense of common effort and mutual aid which are essential to the accomplishment of the objectives of the program.

2. The Government of the United States of America will encourage the dissemination of such information and will make it available to the media of public information.

3. The Government of Austria will encourage the dissemination of such information both directly and in cooperation with the Organization for European Economic Cooperation. It will make such information available to the media of public information and take all practicable steps to ensure that appropriate facilities are provided for such dissemination. It will further provide other participating countries and the Organization for European Economic Cooperation with full information on the progress of the program for economic recovery.

4. The Government of Austria will make public in Austria in each calendar quarter, full statements of operations under this Agreement, including information as to the use of funds, commodities and services received.

Article VIII

MISSIONS

1. The Government of Austria agrees to receive a special mission for economic cooperation which will discharge the responsibilities of the Government of the United States of America in Austria under this Agreement.

2. The Government of Austria will, upon appropriate notification from the Minister of the United States of America in Austria, consider the special mission and its personnel, and the United States Special Representative in Europe, as part of the Legation of the United States of America in Austria for the purpose of enjoying the privileges and immunities accorded to that Legation and its personnel of comparable rank. The Government of Austria will further accord appropriate courtesies to the members and staff of the Joint Committee on Foreign Economic Cooperation of the Congress of the United States of America and grant them the facilities and assistance necessary to the effective performance of their responsibilities.

3. The Government of Austria, directly and through its representatives on the Organization for European Economic Cooperation, will extend full cooperation to the special mission, to the United States Special Representative

in Europe and his staff, and to the members and staff of the Joint Committee. Such cooperation shall include the provision to the extent practicable of all information and facilities necessary to the observation and review of the carrying out of this Agreement, including the use of assistance furnished under it.

Article IX

SETTLEMENT OF CLAIMS OF NATIONALS

1. The Governments of the United States of America and Austria agree to submit to the decision of the International Court of Justice any claim espoused by either Government on behalf of one of its nationals against the other Government for compensation for damage arising as a consequence of governmental measures (other than measures concerning enemy property or interests) taken after April 3, 1948, by the other Government and affecting property or interests of such national, including contracts with or concessions granted by duly authorized authorities of such other Government. It is understood that the undertaking of the Government of the United States of America in respect of claims espoused by the Government of Austria pursuant to this Article is made under the authority of and is limited by the terms and conditions of the recognition by the United States of America of the compulsory jurisdiction of the International Court of Justice under Article 36 of the Statute of the Court, as set forth in the Declaration of the President of the United States of America dated August 14, 1946.¹ The provisions of this paragraph shall be in all respects without prejudice to other rights of access, if any, of either Government to the International Court of Justice or to the espousal and presentation of claims based upon alleged violations by either Government of rights and duties arising under treaties, agreements or principles of international law.

2. The Governments of the United States of America and of Austria further agree that such claims may be referred, in lieu of the Court, to any arbitral tribunal mutually agreed upon.

3. It is further understood that neither Government will espouse a claim pursuant to this Article until its national has exhausted the remedies available

¹ United Nations, *Treaty Series*, Volume 1, page 9.

to him in the administrative and judicial tribunals of the country in which the claim arose.

Article X

DEFINITIONS

As used in this Agreement the term “participating country” means

(1) any country which signed the report of the Committee of European Economic Cooperation at Paris on September 22, 1947, and territories for which it has international responsibility and to which the Economic Cooperation Agreement concluded between that country and the Government of the United States of America has been applied, and

(2) any other country (including any of the zones of occupation of Germany, any areas under international administration or control, and the Free Territory of Trieste or either of its zones) wholly or partly in Europe, together with dependent areas under its administration; for so long as such country is a party to the Convention for European Economic Cooperation and adheres to a joint program for European recovery designed to accomplish the purposes of this Agreement.

Article XI

ENTRY INTO FORCE, AMENDMENT, DURATION

1. This Agreement shall become effective on this day's date. Subject to the provisions of paragraphs 2 and 3 of this Article, it shall remain in force until June 30, 1953, and, unless at least six months before June 30, 1953, either Government shall have given notice in writing to the other of intention to terminate the Agreement on that date, it shall remain in force thereafter until the expiration of six months from the date on which such notice shall have been given.

2. If during the life of this Agreement, either Government should consider there has been a fundamental change in the basic assumptions underlying this Agreement, it shall so notify the other Government in writing, and the two Governments will thereupon consult with a view to agreeing upon the amendment, modification or termination of this Agreement. If, after three months from such notification, the two Governments have not agreed upon the action

to be taken in the circumstances, either Government may give notice in writing to the other of intention to terminate this Agreement. Then, subject to the provisions of paragraph 3 of this Article, this Agreement shall terminate either:

- a. Six months after the date of such notice of intention to terminate, or
- b. After such shorter period as may be agreed to be sufficient to ensure that the obligations of the Government of Austria are performed in respect of any assistance which may continue to be furnished by the Government of the United States of America after the date of such notice.

3. Subsidiary agreements and arrangements negotiated pursuant to this Agreement may remain in force beyond the date of termination of this Agreement and the period of effectiveness of such subsidiary agreements and arrangements shall be governed by their own terms. Article IV shall remain in effect until all the sums in the currency of Austria required to be deposited in accordance with its own terms have been disposed of as provided in that Article. Paragraph 2 in Article III shall remain in effect for so long as the guaranty payments referred to in that Article may be made by the Government of the United States of America.

4. This Agreement may be amended at any time by agreement between the two Governments.

5. The Annex to this Agreement forms an integral part thereof.

6. This Agreement shall be registered with the Secretary-General of the United Nations.

IN WITNESS WHEREOF the respective representatives, duly authorized for the purpose, have signed the present Agreement.

DONE at Vienna, in duplicate, in the English and German languages, both texts authentic, this second day of July, 1948.

For the Government of the
United States of America:
John G. ERHARDT

For the Austrian
Federal Government:
SCHARF
GRUBER

ANNEX

INTERPRETATIVE NOTES

1. It is understood that the requirements of paragraph 1 (a) of Article II, relating to the adoption of measures for the efficient use of resources, would include, with respect to commodities furnished under the engagement, effective measures for safeguarding such commodities and for preventing their diversion to illegal or irregular markets or channels of trade.

2. It is understood that the obligation under paragraph 1 (c) of Article II to balance the budget as soon as practicable would not preclude a deficit over a short period but would mean a budgetary policy involving the balancing of the budget in the long run.

3. It is understood that the business practices and business arrangements referred to in paragraph 3 of Article II mean:

a. Fixing prices, terms or conditions to be observed in dealing with others in the purchase, sale or lease of any product;

b. Excluding enterprises from, or allocating or dividing, any territorial market or field of business activity, or allocating customers, or fixing sales quotas or purchase quotas;

c. Discriminating against particular enterprises;

d. Limiting production or fixing production quotas;

e. Preventing by agreement the development or application of technology or invention whether patented or unpatented;

f. Extending the use of rights under patents, trade-marks or copyrights granted by either country to matters which, according to its laws and regulations, are not within the scope of such grants, or to products or conditions of production, use or sale which are likewise not the subjects of such grants; and

g. Such other practices as the two Governments may agree to include.

4. It is understood that the Government of Austria is obligated to take action in particular instances in accordance with paragraph 3 of Article II only after appropriate investigation or examination.

5. It is understood that the Government of Austria will not be requested, under paragraph 2 (a) of Article VI, to furnish detailed information about minor projects or confidential commercial or technical information the disclosure of which would injure legitimate commercial interests.

6. It is understood that the Government of the United States of America in making the notifications referred to in paragraph 2 of Article VIII will bear in mind the desirability of restricting, as far as practicable, the number of officials for whom full diplomatic privileges will be requested. It is also understood that the detailed application of Article VIII will, when necessary, be the subject of inter-governmental discussion.

7. It is understood that if the Government of Austria should accept the compulsory jurisdiction of the International Court of Justice under Article 36 of the Statute of the Court, on suitable terms and conditions, the two Governments will consult with a view to replacing the second sentence of paragraph 1 of Article IX with provisions along the following lines: It is understood that the undertaking of each Government in respect of claims espoused by the other Government pursuant to this paragraph is made in the case of each Government under the authority of and is limited by the terms and conditions of such effective recognition as it has heretofore given to the compulsory jurisdiction of the International Court of Justice under Article 36 of the Statute of the Court.

8. It is understood that any agreements which might be arrived at pursuant to paragraph 2 of Article IX would be subject to ratification by the Senate of the United States of America.

The American Minister to the Austrian Minister of Foreign Affairs

AMERICAN LEGATION

No. 55

Vienna, Austria, July 2, 1948

Sir:

I have the honor to refer to Article IV of the Economic Cooperation Agreement of this date between our two Governments. In regard to the provisions of this Article, your attention is invited to the fact that Section 115 (b) (6) of the Economic Cooperation Act of 1948 grants wide discretion to authorize the use of funds from the Special Schilling Account, provided for thereunder, for purpose of internal monetary and financial stabilization, for the stimulation of productive activity and the exploration for and development of new sources of wealth and for such other expenditures as may be consistent with the purposes of the Act. You may be sure that the Government of the United States of America and the Economic Cooperation Administrator desire as fully as the Austrian Government to bring about economic recovery in Austria and will take every reasonable measure, within the broad scope of this provision of the Economic Cooperation Act referred to above, to assist the Austrian Government in dealing with its currency problems in relation to the requirements of Article IV of the Agreement.

Accept, Sir, the renewed assurances of my highest consideration.

John G. ERHARDT

The Honorable Karl Gruber
Minister of Foreign Affairs
Vienna