

No. 5001

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**AUSTRALIA  
and  
AUSTRIA**

**Exchange of notes (with annexes) constituting an agreement for the release of Austrian property in Australia which is subject to the provisions of the Trading with the Enemy Act 1939-1957 and the National Security (Enemy Property) Regulations, and Australian property in Austria which was subject to special measures by reason of the state of war or of the German occupation of Austria. Canberra, 18 December 1959**

*Official texts: English and German.*

*Registered by Australia on 8 January 1960.*

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**AUSTRALIE  
et  
AUTRICHE**

**Échange de notes (avec annexes) constituant un accord relatif au déblocage des biens autrichiens situés en Australie qui sont soumis aux dispositions de la loi australienne de 1939-1957 relative au commerce avec l'ennemi et du règlement australien de sécurité nationale (biens ennemis), et des biens australiens situés en Autriche qui ont fait l'objet de mesures spéciales en raison de l'état de guerre ou de l'occupation allemande de l'Autriche. Canberra, 18 décembre 1959**

*Textes officiels anglais et allemand.*

*Enregistré par l'Australie le 8 janvier 1960.*

No. 5001. EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT<sup>1</sup> BETWEEN AUSTRALIA AND AUSTRIA FOR THE RELEASE OF AUSTRIAN PROPERTY IN AUSTRALIA WHICH IS SUBJECT TO THE PROVISIONS OF THE TRADING WITH THE ENEMY ACT 1939-1957 AND THE NATIONAL SECURITY (ENEMY PROPERTY) REGULATIONS, AND AUSTRALIAN PROPERTY IN AUSTRIA WHICH WAS SUBJECT TO SPECIAL MEASURES BY REASON OF THE STATE OF WAR OR OF THE GERMAN OCCUPATION OF AUSTRIA. CANBERRA, 18 DECEMBER 1959

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I

MINISTER FOR EXTERNAL AFFAIRS

18th December, 1959

Sir,

I have the honour to refer to previous correspondence between representatives of our two Governments concerning Austrian property in Australia which is subject to the provisions of the Trading with the Enemy Act, 1939-1957, and the National Security (Enemy Property) Regulations, and Australian property in Austria which was subject to special measures by reason of the state of war or of the German occupation of Austria.

My Government's understanding of the agreement reached in this matter is as follows :

*Article 1*

The Australian Government agrees that the provisions of the Trading with the Enemy Act 1939-1957 and the National Security (Enemy Property) Regulations (hereinafter referred to as " the Commonwealth Statutes ") will not be further applied to Austrian assets in Australia which are subject to such Statutes.

*Article 2*

Moneys at present held by the Australian Government in pursuance of the provisions of the Commonwealth Statutes on behalf of Austrian persons, as listed in Annex 1<sup>2</sup> attached, shall, subject to the provisions of this Agreement, be transferred to an account of the Austrian Federal Government or of an institution nominated by that Government,

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<sup>1</sup> Came into force on 18 December 1959 by the exchange of the said notes.

<sup>2</sup> See p. 205 of this volume.

whereupon the Austrian Federal Government will, subject to the provisions of Austrian Exchange Control legislation, pay the shilling equivalent of the moneys passing under this article to the persons entitled thereto.

#### *Article 3*

The Austrian Federal Government shall indemnify and keep indemnified the Australian Government, the Australian Treasurer and the Australian Controller of Enemy Property from all actions, suits, proceedings, claims and demands which may arise from the payment of moneys as aforesaid to the Austrian Federal Government or to such bank as may be nominated by the Austrian Federal Government.

#### *Article 4*

Subject to Articles 5 and 6 hereof the Australian Government shall forthwith release from control under the aforementioned Commonwealth Statutes all other moneys and property which are due to or held or managed for or on behalf of or owned by Austrian persons, as listed in Annex 2<sup>1</sup> attached, and which at the date of the coming into force of this Agreement were subject to such Statutes.

#### *Article 5*

Moneys which have been received under the Commonwealth Statutes on account of Austrian persons who have since died, as listed in Annex 3<sup>2</sup> attached, shall, after legal requirements in Australia have been fulfilled, be dealt with in the same manner as property referred to in Article 4 hereof.

#### *Article 6*

The Australian Government shall charge in respect of the moneys to be paid in pursuance of Article 2 hereof and the moneys and property to be released from control in pursuance of Articles 4 and 5 hereof fees equal to two per centum of the amount of the moneys or the value of the property as the case may be.

#### *Article 7*

Subject to the provisions of Austrian legislation, the Austrian Federal Government shall facilitate by all means in its power the restitution of all legal rights and interests in Austria of Australian persons and the return, without the imposition of any charges by the Austrian Federal Government in connection therewith, to Australian persons entitled, of all moneys and property in Austria as they now exist and which were subject to special measures by reason of the state of war or of the German occupation of Austria.

#### *Article 8*

The Austrian Federal Government undertakes that, subject to the provisions of Austrian legislation, any measures which have been or shall be taken by them or by Provincial Governments or by any governmental authorities in Austria to provide privi-

<sup>1</sup> See p. 209 of this volume.

<sup>2</sup> See p. 210 of this volume.

leges, immunities, reliefs, exemptions and similar advantages for Austrian persons who have suffered loss of or prejudice to moneys and property in Austria by reason of the state of war or of the German occupation of Austria, shall be applied to Australian persons and their moneys and property in Austria. This principle shall be applied especially in circumstances in which discretionary powers can be exercised and in any measures which the Austrian Federal Government, Provincial Governments or any governmental authorities in Austria may take to restore, whether as of right or *ex gratia*, any rights or obligations the contractual basis of which have been disturbed since 13th March, 1938.

#### *Article 9*

The expression "Australian persons" in Article 7 and 8 of this Agreement means persons (including juridical persons) whose moneys or property have been subject in Austria to special measures by reason of the state of war or of the German occupation of Austria solely because they were resident or carrying on business in the Commonwealth of Australia.

#### *Article 10*

The Austrian Federal Government undertakes to facilitate, as far as it lies within their power, the settlement of debts due by Austrian debtors to creditors in Australia who on or before the 3rd September, 1939, were resident in Australia, still outstanding and arising out of obligations entered into before 3rd September, 1939, and for that purpose, within the framework of this Agreement and upon application by the Austrian debtors, will make sterling currency available for the transfer to such creditors. The Australian Government likewise will grant facilities for the transfer to Austria of moneys released from control in pursuance of Articles 4 and 5 of this Agreement.

#### *Article 11*

This Agreement does not purport to exempt any moneys or property from taxation or monetary control legislation in force.

If the foregoing provisions are acceptable to your Government, I have the honour to propose that this Note and your confirmatory reply thereto be deemed to constitute and evidence the Agreement reached between our two Governments in this matter, such Agreement to be effective as from to-day's date.

I have the honour to be, Sir,  
Your obedient servant,

(Signed) R. G. CASEY

Dr. J. Manz  
Chargé d'Affaires  
Legation of Austria  
Canberra, A. C. T.

## ANNEX No. 1

COMMONWEALTH OF AUSTRALIA  
 TRADING WITH THE ENEMY—NATIONAL SECURITY (ENEMY PROPERTY) REGULATIONS, ACT 1939-1957  
 STATEMENT OF MONEYS HELD IN TERMS OF THE ABOVEMENTIONED STATUTES FOR AUSTRIAN PERSONS

<i>Name and address of Austrian person</i>	<i>Name and address of Australian person from whom payment received</i>	<i>Particulars</i>	<i>Amount</i>	<i>2% administrative charge</i>	<i>Balance payable</i>
1. ALLERTSHAMMER, Hans, VII Neusaugasse 84A, Vienna	Perpetual Trustee Co. Ltd., Sydney	Shares in estate of Andreas Gruber decd.	369.13.10	7. 7.10	362. 6. 0
2. ALLERTSHAMMER, Josef, VI/I, Linke Weinzeile, 12 Vienna	Perpetual Trustee Co. Ltd., Sydney	Shares in estate of Andreas Gruber decd. (see also items 1 and 2 annex No. 2.)	739. 6. 5	14.15. 9	724.10. 8
3. AUSTRO TRANSPORT, Vienna	F.H. Stephens (Vic) Pty. Ltd., Melbourne	Balance of account	3. 6	—	3. 6
4. BOSENDORFER, L., 4, Canovagasse, Vienna	E. Rink, Sydney	Goods supplied	124.16. 5	2. 9.11	122. 6. 6
5. BRUNELIK, Ferdinand, Vienna	Hugo Fischer, Elwood, Mel- bourne	Goods supplied	18. 5. 3	7. 4	17.17.11
6. BUNZL & EIACH A.G., Papierfabrik Ooft- mann, Vienna II	Ponsford Newman & Benson Pty. Ltd., Sydney	Goods supplied : 10. 0.11 Balance of a/c : 51.3.0	61. 3.11	1. 4. 6	59.19. 5
7. CARO & JELLINEK, A.G., Vienna	F.H. Stephens (Vic) Pty. Ltd. Melbourne	Forwarding handling charges a/c Raab : 31.7.6 Balance of a/c : 11.5.0	42.12. 6	17. 1	41.15. 5
8. DE TERGOVITS, Mme Cecile, Nussdorfer- strasse 4, Vienna XX	Mr. Justice Cantor, Sydney	Share in estate of J. H. Brooks Thornley	175. 3. 5	3.10. 1	171.13. 4
9. DITMAR, R. BRUNNER BROS. LTD.	George Wills & Co. Ltd., Melbourne	Goods supplied	55. 6. 6	1. 2. 1	54. 4. 5
10. ELIN A.G. FÜR ELEK- TRISCHE INDUSTRIE, Volksgartenstr. 1-5, Vienna	Charles M. Terry Pty. Ltd., Sydney	Goods supplied	3,782. 3. 9	75.12.10	3,706.10.11

<i>Name and address of Austrian person</i>	<i>Name and address of Australian person from whom payment received</i>	<i>Particulars</i>	<i>Amount</i>	<i>2% administrative charge</i>	<i>Balance payable</i>
11. EUMIG ELEKTRO & MET-TALWAREN INDUSTRIE, Buchengasse 11-13, Wien X	Cine Equipment Co. Pty. Ltd., Victoria	Goods Supplied	2. 8. 2	1. 0	2. 7. 2
12. FÄRTINGER & Co., Schottewring 17, Wien I	Abel Lemon & Co. Pty. Ltd., Melbourne	Goods supplied	36. 5. 0	14. 6	35.10. 6
13. FIRMA, C. REICHERT, Hernalser Hauptstrasse 219, Vienna XVII	H.B. Selby & Co. Pty. Ltd., Sydney	Balance of account	55. 5. 5	1. 2. 1	54. 3. 4
14. FISCHER, Albin, Schubertgasse 24, Vienna IX	Davies and Woods, Canberra	Balance of account legal costs	2.12. 6	1. 1	2.11. 5
15. FLIEDL, Heimerl & Co., Appolzergerasse 4, Vienna I	F. H. Stephens Pty. Ltd. Sydney	Balance of account	1. 0. 0	5	19. 7
16. FRANKEL, S. & J. A. G., Hackengasse 30, Wien	Hamson & Leonard, Sydney	Samples supplied	4. 9. 6	1. 9	4. 7. 9
17. GESELLSCHAFT DER AUTOREN KOMPOSITEN AND MUSIKVERLEGER, Vienna	Australasian Performing Rights Association, Sydney	Performing right fees	5,290. 8. 5	105.16. 2	5,184.12. 3
18. GUBINOL, G.m.b.H., Anschutzgasse 4, Vienna XIII	Robert Mandl, Double Bay, Sydney	Goods supplied	15.15. 4	6. 4	15. 9. 0
19. HAGENAUER, Karl Workstaette, Bernardgasse, Vienna VII	Brink and Strauss, Sydney	Goods supplied	10. 1. 8	4. 0	9.17. 8
20. HAUSNER & Co., Meistersingerstrasse 7, Vienna I	F. H. Stephens Pty. Ltd. Sydney	Balance of account	11.15. 0	4. 8	11.10. 4
21. KANTOR, Gottlieb, Vienna	F. H. Stephens (Vic) Pty. Ltd., S. Melbourne	Balance of account	2. 0. 0	10	1.19.02

<i>Name and address of Austrian person</i>	<i>Name and address of Australian person from whom payment received</i>	<i>Particulars</i>	<i>Amount</i>	<i>2% administrative charge</i>	<i>Balance payable</i>
22. KIRCHNER & Co., Vienna	F. H. Stephens (Vic) Pty. Ltd., Melbourne	Balance of account	1.15. 0	8	1.14. 4
23. KNAUER, Gustaf, Vienna	F. H. Stephens (Vic) Pty. Ltd., Melbourne	Balance of account	13. 6	3	13. 3
24. KORBESKA W., P.O. Box 98, Vienna	Transport Co. Pty. Ltd., Sydney	Proceeds bill for collection	6.11. 4	2. 7	6. 8. 9
25. LAENDERBANK WIEN, 1 Hohenstaufengasse, Vienna	Brink & Strauss, Sydney	Goods supplied by J. Jolles, Vienna	390. 8. 0	7.16. 2	382.11.10
26. LEHRNER, Anton	Executor Trustee & Agency Co. of S. A. Ltd., Adelaide	Legacy from estate A. F. Gvatter decd.	1,022.11. 9	20. 9. 0	1,002. 2. 9
27. LEHRNER, Franz	Executor Trustee & Agency Co. of S. A. Ltd., Adelaide	Legacy from estate A. F. Gvatter decd.	1,022.11. 9	20. 9. 0	1,002. 2. 9
28. LEHRNER, Wilhelm, Heiligeneich, Nieder Osterreich	Executor Trustee & Agency Co. of S. A. Ltd., Adelaide	Legacy from estate A. F. Gvatter decd.	1,022.11. 9	20. 9. 0	1,002.2 . 9
29. LEMMERMAYER, Fanni, Vienna VI, Linien-gasse II	Richard Hunt, Sydney	Goods supplied	14.10. 0	5.10	14. 4. 2
30. MASCHKA & HORRAK, Dominikanerbastel 22, Vienna	F. H. Stephens Pty. Ltd., Sydney	Balance of account	1. 5. 0	6	1. 4. 6
31. MAUDRICH, Wilhelm, Ausland, Vienna	Malcolm McNeil, Adelaide	Goods supplied	17. 1	4	16. 9
32. MICK, Emil, Messerschmiedg 40, Vienna XVIII	Walter Leicht, Sydney	Goods supplied	24. 3. 2	9. 8	23.13. 6
33. OESTERREICHISCHE CREDITANSTALT, Vienna	Commercial Bank of Australia Ltd., Sydney	Proceeds sale of paper consigned to Cutner Paper Co. Ltd., Sydney	158. 5. 2	3. 3. 4	155. 1.10
34. SCHILHAN, Karl, Nussdorferstrasse 50, Vienna	Davies and Woods, Canberra	Balance of account legal costs	1. 5. 1	6	1. 4. 7

<i>Name and address of Austrian person</i>	<i>Name and address of Australian person from whom payment received</i>	<i>Particulars</i>	<i>Amount</i>	<i>2% administrative charge</i>	<i>Balance payable</i>
35. SOCIÉTÉ GRAPHIQUE A.G., Fertiggasse, Vienna XVIII	Jervis Manton Pty Ltd., Melbourne Fashions Agencies, Sydney	Goods supplied: 203.13.9 Goods supplied: 8.17.2	212.10.11	4. 5. 0	208. 5.11
36. UNGER, Mrs. Kunigunda, Linke Weinzeile 14, Vienna	Perpetual Trustee Co. Ltd. Sydney	Share in estate of Andreas Gruber dec'd. (see also item No.11 of Annex No.2)	369.13.10	7. 7.10	362. 6. 0
37. UNITED TELEPHONES & TELEGRAPH LTD., Vienna	Standard Telephones Cables Pty Ltd. Sydney	Goods supplied	220. 6. 0	4. 8. 1	215.17.11
38. UNIVERSAL EDITION, Karlsplatz 6, Wien	L.G. Collins Pty. Ltd. Melbourne Boosey & Hawkes (Aust) Pty Ltd. Sydney	Goods supplied, royalties: 7.4.2 Goods supplied: 139. 3. 2	146. 7. 4	2.18. 7	143. 8. 9
39. WENDLER & Co. K. G. Andreassgasse 6, Vienna	Brink & Strauss, Sydney David Jones Ltd., Sydney	Goods supplied: 260.5.7 Goods supplied: 5.8.11	265.14. 6	5. 6. 3	260. 8. 3
40. ZEILINGER, Leopold, Wiener Neustadt	A. & W. Krauss, Melbourne	Goods supplied	59.19. 8	1. 3.11	58.15. 9
			<u>15,742.17.4</u>	<u>314.16.9.</u>	<u>15,428.0.7</u>



## ANNEX No. 2

## COMMONWEALTH OF AUSTRALIA

TRADING WITH THE ENEMY ACT 1939-1957—NATIONAL SECURITY (ENEMY PROPERTY) REGULATIONS  
 STATEMENT OF AUSTRIAN ASSETS HELD BY TRUSTEES AND OTHERS UNDER THE CONTROL OF THE CONTROLLER OF ENEMY PROPERTY

<i>Name and address of Austrian person</i>	<i>Name and address of trustee, agent or attorney by whom property held</i>	<i>Particulars of property</i>	<i>Value</i>	<i>Remarks</i>
1. ALLERTSHAMMER, Hans, VII Neusaugasse, 84A, Vienna	Perpetual Trustee Co. Ltd. Sydney	Share in undistributed assets of the estate of Andreas Gruber dec'd.	approx. 3. 0. 0	See also item No. 1, Annex No. 1
2. ALLERTSHAMMER, Josef VI/I Linke Veinseile, 12 Vienna	Perpetual Trustee Co. Ltd. Sydney	Share in undistributed assets of the estate of Andreas Gruber dec'd.	approx. 6. 0. 0	See also item No. 2, Annex No. 1
3. ALLERTSHAMMER, Karl (Estate of) Late of Vienna	Perpetual Trustee Co. Ltd. Sydney	Share in undistributed assets of the estate of Andreas Gruber dec'd.	approx. 6. 0. 0	See also item No. 1, Annex No. 3
4. GRUBER, Johann Frein No. 23 Bei, Murzsteg	Watts & Gee, Katanning, W. A.	Legacy from estate of John Pruller dec'd.	100. 0. 0	
5. KUFFNER, Mrs. Jean Rich- mond, Hodikgasse 162, Vienna XIII	Jones and Middleton, Solicitors Chesterfeld, Derbyshire, Eng.	3 £10 pref. shares Com- mercial Bank of Austra- lia Ltd. £105 Ord. Stock British Tobacco Co. Ltd.	30. 0. 0 105. 0. 0	} Face value only. Actual value determined by ruling market prices
6. LEE, Franz, Hopingerweg 73-75, St. Polten mid Osterreich	Commonwealth Savings Bank, Sydney	Credit in Savings Bank a/c	217. 8. 6	
7. ST. EGYDYER EISEN & STAHL, Ltd., Schwarzen- berg Platz 6, Vienna	Westcott Hazel Engineer- ing Co. Ltd.	Debt due	1,314. 1.10	
8. UNGER, Mrs. K	Perpetual Trustee Co. Ltd., Sydney	Share in undistributed assets of estate of An- dreas Gruber dec'd.	approx. 3. 0. 0	See also item No. 36, Annex No. 1
9. GVATTER, Estate of Anna	Executor Trustee Agency Co. of S. A. Ltd.	Balance of annuity	approx. 10. 0. 0	See also item No. 3, Annex No. 3

## ANNEX No. 3

## COMMONWEALTH OF AUSTRALIA

## TRADING WITH THE ENEMY ACT 1939-1957—NATIONAL SECURITY (ENEMY PROPERTY) REGULATIONS

## STATEMENT OF MONEYS HELD IN TERMS OF THE ABOVEMENTIONED STATUTES FOR THE ESTATE OF DECEASED AUSTRIAN PERSONS

<i>Name of deceased Austrian person</i>	<i>Name and address of Australian person from whom payment received</i>	<i>Particulars</i>	<i>Amount</i>	<i>Remarks</i>
1. ALLERTSHAMMER, Karl, Late of Vienna	Perpetual Trustee Company Ltd., Sydney	Share in estate of Andreas Gruber dec'd.	2,834.19. 6	See also item No. 3, Annex No. 2
2. BALTINESTER, Guipo, late of Graz, Neutorgasse 57	McNish, Macrossan and Dowling, Brisbane	Remittance on account of landing permit to enter Australia	495.16. 8	
3. GVATTER, Anna, late of Sieghartskirchen 13Z Tulln, Osterreich	Executor Trustee and Agency Co. of S. A. Ltd. Adelaide	Annuity from estate of A. F. Gvatter dec'd.	415. 5. 0	
4. SPIRA, Mrs. Louisa, late of Vienna	Trustees Executors and Agency Co. Ltd., Melbourne	Legacy in estate of John Spira dec'd.	55. 4. 3	

Genehmigen Eure Exzellenz den Ausdruck meiner vollkommenen Ergebenheit.

J. Hans MANZ

Seiner Exzellenz Herrn Minister  
fuer Auswaertige Angelegenheiten  
The Rt. Hon. R. G. Casey, C.H., D.S.O., M.C., M.P.  
Canberra, A. C. T.

[TRANSLATION — TRADUCTION]

LEGATION OF AUSTRIA  
CANBERRA

Ref: 5757-A/59

18 December 1959

Your Excellency,

I have the honour to acknowledge receipt of your note of today's date of which the following is a certified German translation :

[*See note I*]

I have the honour to inform you that the Austrian Federal Government agrees with the contents of your note and deems the exchange of notes to constitute an agreement between our two Governments with effect from today's date.

I have the honour to be, etc.

J. Hans MANZ

His Excellency the Right Honourable R. G. Casey, C.H., D.S.O., M.C., M.P.  
Minister of External Affairs  
Canberra, A. C. T.

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