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NEW STATUTES FOR THE AUSTRIAN NATIONAL BANK

Gordon B. Grimwood

On September 8, 1955, the Austrian Parliament enacted a Law for the Reorganization of the Legal Status of the Austrian National Bank (National Bank Law of 1955), thus ending a ten-year period during which the legal position of the National Bank had been obscure. In March 1938, the Austrian National Bank was taken over by the German Reichsbank; shareholders in the Austrian National Bank were compensated by an exchange of their stock for Treasury obligations of the German Reich; and the Austrian National Bank became, in effect, a branch of the Reichsbank in Berlin.

On July 3, 1945, the provisional government of Austria passed the Bank of Issue Transitional Law, which revoked all provisions of German law dealing with the Austrian National Bank, and which reinstituted the original statutes of the Bank as revised to 1938. The Transitional Law amended "temporarily" sections of those statutes dealing with the appointment of the President of the Bank and the members of the Board of Directors. Formerly the shareholders elected all members of the Board except the President, while under the Transitional Law the President and other members of the Board (with the exception of the Deputy President) were appointed by the President of Austria upon recommendation by the provisional government. The Deputy President was appointed by the President of Austria upon the recommendation of the Minister of Finance. Provision was made for the assumption by the Bank of certain assets and liabilities; no provision was made, however, for recapitalization, and the Austrian National Bank has operated during the past ten years nominally under the direction of the Minister of Finance. Passage of the new statutes, which was envisaged by the Transitional Law, was delayed by the inability of Austria's coalition government to agree upon the legal form which the new National Bank should assume; i.e. whether it should again become a joint stock company, or whether it should be wholly owned by the Austrian Government.

In 1953, an International Banking Commission composed of Governor Maurice Frère of the National Bank of Belgium, Professor Arthur W. Marget of the Board of Governors of the Federal Reserve System, and Sir O. E. Niemeyer of the Bank of England, was invited by the Austrian Government to study the Austrian banking and capital market structure and to make recommendations looking to institutional improvements. The Report of the Commission, submitted to the Finance Minister on November 25, 1953, recommended the immediate enactment of new statutes for the Austrian National Bank. The Report also contained specific recommendations regarding the relationship of the Bank and the Government, and regarding powers which should be possessed by the Bank as the Austrian monetary authority.

This paper will examine the new statutes of the Austrian National Bank, comparing these statutes with the statutes under which the Bank operated before the war, and pointing out important areas of similarity and difference. The statutes will also be examined with reference to the recommendations submitted by the International Banking Commission. A concluding section will contain a brief summary of the activities of the Bank in the field of monetary policy during the past ten years, and will assess the position of the Bank as the monetary authority under the new statutes.

Responsibilities of the Bank

Under the prewar statutes, the primary responsibility assigned to the Austrian National Bank was ". . . to prepare the introduction of cash payments (redemption of bank notes in specie) by forming a reserve of precious metals and of deposits payable in stable currencies (bills of exchange) and to ensure the continuance of cash payments once they have been introduced by law." The Bank was also to regulate the monetary circulation, and was to ensure that, pending re-establishment of redemption in specie, the value of the money as measured in the currency of a country having a gold standard or a stable currency "at least" did not depreciate.

All mention of the resumption of redemption in specie has been deleted from the National Bank Law of 1955. Article 2 of that Law states that the Bank shall regulate the monetary circulation in Austria and shall assume responsibility for the balance of payments with foreign countries. This latter point represents an important specific addition to the responsibilities of the Bank, a responsibility which, in the prewar statutes, only was implied by the requirement that the foreign value of the currency be maintained. The Bank further is charged with preserving the domestic purchasing power of the currency and its relation to stable foreign currencies. Here one notes an interesting change in emphasis; the prewar statutes, in line with the gold standard "rules of the game" concept, gave primary consideration to the maintenance of stable exchange rates, saying nothing about domestic purchasing power. The new statutes give domestic purchasing power first consideration.

Article 4 of the 1955 Law contains a new provision; namely, that the Bank, in establishing general principles of currency and credit policy, shall give "full consideration" to the economic policy of the Federal Government. Similar provisions have, however, appeared in the statutes of many central banks throughout the world, and such an obligation is certainly implicit in the operations of all central banks. This provision, then, may be interpreted as recognition of an existing situation.

Ownership of the Bank

The prewar Austrian National Bank was organized in the form of a joint stock company with 300,000 shares of stock outstanding. Shareholders were permitted one vote at the annual General Meeting for every 25 shares of stock held—a total of 12,000 votes. Shares, in the general Central European tradition, were in the form of bearer shares, and there was no proscription against ownership; i.e. anyone, including foreigners, could purchase such shares.

Under the National Bank Law of 1955 the Austrian National Bank is continued as a joint stock company, capitalized at 150 million schillings (about \$5.8 million) divided into 150,000 shares. The law provides that 75,000 shares shall be owned by the Federal Government, and that the Federal Government shall determine which persons and enterprises shall own the remaining 75,000 shares. In practice, the "private" portion of share ownership will be divided among the industrial and labor organizations (chambers) in such a way that half will be voted by representatives of industry and commerce (People's Party) and half by labor representatives (Socialist Party). New shares of the Bank, as contrasted with those exchanged for Reich Treasury Bills in 1938, will be registered shares.

The powers of the annual General Meeting, the only meeting at which shareholders are represented, have been curtailed in one important respect. Under the prewar statutes the General Meeting elected 13 of the 14 members of the Board of Directors (Generalrat) of the Bank. Under the 1955 Law they may elect only six of the 14 directors. For purposes of such election persons or enterprises holding shares to the value of 12.5 million schillings shall be entitled to propose one person each—a method of maintaining the political parity referred to in the preceding paragraph.

Other powers of the General Meeting, such as the approval of the Report of the Generalrat, approval of the balance sheet, election of auditors, and the determination of the dividend, resemble closely the provisions of the prewar statutes. One prewar power has been deleted—that of modifying the Bank's statutes and of increasing or reducing the capitalization of the Bank.

The International Banking Commission made no specific recommendation as to the legal form which the new statutes should establish. The Commission did state, as a cardinal principle, that "the National Bank must be protected from pressure, of either a political or a private nature, which would be inconsistent with the exercise of its responsibility as the national monetary authority." Given the nature of Austria's coalition government, the form of ownership established by the new statutes probably comes as close as possible to meeting this principle. It is worth noting, in passing, that the legal position of the Austrian National Bank is now exactly the same as that of the National Bank of Belgium, which is commonly regarded as an example of a truly independent central bank.

Administration of the Bank

The administration of the Austrian National Bank under the new statutes closely resembles that provided in the prewar statutes. The Board of Directors (Generalrat) is responsible for the Bank's policy, while the implementation of policy and the day-to-day management of the Bank is in the hands of the Board of Managers (Direktorium). The major difference, as has been mentioned in the preceding section, lies in the increased authority of the Government with respect to the composition of the Board of Directors. Under the prewar statutes the President (Chairman) of the Board was nominated by the Federal Government and appointed by the Federal President; the remaining 13 members of the Board were elected by the shareholders at the General Meeting. The first and second Vice Chairmen were elected by the Board from among their own members, subject, however, to the approval of the Federal Government.

Under the National Bank Law of 1955 the President, two Vice Presidents, and five members of the Board are appointed by the Federal Government. Representation of the major sectors of the economy on the Board has been retained. Most importantly, the new statutes provide for a fixed term of office for all members of the Board—five years, which was the term under the prewar statutes. The principle of staggered retirements is also retained, insuring that not more than six terms will expire in any given year.

Both statutes prohibit membership on the Board to elected members of the Federal or Land Governments. Both statutes also limit Board membership for representatives of the banking business to four. One important difference: the new statutes limit Board membership to Austrian nationals only, while the prewar statutes permitted up to four foreign members on the Board.

The powers and responsibilities of the Board of Directors are more specifically set forth in the National Bank Law of 1955 than they were in the prewar statutes. Under the prewar statutes the Board was charged with the direction and supervision of the business of the Bank, the appointment and regulation of the Board of Managers, the setting of the discount rate, and the appointment of a Committee of Censors to pass upon the eligibility and creditworthiness of paper presented for discount. The new statutes include all these powers, with the following important additions: (1) determination of the general directives on monetary and credit policy (here reference is made to Article 4, which requires the Bank to pay regard to the economic policy of the Federal Government); (2) fixing of the amount of bonds, Treasury Certificates, or Treasury Bills to be bought in the open market; and (3) fixing the size of the minimum deposits which credit institutions are required to maintain with the National Bank. The 1955 statutes provide that the Board may establish subcommittees to deal with these matters reserved for its decision, particularly with regard to the implementation of the open-market powers.

Provisions regarding the Board of Managers in the 1955 statutes are very similar to those in the prewar statutes. The Board is appointed by, and is responsible to, the Board of Directors, and is composed of a General Manager, a Deputy General Manager, and not less than two nor more than four Managers, each of whom will be the head of a Department of the Bank. The Board of Managers conducts the day-to-day business of the Bank, reporting to the Board of Directors, and supervises the staff of the Bank.

The recommendations of the International Banking Commission with regard to the administration of the Austrian National Bank are found in Paragraph 8 of the Report of the Commission. The Commission recommended (1) a fixed term of office for the Board of Directors; (2) appointment of the President by the Federal Government; (3) representative membership on the Board of Directors; (4) eligibility of members of the Board for reappointment. All of these recommendations, which were based upon provisions of the prewar statutes, have been followed in the drafting of the Banking Law of 1955.

Relationship of the Bank to the Government

The increased importance of the Government in the ownership of the Bank and in the authority to appoint members to the Board of Directors has already been discussed. There remain two other items in this connection which may be mentioned.

The provisions regarding the fiscal relationship of the Bank to the Federal and Laender Government are about the same as they were before the war. The Bank may grant credit to the Federal Government at short term up to an amount of one billion schillings (before the war, 75 million prewar schillings); otherwise, the Federal and Laender Governments may draw upon funds of the Bank only against payment in gold or foreign exchange. Both statutes require the Bank to handle the Government's banking business so long as that business does not involve credits to the Government in excess of the amount set forth in the Law.

Both statutes provide that a State Commissioner shall be appointed by the Government to assure that the decisions of the Bank are in accord with the Austrian Law and the Bank's statutes. There have been a few changes, however, in the manner of appointment and in the powers of the State Commissioner.

Under the prewar statutes the State Commissioner was appointed by the Government. He was entitled to attend General Meetings, meetings of the Board of Directors, meetings of the Executive Committee of the Board, and the monthly meetings of the Board of Managers. He could object to any decision of the Board of Directors or of the Board of Managers (in the latter case submitting the question first to the Board of Directors before reporting to the Government) which he thought contrary to existing laws or statutes. Implementation of decisions to which the State Commissioner registered objection was postponed. In such cases, if agreement with the Government proved impossible, the matter was submitted to a Court of Arbitration, whose decision was final.

Under the National Bank Law of 1955 the State Commissioner is appointed by the Federal Ministry of Finance rather than by the Government. The State Commissioner's right to attend meetings has been restricted to the General Meeting and meetings of the Board of Directors; however, he must not be denied the right to inspect the Bank's business in the course of his official duties. Any decision of the Board to which the State Commissioner objects shall be postponed for seven days. During that time the Finance Minister may revoke the objection, permitting the decision to become effective. If he does not, the issue goes to a Court of Arbitration which must decide within three days whether the Board's decision was lawful.

The provisions of the National Bank Law of 1955 give the Finance Minister somewhat more power than he held under the earlier statutes, particularly in view of the general provision (Article 4) that the National Bank must pay regard to the economic policy of the Federal Government. The ability of the State Commissioner to postpone a decision under this Article might prove a real handicap to the monetary authorities, particularly with regard to decisions concerning open-market operations and reserve requirements. The new statutes represent an improvement, however, in that a time limit is specified. Under the prewar statutes it would have been possible to prolong consideration of a case until the eventual decision became meaningless. 1/

Power to establish reserve requirements

The National Bank Law of 1955 contains a new chapter which was not present in the prewar statutes. This chapter, consisting of only two Articles, gives the National Bank the right to require that all credit institutions maintain with it deposits of a specified amount, which may vary between zero and fifteen per cent of total deposit liabilities. Within these limits the minimum deposits required may vary within individual categories or groups of credit institutions.

Credit institutions with their own central institution (such as the savings banks) may keep the required reserve with that central institution. Deposits with the Austrian Postal Savings Bank may also be counted toward the required reserve. Central institutions and the Postal Savings Bank, in turn, must maintain specified credit balances with the National Bank. Some part of the required reserves of these institutions, an amount to be set by the National Bank, may be kept in discountable Treasury Certificates; this is not the case for commercial banks, which must maintain cash credit balances with the Austrian National Bank or with a central institution. Credit institutions whose reserves fall below the required minimum may be required to pay up to 3 per cent in excess of the current discount rate on the amount of the deficiency.

The power to set reserve requirements represents a very important addition to the powers of the National Bank. Prior to the enactment of the new statutes the National Bank could act only through changes in the discount rate and the availability of central bank credit to the commercial banks. Neither of these powers, for reasons which will be discussed, proved uniformly effective in the postwar period. The Federal Ministry of Finance, under the provision of the Kreditwesengesetz (Credit Control Law) has since 1952 established certain liquidity ratios for commercial banks. These ratios have been established within the framework of so-called "voluntary agreements" between the Finance Minister and the Association of Austrian Banks and Bankers; it has never been clear whether these controls would be effective if the Association decided to repudiate the agreements.

The International Banking Commission gave high priority to this matter. To quote the Report, "The exercise of the power to require (and vary) the minimum cash reserve to be kept and the ability to fix the liquidity ratios of the commercial and savings banks is crucial for the exercise of the responsibility of the National Bank as the monetary authority." The right to set minimum reserve requirements is given to the Bank by the 1955 Law; however, the Minister of Finance retains the authority to fix liquidity ratios.

1/ As far as is known, however, no State Commissioner ever has exercised this veto power.

Business of the Bank

The business in which the National Bank may engage, as set forth in the National Bank Law of 1955, is similar to that provided for in the prewar statutes; i.e. the Bank may discount certain paper, make loans against proper collateral, buy and sell gold coin and bullion, conduct foreign exchange business, etc. An important new power has been added in Paragraph (c) of Article 47:

> "(c) For the purpose of regulating the money market to buy and to sell in the open market fixed interest-bearing bonds which are admitted to official stock exchange dealings and also Treasury Bills and Treasury Certificates issued by the Federal Republic."

This power is set forth in more detail in Article 54, which defines precisely the type of security in which the National Bank may deal, and which specifies that the purchase of Treasury Bills and Treasury Certificates must not serve to provide credit to the Federal Government or the Laender in excess of the amount provided for in Article 41 (one billion schillings).

The tool for monetary control thus provided the National Bank will remain an empty one as long as the Bank's holdings of government paper which would qualify for open-market operations are not large, and as long as the market for such paper in Austria is not sufficiently broad to permit effective operations in the open market. The International Banking Commission made no explicit mention of the possibility of open-market operations in the body of their Report. In an Annex to the Report, however, a plan is presented which would, if implemented, supply the National Bank with a volume of paper more than adequate to carry out effective operations in the market. This plan is presently under consideration by the Austrian Government. It is to be hoped that the authority provided by the 1955 statutes will give the Bank an opportunity to exercise in the near future this potent and flexible instrument of monetary policy.

Issue of bank notes

There is little difference between the provisions of the new statutes and the prewar statutes in this respect, except that a number of provisions in the prewar statutes looking to the resumption of payment in specie have been deleted. Under the National Bank Law of 1955 the National Bank is given the exclusive right of note issue. The note circulation, plus other demand liabilities (mainly giro deposits) 1/ must be fully covered by gold and foreign exchange, discounted bills of exchange, loans against security, bonds, Treasury Certificates or Treasury Bills, and by holdings of subsidiary coins.

1/ In Continental Europe payments by means of bank deposits are usually made not by check but rather by an order sent directly from the depositor to his bank, requesting the bank to transfer the amount from his account to the account of the payee (giro).

There is no minimum reserve of gold or foreign exchange against note circulation. The statutes merely require that "The Austrian National Bank must hold stocks of gold and foreign exchange in such amount as may be required for regulating payment transactions with foreign countries and for maintaining the value of the currency."

National Bank as monetary authority

Space does not permit a detailed examination of monetary policy since 1945. However, it may be worthwhile to examine briefly the more important points of Austria's economic development, with a view to determining whether the National Bank might have been able to act more effectively if it had been acting under the provisions of the new statutes.

The inflationary period 1948-1952, which followed the currency reform of 1947, was not due in the first instance to an inflation of the money supply. It was caused by the necessity to correct Austria's distorted internal price structure and the means by which this was done--the price-wage agreements, of which there were five by 1952. In fact, early in that period the Austrian National Bank had succeeded in limiting the expansion of the money supply and the volume of commercial credit after commercial bank liquidity reached a point at which the banks found it necessary to look to the National Bank for funds.

The period of inflation, following the outbreak of hostilities in Korea, featured a rapid expansion in the volume of money, fed by a large deficit in the public budget and a rapid expansion of commercial credit. The deficit in the public budgets improved the liquidity position of the commercial banks to some extent; however, it may be noted that central bank holdings of discounted bills increased by 900 million schillings between December 31, 1950, and December 31, 1951. In other words, the National Bank during 1951 relaxed somewhat the restrictive discount policy adopted earlier. The volume of commercial credit outstanding expanded by 33 per cent during the year.

Late in 1951, the Austrian National Bank raised the rediscount rate from 3.5 to 5 per cent; at the same time the Minister of Finance negotiated the first of the "voluntary agreements" with the commercial banks which established primary and secondary liquidity ratios. Commercial credit, however, continued to expand and the balance of payments deficit to increase. The increase in the interest rate had little effect during a period of rising prices; the restrictive rediscount policy was not effective because the banks had no recourse to the central bank during the first six months of 1952. The amount of rediscounted bills held by the National Bank did not change. Commercial bank deposits with the central bank were drawn down somewhat, and note circulation increased substantially.

In June 1952, the National Bank raised the discount rate to 6 per cent and another "voluntary agreement" was negotiated. This agreement set higher ratios for primary and secondary liquidity; more importantly, it specified that only 50 per cent of new deposits could be used for credit expansion, thus establishing a credit ceiling beyond which the banks agreed not to go.

These measures proved effective, primarily because the business community became convinced that the authorities were determined to stabilize the schilling and that there would be an end to the period of continuing price increases. The amount of commercial credit outstanding declined during the last six months of 1952.

The relaxation of inflationary pressure was accompanied by a decline in the rate of increase in economic activity. Industrial production dipped from inflationary peaks and unemployment began to rise rapidly. Under these conditions the Austrian National Bank reduced the discount rate gradually to 3.5 per cent. The credit agreement remained in effect but had no significance, since bank liquidity increased rapidly and commercial credit outstanding remained considerably below the flexible ceiling established by the agreement.

Bank liquidity was affected most strongly during this period—in fact, during the period up to the fourth quarter of 1954—by the rapid improvement in the balance of payments. An influx of foreign exchange during the last half of 1952 permitted the banks to reduce their rediscounts with the National Bank, a tendency which accelerated in the months following the exchange rate unification of May 1953. By the third quarter of 1954, the National Bank's holdings of discounted bills had dropped from a peak of almost two billion schillings at the end of 1951 to S 160 million in November 1954. During the same period, commercial bank deposits with the National Bank increased from less than S 200 million to S 3.6 billion. The public budgets, during the years following the stabilization, showed small surpluses.

By the fourth quarter of 1954, increased domestic demand began to put pressure on the balance of payments. This pressure was intensified during 1955 by a bad harvest, by floods during the summer, by the liberalization of imports under the code of the OEEC, and by developments in the field of commercial credit. The monthly rate of increase in commercial credit during the fourth quarter of 1954 and the first half of 1955, at S 500 million, was about double the average monthly increase during the first half of 1954.

In May 1955, the National Bank, alarmed by the persistent deficit in the balance of payments, increased the discount rate from 3.5 to 4.5 per cent; at the same time the Minister of Finance announced that the credit ceiling and the liquidity ratios established by the 1952 agreement would be rigorously enforced. The rate of expansion of commercial credit slowed for a couple of months and the balance of trade improved moderately. During the third quarter of 1955, the increase in commercial credit again approached the level of S 500 million per month and the deficit in the balance of trade increased.

The National Bank Law of 1955 was passed in September 1955. In November, the National Bank, acting under the powers set forth in this legislation, established a minimum reserve requirement of 5 per cent against total deposit liabilities, such reserves to be held with the National Bank. At the same time, the discount rate was raised from 4.5 to 5 per cent. The

Finance Minister negotiated a new agreement with the Association of Banks and Bankers which required banks to call loans which exceeded the ceiling established by the 50 per cent formula. Lines of credit outstanding were to be reduced by 10 per cent within three months. Since installment credit represented an important part of the increase in commercial credit, down-payment and maturity requirements were tightened.

During November 1955, the volume of commercial credit outstanding declined for the first time since August 1953. Commercial bank liquidity has been under heavy pressure because of the deficit in the balance of payments; National Bank holdings of foreign exchange have declined by about one billion schillings since October 1954. The amount of rediscounted bills held by the Bank has increased from a low of S 160 million to about S 1.1 billion, while commercial bank deposits with the National Bank have declined to S 1.8 billion, most of which is required to meet the 5 per cent reserve requirement. It is still too early to tell whether those developments in the field of money and credit will have the desired effect on the balance of payments.

Conclusions

This outline of monetary developments indicates that the policy of the National Bank was really effective only when the commercial banks were forced into the National Bank by pressure upon their reserves. Under the prewar statutes the Bank had no control over reserves and therefore no control over commercial credit, aside from the interest rate, unless circumstances forced the commercial banks to look to the National Bank for funds. The direct controls imposed by the Minister of Finance undoubtedly had great effect; it is difficult to say whether they were more effective than the more general liquidity controls. At any rate, the importance of the power of the National Bank to operate on commercial bank reserves seems clearly established, and the Bank now has two powers which it formerly did not possess--minimum reserve requirements, and open-market operations.

The first application of minimum reserve requirements by the National Bank made no material difference, since the liquidity ratios stipulated under the Finance Minister's credit agreements already required cash reserves of 7.5 per cent against total deposit liabilities. However, an increase by the National Bank to the legal maximum of 15 per cent would more than double the reserve required by the credit agreement, which permits cash in vaults to be counted toward the liquidity ratio. Under present conditions a 15 per cent reserve requirement would be more than ample to place the National Bank in a position to exercise effective control through its rediscount facilities. But it would be unwise to assume that this will always be the case, or that direct operation on minimum reserve requirements will be the most suitable method of control in all cases. It is to be hoped, therefore, that measures will be taken which, by providing the National Bank with an instrument for use in open-market operations, will give realistic significance to the open-market power which it now possesses as a matter of law.