

No. 8762

**DENMARK
and
FEDERAL REPUBLIC OF GERMANY**

Agreement concerning the merging of frontier control operations and the establishment of joint and transfer railway stations at the Danish-German Frontier (with Final Protocol). Signed at Bonn, on 9 June 1965

Official texts: Danish and German.

Registered by Denmark on 20 September 1967.

**DANEMARK
et
RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE**

Accord concernant la combinaison des opérations de contrôle frontalier et la création de gares communes ou de gares d'échange à la frontière germano-danoise (avec Protocole final). Signé à Bonn, le 9 juin 1965

Textes officiels: danois et allemand.

Enregistré par le Danemark, le 20 septembre 1967.

[TRANSLATION — TRADUCTION]

No. 8762. AGREEMENT¹ BETWEEN THE KINGDOM OF DENMARK AND THE FEDERAL REPUBLIC OF GERMANY CONCERNING THE MERGING OF FRONTIER CONTROL OPERATIONS AND THE ESTABLISHMENT OF JOINT AND TRANSFER RAILWAY STATIONS AT THE DANISH-GERMAN FRONTIER. SIGNED AT BONN, ON 9 JUNE 1965

His Majesty the King of Denmark and
The President of the Federal Republic of Germany,

Desiring to facilitate the crossing of the frontier by rail, road and waterway, have decided to conclude an Agreement and have for that purpose appointed as their plenipotentiaries :

His Majesty the King of Denmark :

Mr. Per Haekkerup, Minister for Foreign Affairs ;

The President of the Federal Republic of Germany :

Dr. Gerhard Schröder, Federal Minister for Foreign Affairs,

who, having exchanged their full powers, found in good and due form, have agreed on the following provisions :

PART I

GENERAL PROVISIONS

Article 1

(1) The Contracting Parties shall, pursuant to this Agreement, facilitate and expedite the crossing of the frontier by rail, road and waterway between the Contracting Parties.

(2) For that purpose, the following measures may be taken in each of the two States :

(a) National frontier control offices may be merged ;

¹ Came into force on 11 September 1967, one month after the exchange of the instruments of ratification which took place at Copenhagen on 11 August 1967, in accordance with article 33 (2).

- (b) The two Contracting Parties may carry out frontier control operations on moving vehicles or vessels on specified sections of route ;
- (c) Joint or transfer railway stations may be established.

(3) The competent Ministers of the Contracting Parties shall, by agreement between them, designate, relocate, modify or discontinue :

- (a) The merged frontier control offices, including their sphere of jurisdiction ;
- (b) The sections of route on which frontier control operations are to be performed on moving vehicles or vessels by officials of the two Contracting Parties ;
- (c) The sections of route on which arrested persons and seized goods or evidence may be returned ;
- (d) The joint railway stations.

(4) Agreements concluded pursuant to paragraph (3) shall be confirmed and given effect by means of an exchange of diplomatic notes.

Article 2

For the purposes of this Agreement :

1. The term “ frontier control operations ” means the application of all legal and administrative provisions of the Contracting Parties relating to the crossing of the frontier by persons and the import, export and transit of goods (including vehicles, vessels, securities and means of payment) ;

2. The term “ territorial State ” means the State in whose territory frontier control operations of the other State are performed ; the term “ adjoining State ” means the other State ;

3. The term “ zone ” means that area of the territorial State in which the officials of the adjoining State are authorized to carry out frontier control operations ;

4. The term “ joint railway station ” means a railway station at which the railway services required in connexion with the crossing of the frontier by persons and goods are, either wholly or in part, performed jointly ;

5. The term “ officials ” means persons who are members of the administrative organs responsible for frontier control operations and who perform their duties at merged frontier control offices or on moving vehicles or vessels.

Article 3

(1) The zone may include :

1. In the case of rail traffic :

(a) Parts of a station and its installations ;

- (b) The section of railway between the frontier and the frontier control office and parts of the stations situated along that section ;
 - (c) In the case of frontier control on a moving train, the train while it is on the designated section of railway and parts of the stations at which the section begins or ends and through which the train passes ;
2. In the case of road traffic :
- (a) Parts of the service buildings ;
 - (b) Parts of the road and of other installations ;
 - (c) The road extending from the frontier to the frontier control office ;
 - (d) In the case of frontier control on a moving road vehicle, the vehicle while it is on the designated section of road and parts of the buildings and installations at which the section begins or ends ;
3. In the case of traffic by waterway :
- (a) Parts of the service buildings ;
 - (b) Parts of the shore and harbour installations and the vessel on board which the frontier control operations are carried out ;
 - (c) In the case of frontier control on a moving vessel, the vessel and the accompanying control boat while they are in the designated section of waterway and parts of the buildings and installations at which the section begins or ends.
- (2) For the purposes of the official operations referred to in article 1, paragraph (3) (c), the sections referred to therein shall be assimilated to the zone.

PART II

FRONTIER CONTROL OPERATIONS

Article 4

(1) The legal and administrative provisions of the adjoining State relating to frontier control shall apply in the zone in the same manner as in the commune having jurisdiction over the frontier control office of the adjoining State. The commune in question shall be designated by the Government of the adjoining State.

(2) Where offences are committed within the zone against the legal and administrative provisions of the adjoining State relating to frontier control, the courts and authorities of the adjoining State shall be entitled to institute

criminal proceedings and render decisions in the same manner as if the offences had been committed in the commune having jurisdiction over the frontier control office.

Article 5

(1) This Agreement shall not affect the right of the authorities of the territorial State to maintain public order in the zone and to prosecute offences committed in the zone which do not constitute offences against the legal and administrative provisions relating to frontier control.

(2) Where a person is caught committing in the zone an offence within the meaning of paragraph (1), he may be arrested by the authorities of the territorial State, subject to the conditions specified in the law of that State.

(3) Officials of the territorial State may not, however, unless agreement has first been reached between the officials of the two States, arrest in the zone persons who are undergoing frontier control by officials of the adjoining State or who have been taken into custody by officials of that State.

Article 6

(1) In frontier control within the zone, the official operations of the State of exit shall be effected before the official operations of the State of entry.

(2) Until exit control has been completed or waived, the officials of the State of entry shall not be entitled to perform frontier control operations.

(3) After entry control has begun, the officials of the State of exit shall no longer be entitled to perform frontier control operations. In exceptional cases, exit control operations may be performed subsequently if the person concerned so requests and the competent official of the State of entry gives his consent.

(4) The sequence of operations prescribed in paragraph (1) may be changed, by agreement, only where there are serious practical reasons for doing so. In exceptional cases of this nature, the officials of the State of entry may — subject to the provisions of article 5 — effect arrests or seizures only after the frontier control operations of the State of exit have been completed. If they wish to take such measures, they shall deliver the persons or goods in respect of whom or which the exit control operations have not yet been completed to the officials of the State of exit. If the latter wish to effect arrests or seizures, they shall have priority, subject to the binding domestic provisions of the territorial State.

Article 7

(1) The officials of the adjoining State shall be authorized under this Agreement to carry out within the zone all frontier control operations provided for under the legal and administrative provisions of the said State as if they were in their own State. In particular, they shall be authorized to record offences, effect seizures, accept settlements in respect of offences recorded and retain goods as security in respect of duties or fines. Save as otherwise provided in paragraph (2), they may also arrest persons who have contravened the regulations regarding the crossing of the frontier or who are sought by the competent authorities of the adjoining State, turn back travellers and transfer arrested persons to the adjoining State. Transfer to the adjoining State, which shall be effected as speedily as possible, may also take place by means of trains not subject to frontier control while in motion.

(2) The officials of the adjoining State shall not, however, be entitled to arrest nationals of the territorial State or to return them to the adjoining State. They may, nevertheless, for the purpose of drawing up a record of the relevant facts, bring such persons to their office in the territorial State or, if no such office exists, to the appropriate authority of the territorial State. An official of the territorial State must be present when the said record is drawn up.

(3) The officials of the adjoining State may freely transfer to the territory of the adjoining State any sums of money collected in the zone and goods and other property held or seized there or may sell such goods and property in the territorial State in conformity with the legal provisions in force there and transfer the proceeds to the adjoining State.

Article 8

(1) Goods which are turned back by the officials of the adjoining State in the course of exit control or are returned to the adjoining State at the request of the persons concerned before the entry control of the territorial State has begun shall not be subject to the export regulations or exit control of the territorial State.

(2) Persons turned back by the officials of the State of entry may not be refused the right to return to the State of exit. Similarly, where the import of goods is refused by the officials of the State of entry, the right to return the said goods to the State of exit may not be denied.

Article 9

(1) The officials of the Contracting Parties shall assist one another as much as possible in the discharge of their duties in the zone, and particularly in the prevention and detection of offences against the legal and administrative provisions relating to the crossing of the frontier. For that purpose, they shall communicate to one another, as rapidly as possible, all information which is of importance for the proper discharge of their duties.

(2) The provisions of paragraph (1) shall not affect any domestic legal and administrative provisions requiring authorization by other authorities, in certain cases, for the communication of such information.

PART III

OFFICIALS

Article 10

(1) The authorities of the territorial State shall accord the officials of the adjoining State the same protection and assistance in the performance of their duties in the zone as they accord to the corresponding officials of their own State. In particular, the provisions of criminal law in force in the territorial State which are intended for the protection of civil servants and official operations shall also apply to offences committed against officials of the adjoining State.

(2) Claims against the public authorities arising from liability for damage caused by officials of the adjoining State in the performance of their duties in the zone shall be subject to the law and jurisdiction of the adjoining State in the same manner as if the action causing the damage had taken place in the commune of the adjoining State having jurisdiction over the frontier control office. Nationals of the territorial State shall, in respect of such claims, be assimilated to nationals of the adjoining State.

Article 11

(1) Officials of the adjoining State who, pursuant to this Agreement, are called upon to perform their duties in the territorial State shall be exempt from passport and visa requirements.

(2) In order to cross the frontier for the purpose of proceeding to their place of work, they shall require merely an official document indicating their nationality, their identity, their official position and the nature of their duties.

Article 12

Officials of the adjoining State who, pursuant to this Agreement, are called upon to perform their duties in the territorial State may wear their national uniform or a visible badge. They may carry their service weapons, with the exception of fire-arms, but may use them only in self-defence.

Article 13

(1) Officials of the adjoining State who, pursuant to this Agreement, are called upon to perform their duties in the territorial State shall be exempt in that State from all personal service and material obligations under public law.

(2) If an official of the adjoining State who, pursuant to this Agreement, is called upon to perform his duties in the territorial State suffers injury as the result of a service or work accident for which the railway administration of the territorial State is responsible, the railway administration of the adjoining State shall assume responsibility for satisfying any claims for compensation made against the railway administration of the territorial State.

Article 14

(1) The service relationship between the adjoining State and its officials shall be governed by the legal and administrative provisions of the said State.

(2) Any offences committed by officials of the adjoining State in the territorial State shall be immediately notified to their superiors.

Article 15

(1) Articles intended for official or personal use, including food-stuffs, which officials of the adjoining State may need during the performance of their duties in the territorial State, and which they carry with them when proceeding to their work in the territorial State or when returning therefrom, shall be imported and re-exported free of all duties and other import or export taxes on the basis of an oral declaration and without deposit of any security. The same shall apply to vehicles or vessels used by the officials in the performance of their duties.

(2) Save as otherwise agreed between the competent authorities, import or export prohibitions and restrictions shall not apply to the articles mentioned in paragraph (1).

(3) The measures of supervision deemed to be necessary shall be determined by agreement between the competent authorities.

Article 16

(1) The competent authorities of the adjoining State shall inform the competent authorities of the territorial State of the maximum number of officials whom they wish, as a general rule, to employ in the zone. They shall be free to employ additional officials when necessary. If the competent authorities of the territorial State so request, the authorities of the two States shall consult on the number of officials of the adjoining State employed in the zone.

(2) The competent authority of the adjoining State shall recall from the territorial State officials who are performing their duties there if the competent authority of the territorial State submits a request for such recall, stating the reasons therefor.

PART IV

FRONTIER CONTROL OFFICES

Article 17

The competent authorities of the two countries shall co-ordinate the working hours and functions of the merged frontier control offices.

Article 18

(1) The competent authorities shall determine by agreement :

- (a) The installations needed for the offices of the adjoining State, together with the charges, if any, to be paid in respect of their use, in particular for rent or for a share of the cost of construction, lighting, heating and cleaning ;
- (b) The places and facilities to be reserved for officials who carry out frontier control operations on moving vehicles or vessels.

(2) If the railway administration of the adjoining State is required to supply premises for the authorities responsible for carrying out frontier control operations and to provide other services for them, the railway administration of the territorial State shall be obliged to comply, subject to compensation, with a request for similar treatment from the railway administration of the adjoining State.

Article 19

(1) The premises assigned to the frontier control offices of the adjoining State shall be designated by an official shield.

(2) The officials of the adjoining State shall be entitled to maintain order on the premises placed at their exclusive disposal and to remove there-

from any person causing a disturbance. If necessary, they may call upon the officials of the territorial State for assistance.

Article 20

(1) Articles intended for official use or consumption at the frontier control offices of the adjoining State in the territorial State shall not be subject to duties and other import or export taxes. The deposit of security shall not be required.

(2) Save as otherwise agreed between the competent authorities, the said articles shall not be subject to import or export prohibitions and restrictions.

Article 21

(1) The telephone and telegraph lines (including lines for teleprinters) required for the functioning of the offices of the adjoining State in the territorial State may be extended into the territory of the latter State in order to permit the maintenance of direct communication with those offices. Such telecommunications shall be deemed to be internal communications of the adjoining State.

(2) For the same purpose, the Governments of the Contracting Parties undertake to grant, in so far as possible, every facility for the use of other means of telecommunication.

(3) The competent authorities of the Contracting Parties shall determine, by agreement between them, the measures necessary for the implementation of the provisions of paragraphs (1) and (2).

Article 22

Official consignments to be sent by, or intended for, the frontier control offices of the adjoining State which would otherwise be subject to the payment of postage may be carried by the officials of that State free of charge and without intervention by the postal or railway administration of the territorial State, provided that such consignments bear the seal of the authority sending them.

PART V

PERSONS MAKING CUSTOMS DECLARATIONS

Article 23

(1) Persons from the adjoining State may carry on all frontier control activities at the frontier control offices of that State in the territorial State in the same manner as in the adjoining State.

(2) Paragraph (1) shall also apply to persons from the adjoining State who are professionally engaged in the said activities. Such persons shall, in respect of the said activities, be subject only to the relevant legal and administrative provisions of the adjoining State. Activities thus carried on and services thus provided shall be regarded, for purposes of turnover tax, as having been carried on or provided solely in the adjoining State.

(3) The persons referred to in paragraph (2) may, in the exercise of the activities mentioned in that paragraph, employ either Danish or German personnel. The legal and administrative provisions of the territorial State governing the employment of foreign workers shall not be applicable in this case.

(4) The crossing of the frontier by the persons referred to in the preceding paragraphs and their stay in the territorial State shall be governed by the general provisions of that State. Such facilities as those provisions permit shall be granted.

PART VI

SPECIAL PROVISIONS RELATING TO RAIL TRAFFIC

Article 24

(1) The railway administrations shall, by agreement between them, designate the transfer railway stations.

(2) The railway administrations shall conclude agreements specifying the details of organizational and operating procedures at the joint or transfer railway stations and of operating procedures in ferry service on the high seas, as well as the compensation to be paid by each administration for the services rendered by the other.

Article 25

The competent authorities of the territorial State, including, in particular, the railway administration, shall take all measures necessary for the orderly operation of the offices and railway system of the adjoining State at the joint or transfer railway stations.

Article 26

(1) Each Contracting Party shall authorize the officials of the railway administration of the adjoining State who are responsible for railway operations to carry on their activities in the territory of the said Party within the framework of this Agreement.

(2) The provisions of articles 11-17 and 20-23 shall be applicable to personnel and railway offices of the adjoining State carrying on their activities at railway stations with merged frontier control offices situated in the territorial State, at joint or transfer railway stations situated in the territorial State or on board moving trains between the frontier and the said stations.

(3) The railway administrations of the Contracting Parties may determine, by agreement between them, that officials of the railway administration of the adjoining State on board trains crossing the frontier should continue to perform services in the territorial State beyond a joint or transfer railway station. The provisions of articles 11-17 and 20-23 shall also apply, *mutatis mutandis*, to such officials.

Article 27

The railway administration of the adjoining State shall be entitled to take the necessary supervisory and inspection measures at the joint or transfer railway stations in respect of its own officials with a view to determining whether they are observing the domestic regulations of the said State. The relevant details shall be laid down in the agreements concluded under article 24, paragraph (2).

Article 28

(1) The personnel of the railway administration of the adjoining State may, to the extent authorized by the law of their own State, take appropriate measures to maintain order and safety on board trains between the frontier and the joint or transfer railway station situated in the territorial State. Any offences against the regulations regarding the maintenance of order and safety which may be committed on board such trains shall be reported to the appropriate station of the territorial State for further action.

(2) The personnel mentioned in paragraph (1) may not arrest any person on the section of route between the frontier and the joint or transfer railway station situated in the territorial State. Nevertheless, the said personnel shall be authorized to take persons guilty of the above offences to the nearest station in the territorial State for the purpose of drawing up a record of the relevant facts.

Article 29

Facilities shall be granted for the transfer of sums of money deriving from the levying of transport charges or charges of a similar nature and collected by personnel of the railway administration of the adjoining State who are carrying on their activities in the territorial State.

PART VII
FINAL PROVISIONS

Article 30

The competent authorities of the Contracting Parties shall determine, by agreement between them, the administrative measures necessary for the application of this Agreement.

Article 31

Measures taken in application of the provisions of article 1, paragraph (2), may be terminated either by agreement between the Contracting Parties, or by a unilateral declaration of either Contracting Party. In the latter case, the Contracting Party which is to withdraw its services to its own territory may request that it should be allowed a period of time in which to liquidate the said services, such period not to exceed twelve months from the date of the request for termination.

Article 32

This Agreement shall also apply to *Land* Berlin, provided that the Government of the Federal Republic of Germany has not delivered a declaration to the contrary to the Government of the Kingdom of Denmark within three months after the entry into force of the Agreement.

Article 33

(1) This Agreement shall be ratified. The instruments of ratification shall be exchanged at Copenhagen as soon as possible.

(2) This Agreement shall enter into force one month after the exchange of the instruments of ratification.

(3) This Agreement may be denounced at any time ; it shall cease to have effect twelve months after such denunciation.

IN WITNESS WHEREOF the plenipotentiaries have signed this Agreement and have thereto affixed their seals.

DONE at Bonn on 9 June 1965, in four original copies, two in Danish and two in German, both texts being equally authentic.

For the Kingdom of Denmark :
Per HÆKKERUP

For the Federal Republic of Germany :
SCHRÖDER

FINAL PROTOCOL

At the time of the signing of the Agreement concluded between the Kingdom of Denmark and the Federal Republic of Germany concerning the merging of frontier control operations and the establishment of joint and transfer railway stations at the Danish-German frontier, the undersigned plenipotentiaries have each made the following declaration, which forms an integral part of the Agreement :

Ad article 2, paragraph 1 :

The term " frontier control operations " shall be deemed to include the inspection of motor vehicles at the frontier in accordance with the regulations governing the transport of goods by motor vehicle.

Ad article 2, paragraph 2 :

In so far as relates to navigation on the high seas, the provisions of this Agreement shall be applicable only to vessels flying the flag of one of the Contracting Parties. The territorial State in such cases shall be the State whose flag is being flown.

Ad article 7 :

The provisions of this article are based on the general rule of State practice that in the case of persons having the nationality of more than one State the nationality of the territorial State has priority.

Ad article 7, paragraph (2), first sentence :

Nationals of Finland, Iceland, Norway and Sweden shall be assimilated to Danish nationals.

Ad article 13, paragraph (1) :

The term " personal service and material obligations under public law " shall not be deemed to include taxes.

Ad article 18, paragraph (1) :

In the case of rail traffic, the term " competent authorities " shall be deemed to include the railway administrations.

Ad article 21, paragraph (1) :

The territorial State reserves the right to establish such communications as are necessary in its own territory.

Ad article 23, paragraph (2) :

The provision shall not apply to the levying of direct taxes (taxes on income and fortune, etc.).

DONE at Bonn on 9 June 1965, in four original copies, two in Danish and two in German, both texts being equally authentic.

For the Kingdom of Denmark :

Per HÆKKERUP

For the Federal Republic of Germany :

SCHRÖDER
