

No. 13474

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**FEDERAL REPUBLIC OF GERMANY**  
and  
**AUSTRIA**

**Agreement concerning the effects on the territory of the Federal Republic of Germany of construction and operation of the Salzburg airport (with map and general sketch of Salzburg airport). Signed at Vienna on 19 December 1967**

*Authentic text: German.*

*Registered by the Federal Republic of Germany on 27 August 1974.*

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**RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE**  
et  
**AUTRICHE**

**Accord relatif aux effets de l'aménagement et de l'exploitation de l'aéroport de Salzbourg sur le territoire de la République fédérale d'Allemagne (avec carte et schéma d'ensemble de l'aéroport de Salzbourg). Signé à Vienne le 19 décembre 1967**

*Texte authentique : allemand.*

*Enregistré par la République fédérale d'Allemagne le 27 août 1974.*

## [TRANSLATION — TRADUCTION]

AGREEMENT<sup>1</sup> BETWEEN THE FEDERAL REPUBLIC OF GERMANY AND THE REPUBLIC OF AUSTRIA CONCERNING THE EFFECTS ON THE TERRITORY OF THE FEDERAL REPUBLIC OF GERMANY OF CONSTRUCTION AND OPERATION OF THE SALZBURG AIRPORT

The Federal Republic of Germany and the Republic of Austria—hereinafter referred to as the Contracting Parties—

Considering, as members of the International Civil Aviation Organization (ICAO),

That the safety zone to be established for the Austrian airport of Salzburg in accordance with the Convention on International Civil Aviation of 7 December 1944<sup>2</sup> extends into the territory of the Federal Republic of Germany, and

That the minimum requirements of the aforementioned Convention are fulfilled by the Austrian Air Transport Act of 2 December 1957 (BGBl. No. 253) and the German Air Transport Act of 22 October 1965 (*Bundesgesetzbl. I*, p. 1729),

Have, in the interest of the development of international air transport and with a view to the avoidance of hazards to aviation and to the general public, agreed as follows:

*Article 1.* The Federal Republic of Germany undertakes to adopt, in accordance with the German Air Transport Act and the regulations issued pursuant thereto, as amended, such measures as are necessary in the territory of the Federal Republic of Germany for construction and operation of the Salzburg airport. In so doing, it shall use as a basis the civil airfield permit for the Salzburg airport, dated 31 May 1965, granted by the competent aeronautical authorities of the Republic of Austria (Z1. 33.500/13-I/8-1965) and the operating permits dated 30 June 1960 (Z1. 32.467-I/7-1960) and 29 March 1963 (Z1. 33.500/21-I/7-1963).

*Article 2.* (1) The Contracting Parties shall hold an exchange of views, in accordance with article 10, if it is contemplated that the civil airfield permit or the operating permit for the Salzburg airport shall be amended or supplemented. The Republic of Austria shall, in such cases, take into consideration German requirements, especially with respect to space, planning, land use, town planning and aircraft noise abatement. If any measures in the territory of the Federal Republic of Germany become necessary as a result of such amendment or supplementation, the provisions of article 1 shall apply, provided that the Federal Republic of Germany has raised no objection to the amendment or supplementation.

<sup>1</sup> Came into force on 17 May 1974, i.e., 30 days after the exchange of the instruments of ratification, which took place at Bonn on 17 April 1974, in accordance with article 14.

<sup>2</sup> United Nations, *Treaty Series*, vol. 15, p. 295. For the texts of the Protocols amending this Convention, see vol. 320, pp. 209 and 217; vol. 418, p. 161; and vol. 514, p. 209.

(2) If it is contemplated that the hours of operation of the Salzburg airport shall be extended to include periods between 11 P.M. and 6 A.M. local time, permission to change the existing hours of operation shall be granted only if German interests with respect to safety and order or aircraft noise abatement are not thereby affected. Before granting permission, the competent Austrian aeronautical authorities shall ascertain the views of the competent German aeronautical authorities.

*Article 3.* (1) In the establishment of the building protection zone in German territory, consideration shall be given, as far as is possible under the provisions of the German Air Transport Act, to the Austrian safety zone.

(2) The competent Austrian aeronautical authorities shall make available, for the purpose of publicizing the building protection zone and for the information of aeronautical authorities, the necessary copies of a plan<sup>1</sup> on the scale 1:25,000 indicating the building protection zone, and shall forward to the competent German aeronautical authorities copies of the civil airfield permit and operating permit for the Salzburg airport and of the supplements and amendments thereto.

(3) If it is contemplated that a building permit or other permit shall be denied, the competent German aeronautical authorities shall, before taking a decision, ascertain the views of the competent Austrian aeronautical authorities.

*Article 4.* (1) Where measures taken by German authorities in connexion with construction and operation of the Salzburg airport give rise under German law to liability for compensation on the part of the airport operator, such liability shall be assumed by the Federal Republic of Germany.

(2) The Republic of Austria shall reimburse the Federal Republic of Germany, the state of Bavaria and its municipal corporations for all necessary costs and all damage incurred in connexion with construction and operation of the airport, especially costs arising under paragraph (1) and other costs incurred in meeting third-party claims.

(3) Claims arising from the effects of airport traffic or of operation of the airport on persons, property or interests in the territory of the Federal Republic of Germany may be based either on German law or on Austrian law. If a claim is based on German law, section 11 of the German Air Transport Act, in conjunction with section 26 of the German Commercial Code shall apply *mutatis mutandis*, provided that the airport is being operated in accordance with the Austrian laws and regulations in force and within the framework of this Agreement. The ordinary courts of the Federal Republic of Germany shall have exclusive competence to adjudicate disputed claims.

*Article 5.* (1) In the event of damage to persons, property or interests resulting in the territory of the Federal Republic of Germany from the effects of airport traffic or of operation of the Salzburg airport and culpably caused, through unlawful conduct, by agents of the Republic of Austria in connexion with their official activities, the Federal Republic of Germany shall be liable in accordance with the laws and regulations governing its liability in respect of its own agents.

<sup>1</sup> See insert in a pocket at the end of this volume.

(2) The Federal Republic of Germany shall, if a claim is made against it pursuant to paragraph (1), notify the Republic of Austria accordingly without delay, and shall also inform it if the claim is brought before a court.

(3) The Republic of Austria shall be obligated, to the extent that its laws and regulations permit, to make available to the Federal Republic of Germany such information and evidence obtainable by it as may be helpful in dealing with the damage claim.

(4) The Federal Republic of Germany shall notify the Republic of Austria of the settlement of the claim; copies of the decision, agreement or other disposition resulting in a settlement shall be attached.

(5) The Republic of Austria shall compensate the Federal Republic of Germany for its discharge of the liabilities arising from paragraph (1).

(6) This article shall not apply where the damage is sustained by an Austrian national.

*Article 6.* Instructions for and approval of individual measures, especially those concerning the installation and maintenance of obstruction markers, shall be given after contacts with the competent Austrian aeronautical authorities.

*Article 7.* The Republic of Austria shall, to the extent possible under Austrian law, ensure through appropriate measures that built-up areas in the territory of the Federal Republic of Germany are not overflowed at an altitude lower than is operationally necessary and that aircraft do not interfere with the operation of transport facilities and means of transport, especially the operation of the German Federal Railways.

*Article 8.* This Agreement shall not affect existing treaty relations concerning the course of the State frontier and concerning air traffic control measures, aircraft noise abatement measures, and the rights of the Federal Republic of Germany with respect to the construction and operation of wireless transmitting installations. The Federal Republic of Germany shall, however, ensure that the latter installations do not interfere with the operation of the necessary air traffic control installations for the Salzburg airport.

*Article 9.* Upon the request of the Federal Republic of Germany, the Republic of Austria shall in accordance with the principle of reciprocity, grant to a German civil airfield whose building protection zone affects Austrian territory, the same treatment, through the conclusion of a corresponding agreement, as is accorded to the Salzburg airport under this Agreement.

*Article 10.* Exchanges of views shall take place as needed between the aeronautical authorities of the Contracting Parties in order to achieve close cooperation and agreement in all matters pertaining to the application and interpretation of this Agreement.

*Article 11.* Consultation may be requested at any time by either Contracting Party for the purpose of discussing amendments to this Agreement. The same shall apply to discussions concerning the interpretation and application of this Agreement if either Contracting Party considers that an exchange of views in accordance with article 10 has not produced satisfactory results. Such consultation shall begin within 30 days from the date of receipt of any such request.

*Article 12.* (1) Disagreements concerning the interpretation or application of this Agreement shall be settled by the competent authorities of the Contracting Parties.

(2) If any disagreement cannot be settled in this way, it shall, upon the request of either Contracting Party, be submitted to an arbitral tribunal.

(3) Such arbitral tribunal shall be constituted *ad hoc* as follows: each Contracting Party shall appoint one member, and these two members shall agree upon a national of a third State as their chairman to be appointed by the Governments of the Contracting Parties. Such members shall be appointed within two months, and such chairman within three months, from the date on which either Contracting Party has informed the other Contracting Party of its intention to submit the disagreement to an arbitral tribunal.

(4) If the periods specified in paragraph 3 have not been observed, either Contracting Party may, in the absence of any other arrangement, invite the President of the Council of ICAO to make the necessary appointments. If the President is a national of either Contracting Party or if he is otherwise prevented from discharging this function, his deputy shall make the appointments.

(5) The arbitral tribunal shall reach its decisions by a majority of votes. Such decisions shall be binding. Each Contracting Party shall bear the cost of the arbitrator appointed by it and of its representation in the arbitral proceedings; the cost of the chairman and any other costs shall be borne in equal parts by the Contracting Parties. In all other respects, the arbitral tribunal shall determine its own procedure.

(6) With regard to the summoning and hearing of witnesses and experts the courts and the administrative authorities of the two Contracting Parties shall, upon the request of the arbitral tribunal addressed to the Government concerned, provide in the same manner as they provide such assistance upon the request of foreign civil courts.

*Article 13.* This Agreement shall also apply to *Land Berlin*, provided that the Government of the Federal Republic of Germany has not made a contrary declaration to the Federal Government of the Republic of Austria within three months from the date of entry into force of this Agreement.

*Article 14.* (1) This Agreement shall be ratified. The instruments of ratification shall be exchanged as soon as possible at Bonn.

(2) The Agreement shall enter into force 30 days after the exchange of the instruments of ratification.

(3) Either Contracting Party may at any time give written notice of termination of this Agreement. It shall then expire one year from the date of receipt of such notice by the other Contracting Party.

DONE at Vienna, on 19 December 1967, in two original copies.

For the Federal Republic of Germany:

LÖNS

For the Republic of Austria:

Dr. TONCIC-SORINJ