

**No. 19483**

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**ITALY  
and  
AUSTRIA**

**Convention concerning adjoining frontier clearance offices  
and frontier clearance on board moving transport.  
Signed at Rome on 29 March 1974**

*Authentic texts: Italian and German.*

*Registered by Italy on 23 December 1980.*

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**ITALIE  
et  
AUTRICHE**

**Convention relative aux bureaux à contrôles nationaux  
juxtaposés et au contrôle en cours de route. Signée  
à Rome le 29 mars 1974**

*Textes authentiques: italien et allemand.*

*Enregistrée par l'Italie le 23 décembre 1980.*

[TRANSLATION --- TRADUCTION]

CONVENTION<sup>1</sup> BETWEEN THE ITALIAN REPUBLIC AND  
THE REPUBLIC OF AUSTRIA CONCERNING ADJOINING  
FRONTIER CLEARANCE OFFICES AND FRONTIER  
CLEARANCE ON BOARD MOVING TRANSPORT

The Italian Republic and the Republic of Austria, desiring to regulate and facilitate the crossing of the frontier between the two countries, have agreed as follows:

TITLE I. GENERAL PROVISIONS

*Article 1.* For the purposes of this Convention:

1. "Frontier clearance" means compliance with all regulations of the Contracting States which are applicable in respect of passenger traffic across the frontier and the import, export and transit of goods;
2. "Territorial State" means the Contracting State in whose territory the frontier clearance of the other Contracting State is carried out;
3. "Neighbouring State" means the other Contracting State;
4. "Zone" means the area of the territorial State in which officials of the neighbouring State are entitled to effect frontier clearance;
5. "Officials" means persons who, as agents of the authorities competent for clearance, perform their duties in accordance with this Convention;
6. "Goods" means merchandise, vehicles, means of conveyance, articles, etc.

*Article 2.* (1) The Contracting States shall, within the scope of this Convention, take the necessary action to facilitate and expedite rail and road traffic and the conveyance of materials by pipeline across the frontier between the Contracting States.

(2) To this end they may:

1. Establish adjoining frontier clearance offices;
2. Institute frontier clearance on board moving transport on designated routes.

(3) Officials of the neighbouring State shall be entitled to perform their duties within the scope of this Convention in the territorial State.

(4) By virtue of agreements concluded between the competent authorities of the Contracting States:

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<sup>1</sup> Came into force on 1 October 1976, i.e., the first day of the third month following the date of the exchange of the instruments of ratification, which took place at Vienna on 2 July 1976, in accordance with article 28 (1) and (2).

1. The adjoining frontier clearance offices shall be established, modified or discontinued;
2. The routes shall be designated on which officials of the neighbouring State shall, within the territorial State, be permitted:
  - (a) To effect frontier clearance on board moving transport;
  - (b) To transfer from the territorial State, or escort to another clearance office of their own State, persons who have been arrested or denied entry, or goods deposited as security or evidentiary materials.
3. The zones shall be established.

*Article 3.* (1) The zone may comprise:

1. In the case of railway traffic:
  - (a) Parts of the railway stations and other railway installations, and the routes between the State frontier and the frontier clearance office;
  - (b) Where frontier clearance is effected *en route*, the train, the route designated in accordance with article 2, paragraph 4, subparagraph 2 (a) and parts of the railway stations at which the said route begins or ends and through which the train passes;
2. In the case of road traffic:
  - (a) Parts of the service buildings, road sectors and other installations, and the road between the frontier and the frontier clearance office;
  - (b) Where frontier clearance is effected *en route*, the vehicle, the route designated in accordance with article 2, paragraph 4, subparagraph 2 (a) and parts of buildings and installations at which the said route begins or ends.
3. In the case of pipelines crossing the frontier, the installations in which the measuring instruments for determining the volume of material conveyed for purposes of frontier clearance by the territorial State and also by the neighbouring State, and the roads by which the officials of the neighbouring State are granted access to the installations across the frontier.

(2) For any portion of territory which is covered by paragraph 1, subparagraphs 1 and 2, but which, under agreements concluded pursuant to article 2, paragraph 4, is not included in the zone, such agreements may provide for the application of individual provisions of this Convention or for the exercise of specific rights and obligations arising therefrom.

(3) The routes referred to in article 2, paragraph 4, subparagraph 2 (b), shall be accorded, for the purposes of the official acts mentioned therein, the same legal status as the zone.

## TITLE II. FRONTIER CLEARANCE

*Article 4.* (1) In the zone, frontier clearance of the neighbouring State shall be effected by the officials of that State, subject to the provisions of

article 6, to the same extent and with the same legal consequences as in the territory of the neighbouring State.

(2) Any breach, committed in the zone, of the regulations of the neighbouring State which govern passenger traffic across the frontier and the import, export and transit of goods shall be deemed to have been committed in the neighbouring State.

(3) So far as official acts to be performed therein are concerned, zones shall be deemed to be situated in the area of territorial jurisdiction of the authorities of the neighbouring State in whose area of territorial jurisdiction the corresponding frontier is situated.

*Article 5.* Unless otherwise provided in this Convention, the authorities of the territorial State in the zone shall not be affected. This applies in particular to the right of the territorial State to maintain law and order and security in the zone.

*Article 6.* (1) Unless otherwise provided hereinafter, officials of the neighbouring State shall not be entitled to detain or arrest in the territorial State, or to take to the neighbouring State, a person who proceeds to the zone from the territorial State for reasons other than crossing the frontier, except in cases where such person commits in the zone a breach of the frontier clearance regulations of the neighbouring State.

(2) Officials of the neighbouring State shall not be entitled to detain or arrest in their State a national of the territorial State, or to take such national to their State. They may, however, within the scope of their national law, take such national to their frontier clearance office in the territorial State or, if there is no such office, to the frontier clearance office of the territorial State for interrogation. In the former case, an official of the territorial State shall attend the interrogation if the person concerned, who must be informed of his rights in this respect, so requests.

(3) Persons who invoke the right of asylum of the territorial State may be escorted by officials of the neighbouring State of their frontier clearance office in the territorial State or, if there is no such office, to the frontier clearance office of the territorial State for interrogation. In the former case, an official of the territorial State shall attend the interrogation. After interrogation, the person concerned shall be handed over to the officials of the territorial State. The competent authorities of the territorial State shall decide whether the right of asylum is to be granted.

(4) Officials of the neighbouring State shall not be entitled to detain or arrest a person in the territorial State and to take him to the neighbouring State for the purpose of extraditing him to a third State.

*Article 7.* (1) Frontier clearance of the State of exit in the zone shall be performed before frontier clearance of the State of entry; in order to expedite traffic, frontier clearance by the Contracting States shall, so far as possible, be conducted in direct sequence.

(2) Officials of the State of exit shall not be entitled to start their frontier clearance operations until exit clearance has been completed, unless the latter clearance has been waived.

(3) Officials of the State of exit shall not be entitled to conduct any further clearance operations after entry clearance has begun. By way of exception, exit clearance operations may be resumed if the person concerned so requests and the clearing official of the State of entry consents thereto.

(4) Officials of the Contracting States may depart from the sequence prescribed in paragraph 1 by common accord when this serves the purpose of facilitating frontier clearance. In such exceptional cases, officials of the State of entry shall not make any arrest, detention or seizure until the frontier clearance of the State of exit has been completed. If they wish to apply any such measure, they shall take the persons and goods whose exit clearance has not yet been completed first of all to the officials of the State of exit. If the last-named officials intend to make any arrest or seizure pursuant to article 6, paragraphs 2 and 3, they shall have priority.

(5) Detention, arrest or seizure for the purpose of criminal proceedings or prosecution for violations of regulations not governing persons crossing the frontier or the import, export or transit of goods may also be carried out by officials of the territorial State after the entry clearance of the neighbouring State has begun; this shall also apply in cases where officials of the neighbouring State have already carried out a detention, arrest or seizure. In this case, the persons detained or arrested by the officials of the neighbouring State, as also the goods seized, shall be handed over to the officials of the territorial State.

*Article 8.* Officials of the neighbouring State may transfer currency collected and evidentiary materials and goods detained or seized in the zone into the territory of their State without let or hindrance. They may likewise sell such goods in the territorial State in accordance with the regulations in force therein and transfer the proceeds to the neighbouring State.

*Article 9.* (1) Goods which are refused exit clearance by officials of the neighbouring State or which are returned to the neighbouring State at the request of the person concerned before the start of the entry clearance of the territorial State shall be subject neither to the export regulations nor to the exit clearance of the territorial State.

(2) Persons who are denied admittance by the officials of the State of entry shall not be denied re-admittance to the State of exit. Similarly, goods whose importation is disallowed by the officials of the State of entry shall not be denied reimportation into the State of exit.

*Article 10.* In proceedings in respect of a breach of frontier clearance regulations which was committed in the zone and detected during or immediately after its commission, the competent authorities of the neighbouring State shall, at the request of the competent authorities of the neighbouring State, interrogate accused persons, witnesses and experts, conduct investigations and

transfer relevant documents, especially for the purpose of serving them. The legal provisions of the territorial State concerning the procedure to be followed in the prosecution of similar offences shall be applicable *mutatis mutandis*.

### TITLE III. OFFICIALS

*Article 11.* (1) The authorities of the territorial State shall extend to the officials of the neighbouring State the same protection and assistance as to the corresponding officials in their own service. The provisions of criminal law in force in the territorial State for the protection of its own officials in the performance of or in connection with their duties and for the protection of official acts themselves shall also apply to punishable offences committed against officials in the neighbouring State.

(2) Claims of official liability for damage caused by officials of the neighbouring State in the performance of their duties in the zone shall be subject to the law and jurisdiction of the neighbouring State as though the act causing the damage had been performed in the neighbouring State. In this connection, nationals of the territorial State shall be accorded equal treatment with nationals of the neighbouring State.

*Article 12.* (1) If, as a result of an accident occurring in railway operations, an official is killed or injured in the performance of, or in connection with, his duties, or if anything which he carries on his person or with him is damaged or destroyed, the railway of the Contracting State to which he belongs shall be deemed liable as his employer under the laws in force in that Contracting State; in such cases the said railway shall also be deemed liable, for punishable acts of commission or omission on the part of persons serving the other railway for the latter's purposes, as if they were acts of commission or omission on the part of its own employees.

(2) In the event that one railway is deemed liable under paragraph 1, liability of the other railway *vis-à-vis* the injured person shall be precluded.

(3) Cases in which and to what extent one railway is entitled to assert a claim for damages against the other railway shall be determined in a special agreement.

*Article 13.* (1) Officials of the neighbouring State shall be exempt from passport and visa requirements. They shall be entitled, upon production of an official certificate showing their identity and official function, to cross the frontier and proceed to, and remain in, their place of work. The foregoing shall not affect any order prohibiting the entry of an individual official of the neighbouring State.

(2) Any punishable offence committed in the territorial State by an official of the neighbouring State shall be forthwith reported to the authority responsible for such official by the corresponding official of the territorial State.

(3) Upon a request, accompanied by a statement of reasons, from the competent authorities of the territorial State, the competent authorities of the

neighbouring State shall debar or recall their officials from duty in the territory of the former State.

*Article 14.* Officials of the neighbouring State may wear their uniform or shall otherwise wear a visible service badge: they may carry their service weapons and equipment in the zone and on the way from and to their place of residence. They may, however, use their weapons only in self-defence.

*Article 15.* (1) Officials of the neighbouring State residing in the territorial State shall be subject in that State to the regulations concerning the residence of aliens. If a residence permit is required under the said regulations, it shall be issued to them free of charge.

(2) A residence permit shall likewise be issued free of charge to members of the household of such an official who are not gainfully employed. Such a permit may be refused only where an order has been made prohibiting the entry of the individual in question. The issue of a permit for members of the household of the official to take up a gainful occupation and the collection of the relevant fees shall be subject to the regulations of the territorial State.

(3) Time spent on duty or in residence in the territorial State by officials of the neighbouring State shall not count towards the qualifying periods for preferential treatment under the relevant agreements in force between the Contracting States or other regulations of the territorial State. The same shall apply to the household members of the official.

*Article 16.* (1) Officials of the neighbouring State residing in the territorial State shall enjoy, in accordance with the regulations of the territorial State—on entering the service, setting up their own households in the territorial State and returning to the neighbouring State—exemption from all entry and exit duties on furniture, personal requisites, including motor vehicles, and normal household effects. The foregoing shall apply also to persons living with them in the above-mentioned circumstances in the same common household. This exemption shall be subject to the provision that such articles derive from the open commerce of the neighbouring State or of the State in which the official or the members of his household previously resided.

(2) Such officials and members of their households shall be exempt in the territorial State from all forms of personal and material service under public law. For the purposes of nationality and military service, they shall be deemed to be resident in the neighbouring State. They shall not be liable in the territorial State to pay any charges which are not payable by nationals of the territorial State who reside in the same commune.

(3) Officials of the neighbouring State who are not resident in the territorial State shall be exempt in the latter State from all personal and material services under public law.

(4) The agreements concerning double taxation in force between the Contracting States shall apply in respect of the salaries of officials of the neighbouring State.

(5) The salaries of officials of the neighbouring State shall not be subject to foreign-exchange restrictions of any kind. Such officials may freely transfer amounts saved out of their salaries to the neighbouring State in accordance with the relevant procedure prescribed in the territorial State.

#### TITLE IV. FRONTIER CLEARANCE STATIONS

*Article 17.* The powers of clearance and hours of business of the adjoining frontier clearance offices shall be so determined as to correspond so far as possible.

*Article 18.* (1) The competent authorities of the Contracting States shall determine by agreement:

1. What installations are needed for the offices of the neighbouring State in the territorial State, and
2. What compartments are to be reserved for the officials who effect frontier clearance on board moving transport.

(2) The compartments referred to in paragraph 1, subparagraph 2, shall be provided free of charge. Payments for the use of the installations referred to in paragraph 1, subparagraph 1, shall be determined by agreements in private law.

*Article 19.* The premises allotted to the frontier clearance offices of the neighbouring State shall be identified by official plaques in Italian and German.

*Article 20.* Articles required for the official use of the frontier clearance stations or by officials of the neighbouring State while on duty in the territorial State shall be exempt from all import and export charges. No deposit of security shall be required. Economic import and export prohibitions shall not apply to such articles. The same shall apply to official and private motor vehicles used by such officials in the performance of their duties in the territorial State or on journeys from and to their place of residence or between the frontier clearance offices.

*Article 21.* (1) The territorial State shall permit such telephone and telegraph systems, including teleprinters, as are necessary for the operation of the offices of the neighbouring State in the territorial State to be installed and connected to the corresponding systems of the neighbouring State, and the direct exchange of messages for exclusively official purposes shall be free of charge, subject, however, to the payment of any costs incurred in the installation and rental of the systems. Such transmissions shall be deemed to constitute internal traffic of the neighbouring State.

(2) To this end, the Contracting States shall grant such facilities for the use of other means of telecommunication as are possible.

(3) In all other respects, the regulations of the Contracting States concerning the installation and operation of telecommunication systems shall apply.

*Article 22.* Official dispatches sent by or to offices of the neighbouring State may be carried by the officials of that State without intervention by the postal administration and shall be free of charges. They shall bear an endorsement of the office concerned.

#### TITLE V. PERSONS MAKING CUSTOMS DECLARATIONS

*Article 23.* (1) Persons who have their domicile or principal place of business in the neighbouring State may perform all activities relating to frontier clearance in the offices of that State which are established in the zone on the same basis as applies in the neighbouring State.

(2) Paragraph 1 shall also apply to persons who perform such activities in the course of their work. They may employ either Italian or Austrian personnel for this purpose. Any permit that may be required for employing nationals of the neighbouring State in the territorial State shall be issued free of charge.

(3) The crossing of the frontier by the persons referred to in paragraphs 1 and 2 and their sojourn in the territorial State shall be subject to the regulations of that State. Such facilities as are possible under these regulations shall be granted.

(4) The provisions of paragraphs 1 and 2 shall not affect the regulations concerning procedures in the Contracting States, especially with regard to the representation in customs of the owners of goods.

#### TITLE VI. FINAL PROVISIONS

*Article 24.* The competent authorities of the Contracting State shall determine by agreement the measures necessary for the implementation of this Convention.

*Article 25.* (1) A mixed Italian-Austrian commission shall be established as soon as possible. It shall have the following functions:

1. To prepare the agreements provided for in article 2, paragraph 4, and to formulate any proposals for the amendment of this Convention;
2. To formulate proposals for resolving any difficulties that may arise out of the implementation of this Convention.

(2) The said commission shall be composed of eight members, four of whom shall be appointed by each Contracting State. The Commission shall elect its chairman alternately from among the Italian and Austrian members. The members of the commission may arrange to be accompanied by experts.

*Article 26.* Either Contracting State may, in the interests of its security or for any other reason of compelling importance, declare provisions of this Convention or of the agreements referred to in article 2, paragraph 4, temporarily or locally inapplicable. The other Contracting State shall forthwith be notified thereof in writing through the diplomatic channel.

*Article 27.* (1) Differences of opinion concerning the interpretation or application of this Convention shall be settled, where possible, through the competent administrations of the Contracting States.

(2) In cases where differences of opinion cannot be settled either in this way or through the diplomatic channel, either Contracting State may cause a binding decision to be made in accordance with the provisions of chapter III of the European Convention for the Peaceful Settlement of Disputes, concluded on 29 April 1957 at Strasbourg.<sup>1</sup>

(3) Each Contracting State shall defray the costs of its arbiter and of its representation in the procedure. The Contracting States shall each defray one half of any other costs.

*Article 28.* (1) This Convention is subject to ratification. The instruments of ratification shall be exchanged at Vienna.

(2) The Convention shall enter into force on the first day of the third month following the exchange of the instruments of ratification.

(3) The Convention shall remain in force for an indefinite period. It may be denounced at any time in writing through the diplomatic channel and shall cease to have effect six months after such denunciation.

(4) In the event of denunciation, the Contracting States shall forthwith initiate negotiations on the formulation of new provisions for governing the subject of this Convention.

IN WITNESS WHEREOF the Plenipotentiaries have signed this Convention.

DONE at Rome, on 29 March 1974, in two original copies, in the Italian and German languages, both texts being equally authentic.

For the Italian Republic:

[MARIO PEDINI]

For the Republic of Austria:

[MAX LOWENTHAL CHLUMECKY]

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<sup>1</sup> United Nations, *Treaty Series*, vol. 320, p. 243.