

No. 19482

**ITALY
and
AUSTRIA**

**Agreement concerning the regulation of railway traffic
crossing the frontier. Signed at Rome on 29 March
1974**

Authentic texts: Italian and German.

Registered by Italy on 23 December 1980.

**ITALIE
et
AUTRICHE**

**Accord sur la réglementation du transit ferroviaire à la
frontière. Signé à Rome le 29 mars 1974**

Textes authentiques : italien et allemand.

Enregistré par l'Italie le 23 décembre 1980.

[TRANSLATION—TRADUCTION]

AGREEMENT¹ BETWEEN THE ITALIAN REPUBLIC AND THE
REPUBLIC OF AUSTRIA CONCERNING THE REGULA-
TION OF RAILWAY TRAFFIC CROSSING THE FRONTIER

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

Article 1. GENERAL

The Contracting States undertake to facilitate railway traffic crossing the frontier. They shall take all necessary action to ensure its regular and efficient operation.

Article 2. JOINT RAILWAY STATIONS

(1) The following stations shall be joint railway stations:

1. Brennero/Brenner
2. Tarvisio Centrale
3. San Candido/Innichen

Italian State Railways (FS) and Austrian Federal Railways (ÖBB) shall determine by common accord which categories of traffic (passengers, baggage, goods, etc.) are to operate in the above-mentioned joint railway stations.

(2) FS offices shall be established in Innsbruck main station and Arnoldstein station and shall perform the following functions:

1. In Innsbruck main station: technical inspection, labelling and clerical work in respect of rolling stock and loading equipment, and accounting for goods in transit;
2. In Arnoldstein station: accounting for goods in transit.

(3) For the purpose of facilitating railway traffic the competent central authorities of the Contracting States may by common accord decide to perform certain parts of the connecting and transit service in stations other than those specified in paragraphs 1 and 2. In such cases the provisions of this Agreement shall apply *mutatis mutandis*.

Article 3. FRONTIER JUNCTION LINES

(1) ÖBB shall be entitled to conduct public railway operations, subject to the conditions set forth in article 8 hereunder, with its own rolling stock in

¹ 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 27 (1) and (2).

Italian territory on the lines between the State frontier and the joint stations (frontier junction lines) and to use the joint stations.

(2) FS and ÖBB shall regulate the railways operations on the frontier junction lines and the use of joint stations by special agreements in such a way as to ensure that the service is provided smoothly and efficiently.

Article 4. USE OF BUILDINGS AND INSTALLATIONS

(1) For the joint use of the buildings and installations of the joint stations, ÖBB shall pay compensation calculated on the basis of a rate of interest on the capital investment value to be determined by common accord between FS and ÖBB. This compensation shall be determined with due regard to the proportion of operating costs referred to in paragraph 2.

(2) The operating costs arising from joint operation shall be defrayed by FS and charged to ÖBB in proportion to the use of the joint stations.

(3) New or additional buildings and installations for joint purposes or for the exclusive use of ÖBB may be established only after prior agreement between FS and ÖBB and shall in principle be charged to FS. Expenditure thereon shall be deemed to increase the capital investment value. The conversion or replacement of buildings or installations may likewise be carried out only after prior agreement between FS and ÖBB and shall in principle be charged to FS. Expenditure thereon shall be deemed to increase the capital investment value, but only to the extent of such value added as results from the conversion or replacement and is established by agreement between FS and ÖBB. Any expenditure which involves no increase in the capital investment value shall be deemed to be operating expenditure and shall be divided as specified in paragraph 2.

(4) Provision may be made in agreements between FS and ÖBB for a capital investment amortizing procedure different from that of periodic interest payments.

(5) FS and ÖBB shall pay compensation for the use of railway buildings and installations, the amount of which shall be determined on the basis of prime costs.

Article 5. MAINTENANCE AND SURVEILLANCE OF BUILDINGS AND INSTALLATIONS

(1) FS shall ensure the maintenance and surveillance of the buildings and installations of the joint stations and of the frontier junction lines.

(2) The total operating costs incurred in respect of the said buildings and installations shall be divided between FS and ÖBB in accordance with the relevant agreements concluded between FS and ÖBB.

Article 6. JOINT SERVICE

(1) FS shall ensure the smooth and efficient operation of the joint service, and of the service in the exclusive interest of ÖBB, by rendering the services specified in the agreement to be concluded between FS and ÖBB.

(2) FS and ÖBB shall be entitled to appoint one representative each for the stations indicated in article 2. The premises of each representative shall bear notices in both languages of the Contracting Parties, Italian being used for the stations specified in article 2, paragraph 2, and German for the stations specified in article 2, paragraph 1.

Article 7. EXTENSION OF THE TRAIN DRIVER AND CONDUCTOR SERVICE

FS and ÖBB may, by common accord, arrange for the train driver service or the conductor service to be provided beyond the joint station in one or both directions by FS or ÖBB with their own tractive stock and their own officials. In such cases the provisions of this Agreement concerning the train driver and conductor service, in particular those in article 13, paragraphs 3, 4, 9 and 10; article 15, paragraph 1; articles 16, 17 and 18, paragraphs 2, 3 and 4; article 19, paragraph 3; and article 22, shall apply *mutatis mutandis*.

Article 8. OPERATIONAL PROCEDURES

(1) The licensing of tractive stock and the examinations of service staff carried out by the authorities in the territory of one Contracting State shall be valid also for the territory of the other Contracting State.

(2) The operating regulations in force in ÖBB, with the exception of provisions concerning the safety of the tracks and railway bed, shall apply to operations on the frontier junction lines. FS and ÖBB may, however, by common accord prescribe that the operating regulations of FS are to apply to the operations service as a whole or to certain parts thereof.

(3) The service regulations of FS shall apply in the joint stations. FS and ÖBB may, however, prescribe by common accord that the service regulations in force for ÖBB are to apply for certain parts of the service.

(4) FS officials who serve as dispatchers, passenger cashiers, baggage cashiers, goods cashiers and in the telegraph and telephone system for ÖBB as well as FS officials responsible for the surveillance of the frontier junction line must give proof of a sufficient knowledge of the ÖBB regulations in force for the service in question. The respective examinations shall be held by competent ÖBB officials in the presence of a competent FS official.

Article 9. OFFICIAL LANGUAGE

(1) In the joint stations, notices which concern the joint railway service shall be posted in the languages of the two Contracting States, starting with Italian. The premises of the Italian offices referred to in article 2, paragraph 2, shall likewise be marked in both languages, starting with German. This shall not affect the provisions of article 6 concerning the premises of the representatives of both Contracting States.

(2) Only German shall be used for the exclusive purposes of the ÖBB railway service in the joint stations and on the frontier junction lines.

(3) The FS officials referred to in article 8, paragraph 4, must have a command of German sufficient for performing their duties. ÖBB officials

must, on their part, have a sufficient command of Italian in case they have to perform special FS duties similar to those referred to in article 8, paragraph 4.

(4) Official railway telegrams addressed to Austrian stations or other Austrian offices or received by them shall be translated by the joint stations into German and Italian as the case may be.

(5) Official railway correspondence between the joint stations and ÖBB offices, except the office with the ÖBB representative, shall be in German.

Article 10. RAILWAY TELECOMMUNICATION INSTALLATIONS

(1) FS and ÖBB shall be entitled to establish direct links of the mutual railway telecommunication installations.

(2) FS and ÖBB officials shall be entitled to use telecommunication installations of the other railway for official purposes free of charge.

Article 11. NORMAL OPERATION AND SAFETY OF RAILWAY OPERATIONS AND TRAFFIC

(1) ÖBB officials on duty in moving trains on the frontier junction line shall apply the provisions of their own State governing such duty.

(2) Any act jeopardizing the normal operation and safety of railway operations and traffic which is committed on a moving train on a frontier junction line and detected by the said officials shall be reported to the competent local Italian authority in the respective joint station for action to be taken under the relevant laws and regulations of the Italian Republic.

Article 12. TRANSPORT RÉGIME — FARES

The competent central authorities of the Contracting States shall by common accord determine, with due regard to existing international conventions, in what cases Austrian law is to be applied to the carriage of passengers, luggage, express parcels and goods in traffic across the frontier between the joint stations and Austria. The said authorities shall likewise determine the point at which the changeover of fares takes place.

Article 13. LIABILITY

(1) If, as a result of an accident occurring on a frontier junction line or in a joint station, a passenger is killed or injured or if anything which he carries on his person or with him is damaged or destroyed, ÖBB shall be deemed liable under Italian law; in such cases ÖBB shall also be deemed liable for acts of commission or omission on the part of FS or of the latter's officials as if they were acts of commission or omission on its own part or that of its own officials. In addition to ÖBB, FS shall also be deemed jointly liable *vis-à-vis* passengers subject to recourse against ÖBB.

(2) In cases where damages arise from the carriage of luggage, express parcels or goods by ÖBB on a frontier junction line or in a joint station as a result of loss, damage or delayed delivery, ÖBB shall be deemed liable

according to Austrian law under the transport contract; in such cases ÖBB shall also be deemed liable for acts of commission or omission on the part of FS or of the latter's officials as if they were acts of commission or omission on its own part or on that of its own officials.

(3) If, as a result of an accident occurring in railway operations,

1. An ÖBB official is killed or injured in the performance of his duties connected with a crossing of the frontier to which this Agreement applies, on the frontier junction line or in the joint station, or if an article which an ÖBB official carries on his person or with him is damaged or destroyed, the obligation to settle claims arising from the accident shall be deemed to be the same as if the accident had occurred on the ÖBB lines in Austria;
2. An FS official is injured, in the manner described in paragraph 1, in Innsbruck main station or Arnoldstein station or on the lines from the State frontier to the said stations, the said obligation shall be deemed to be the same as if the accident had occurred on the FS lines in Italy;
3. An FS official is injured, in the manner described in paragraph 1, on the frontier junction line or in the joint station, the said obligation shall be deemed to be the same as if the accident had occurred in an FS railway operation.

(4) International railway conventions or special agreements between FS and ÖBB shall apply in cases where transport and loading equipment are damaged.

(5) So far as damage incurred in the railway postal service on a frontier junction line or in a joint station is concerned, international provisions concerning the liability of the postal service shall not be affected nor shall international agreements diverging therefrom be precluded.

(6) In cases where a third person who is neither a passenger nor actively engaged in frontier clearance operations is injured, or where an item which is not covered in a transport contract is damaged, as the result of an accident in the operation of ÖBB on a frontier junction line or in a joint station, the railway which is, or whose officials are, responsible for the injury or damage shall be deemed to be liable under Italian law, unless otherwise provided in other agreements. Where only one of the railways is deemed to be liable, both railways shall be deemed to be jointly liable *vis-à-vis* third persons, subject to recourse.

(7) In cases where both FS and ÖBB are deemed to be liable, the injured person may institute proceedings against whichever of the two railway administrations he may choose. The right to choose shall be extinguished once proceedings are instituted.

(8) Such proceedings may be instituted only before the judicial authorities of the Contracting State against whose railway administration the proceedings are instituted.

(9) The foregoing shall not affect the provisions of international instruments relating to damage occurring in international transport.

(10) The cases in which and to what extent recourse and reciprocal reimbursement and disbursement are permissible as between FS and ÖBB shall be determined by common accord.

Article 14. DUES AND TAXES

(1) So far as the dues and taxes imposed by law in Italian territory are concerned, ÖBB shall have the same status as FS.

(2) Treaties in force between the Italian Republic and the Republic of Austria concerning the avoidance of double taxation shall not be affected.

(3) Transport services operated by ÖBB on sections of the lines between the State frontier and the joint station shall be exempt from the dues and taxes in force in Italian territory.

(4) Agreements that may be concluded between FS and ÖBB pursuant to this Agreement shall be exempt from dues and taxes in the Contracting States.

Article 15. IDENTITY CARDS FOR CROSSING THE FRONTIER

(1) Railway officials who, in the performance of their duties under this Agreement, have to enter the territory of the other Contracting State and remain there, and railway officials responsible for supervision shall be exempt from passport and visa requirements. They may therefore establish their identity and also their official function by producing a railway document containing a photograph together with a certificate from the authority to which they belong. If their place of residence is in the territory of the other Contracting State, they may remain there without any special permit.

(2) Paragraph 1 shall also apply to persons living with the officials specified therein in the same common household.

Article 16. OFFICIAL UNIFORM

FS and ÖBB officials may wear their official uniform in the territory of the other Contracting State in the place where they perform their duties and on the way to and from such place.

Article 17. PERSONAL PROTECTION OF RAILWAY OFFICIALS

Railway officials of the two Contracting States shall enjoy, in the performance of their duties in the territory of the other Contracting State, the same protection and assistance as are accorded to the corresponding officials of the other Contracting State.

Article 18. ADMISSION OF RAILWAY OFFICIALS — BREACHES OF DISCIPLINE AND PUNISHABLE OFFENCES

(1) The names, together with the official title, date and place of birth, of railway officials regularly serving in the territory of the other Contracting State shall be transmitted to the corresponding authority of the other Contracting State. Such information shall be transmitted in writing, as a rule prior to the

arrival of the official concerned; by way of exception, it may be transmitted at the same time as his arrival. The foregoing shall also apply to the members of his household specified in article 15, paragraph 2, with the proviso that the information must be transmitted in each case prior to the arrival of the persons concerned and that their last place of residence must be specified.

(2) Any breach of discipline committed by a railway official in the territory of the other Contracting State shall be punishable under the relevant regulations of the Contracting State to which such official belongs.

(3) In cases where a railway official commits an act which is deemed to be a punishable act in the territory of the other Contracting State, the competent authorities of that Contracting State shall forthwith report the matter to the office to which such official belongs.

(4) Each Contracting State shall, at the request of the other Contracting State, exclude or recall its railway officials from service in the territory of that State. All preferential treatment referred to in article 15 shall be thereby discontinued.

*Article 19. SPECIAL PROVISIONS CONCERNING RAILWAY OFFICIALS
IN THE TERRITORY OF THE OTHER CONTRACTING STATE*

(1) Railway officials who, pursuant to this Agreement, render their services on a continuing basis and establish their residence in the territory of the other Contracting State shall enjoy, in accordance with the regulations of such Contracting State—on entering the service, setting up their own households and returning to their home 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 proviso 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) The railway officials referred to in paragraph 1 and the members of their household shall be exempt in that Contracting State from all forms of personal and material service under public law. They shall not be liable to pay any charges which are not payable by nationals of the other Contracting State.

For the purpose of nationality and military service they shall be deemed to be resident in their home State.

(3) Railway officials of either Contracting State who do not usually reside in the other Contracting State shall enjoy exemption from all import and export duties on articles for their daily personal use, official equipment and small amounts of foodstuffs which they carry with them on the way to or from their place of duty.

(4) Official and private motor vehicles of the railway officials referred to in paragraph 3, which such officials use to travel for official purposes to the Contracting State and then to return to their home State, shall be granted

temporary admission to the other Contracting State without a deposit of security. The foregoing shall not affect any major preferential treatment accorded by either Contracting State.

(5) Railway officials who do not reside in the territory of the other Contracting State within the meaning of paragraph 1 but who perform their duties in the other Contracting State shall be exempt from personal and material services in public law.

(6) The agreements concerning double taxation concluded between the Contracting States shall apply in respect of the salaries of the railway officials referred to in the foregoing paragraphs. The salaries of the railway officials referred to in the foregoing paragraphs shall not be subject to foreign-exchange restrictions of any kind. Such officials may, in particular, freely transfer amounts saved from their salaries to their home State in accordance with the regulations in force in the Contracting State in which they perform their duties.

Article 20. REGULATION OF RAILWAY OFFICES

The operations of the offices situated in the territory of the other Contracting State shall be governed exclusively by the authority in charge of such offices.

Article 21. EXEMPTIONS GRANTED FOR EQUIPMENT AND REQUISITES USED IN RAILWAY OFFICES

(1) The Contracting State shall grant to the offices of the other Contracting Party which are situated in their territory exemption from import and export duties on the articles and materials, such as furniture, equipment, requisites, registers and forms, that may be necessary for establishing and operating such offices.

(2) Import and export prohibitions and restrictions, other than those concerning health, veterinary medicine and public security, shall not apply to the goods exempt from import and export duties which are referred to in paragraph 1 of this article and article 19.

Article 22. TRANSFER OF MONIES

Monies received by ÖBB officials in the performance of their duties on trains crossing the frontier may be taken with them without let or hindrance to Italian territory or transferred by them to Austrian territory.

Article 23. PAYMENTS

(1) Payments arising out of this Agreement shall be transacted in accordance with the provisions in force between the Contracting States at the time of such execution.

(2) Without prejudice to article 22, the Contracting States shall take the necessary action to enable payments, including payment of the salaries and wages of railway officials, to be transferred between the railway administrations of each Contracting State and their own offices situated in the territory of the other Contracting State.

Article 24. OFFICIAL DISPATCHES

(1) Official letters, packages, currency and remittances may be exchanged between the offices referred to in article 2, between the representatives referred to in article 6, paragraph 2, and between all the aforesaid and their superior authorities and respective administrations, outside the postal service and exempt from postal charges.

(2) Such dispatches shall bear an endorsement of the sending administration and be addressed impersonally to the administration or office for which they are intended.

(3) If suspicion arises that a dispatch, sent exempt from postal charges, is wholly or partly of a private nature, the postal administrations of the two Contracting States shall be entitled, in accordance with the procedure prescribed for such cases by the regulations of their State, to order a check to be made of the incoming and outgoing official dispatches.

Article 25. MAIL SERVICE

(1) As a rule the exchange of mail shall take place in the joint stations. After the exchange has been carried out in accordance with all relevant international provisions and in particular with the Universal Postal Convention¹ and its relevant detailed regulations, the responsibility shall pass from one postal administration of the Contracting States to the other.

(2) If the postal administration of one Contracting State carries out the mail exchange by itself in a joint station, the postal administration of the other Contracting State shall pay part of the costs incurred commensurately with the services rendered.

(3) The provisions of articles 10 and 13, paragraph 3, and articles 14 to 19 and 21 of this Agreement shall also apply *mutatis mutandis* to the mail service.

Article 26. ARBITRATION

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

(2) In cases where differences of opinion cannot be settled 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.²

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

¹ United Nations, *Treaty Series*, vol. 810, p. 53.

² *Ibid.*, vol. 320, p. 243.

Article 27. FINAL PROVISIONS

(1) This Agreement is subject to ratification. The instruments of ratification shall be exchanged at Vienna.

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

(3) The Agreement 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 the Agreement.

IN WITNESS WHEREOF the Plenipotentiaries have signed this Agreement.

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]
