

No. 22057

**YUGOSLAVIA
and
AUSTRIA**

Treaty concerning the road tunnel through the Karavanke Mountains (with map). Signed at Bled on 15 September 1977

Treaty amending the above-mentioned Treaty. Signed at Vienna on 20 October 1980

Authentic texts: Slovene and German.

Registered by Yugoslavia on 19 July 1983.

**YOUGOSLAVIE
et
AUTRICHE**

Traité relatif à un tunnel routier sous le massif du Karawanken (avec carte). Signé à Bled le 15 septembre 1977

Traité modifiant le Traité susmentionné. Signé à Vienne le 20 octobre 1980

Textes authentiques : slovène et allemand.

Enregistrés par la Yougoslavie le 19 juillet 1983.

[TRANSLATION — TRADUCTION]

TREATY¹ BETWEEN THE SOCIALIST FEDERAL REPUBLIC OF YUGOSLAVIA AND THE REPUBLIC OF AUSTRIA CONCERNING THE ROAD TUNNEL THROUGH THE KARAVANKE MOUNTAINS

With a view to creating a better international road connection from Western and Central Europe by way of Yugoslavia to South-eastern Europe and the Near and Middle East,

In the light of the provisions of the Final Act of Helsinki,² with particular regard to the fact that the improvement of transport conditions constitutes an essential factor for the development of co-operation between States,

Considering that it is essential to promote the development of transport and the solution of existing problems through the application of appropriate autonomous and international measures,

Endeavouring to improve the infrastructure in the frontier areas and thereby also to improve transport links between Yugoslavia and Austria and to create the conditions for accelerated economic development and for the intensification of tourist traffic,

With a view to establishing closer transport links between the valleys of the Drava and Sava rivers, and endeavouring through the realization of this project to provide a significant impetus for the further development of good neighbourly relations in the region and hence also between the two States,

The two Contracting States have agreed as follows:

SECTION I. CONSTRUCTION AND OPERATION

Article 1. THE KARAVANKE ROAD TUNNEL

(1) The Contracting States undertake to ensure jointly the design, construction, maintenance and operation of a road tunnel passing through the Karavanke Mountains between Jesenice and St. Jakob im Rosental.

(2) The entire structure constituting the “Karavanke Road Tunnel” includes the tunnel itself, the platforms, and the approach roads, as listed in article 2.

Article 2. GENERAL FEATURES AND EXTENT OF THE STRUCTURE

(1) The length of the tunnel shall be approximately 7.6 km. The south portal shall lie at an altitude of 625 m above sea level; the north portal shall lie at an altitude of 655 m above sea level. The maximum permissible longitudinal deviation in the tunnel shall be 1.5 per cent. The normal cross section of the tunnel shall permit a roadway width of 7.50 m and a vertical roadway clearance of 4.70 m. The course of

¹ Came into force on 1 November 1978, i.e., the first day of the third month following the exchange of the instruments of ratification, which took place at Vienna, in accordance with article 30.

² *International Legal Materials*, vol. 14 (1975), p. 1292 (American Society of International Law).

the route is represented on a scale of 1:50,000 on the map¹ which is annexed hereto and which forms an integral part of this Treaty.

(2) Platforms for the technical operating equipment, for the quarters of the crews assigned to duty in the event of fire or accident and for frontier clearance shall be constructed in front of each portal. The frontier clearance facilities shall be so constructed that, with a view to the avoidance of waiting time in the tunnel, the exit clearance of the territorial State (article 15, item 2) and the entry clearance of the neighbouring State (article 15, item 2) may be carried out on either side.

1. In Yugoslav territory the road from the south portal of the tunnel shall cross the valley by way of a bridge structure and shall, after about 1,700 m, enter the platform, which shall be situated at a somewhat lower level.
2. In Austrian territory the road from the north portal of the tunnel shall run by way of a bridge structure to an elevation lying opposite the tunnel portal, where the platform shall be situated, at a distance of approximately 1,000 m.

(3) Approach roads shall be constructed on both sides, namely:

1. In Yugoslav territory, starting from the Jesenice junction point of Highway 1 to the southern part of the tunnel; the length of the Yugoslav segment, including the Jesenice junction point, shall be approximately 4 km.
2. In Austrian territory, starting from the Rosental junction point (design kilometre 10.7) to the north portal of the tunnel (design kilometre 16), as well as an approach road approximately 1.35 km long from Rosental Route B-85 to the Rosental junction point; thus, the total length of the Austrian approach road, including the Rosental junction point, shall be approximately 6.65 km.

(4) The two Contracting Parties shall see to it that the future course of the road is properly safeguarded.

Article 3. LEGAL RELATIONSHIPS

(1) The Contracting States agree to entrust the design, construction, operation, maintenance and financing of those portions of the structure which lie in their respective territories and also the additional buildings and installations — with the exception of the frontier clearance facilities — in Yugoslavia to an organization and in Austria to a company.

(2) The buildings and installations used for frontier clearance — with the exception of traffic areas — shall be constructed by the territorial State (article 15, item 2) in each case on the basis of principles to be worked out jointly. The Contracting States shall conclude a special arrangement with regard to the utilization of the said buildings and installations and to the payment of construction costs and operating costs.

(3) The organization and the company shall be subject to the legislation of the Contracting States. The organization and the company shall act each in its own name and on its own account, except as otherwise provided in a domestic regulation. Each Contracting State shall be free to choose the legal form for the organization or company.

(4) Where construction work on the structures is carried out on behalf of the organization or company of one of the Contracting States in the territory of the other Contracting State, the work shall remain subject to the legislation of the Contracting

¹ See insert in a pocket at the end of this volume.

State in which the organization or company assigning the work has its place of business.

(5) Each Contracting State agrees to require its organization or company:

1. During the period of construction, to submit to the Commission provided for in article 7, through the Construction Committee provided for in article 10, annual reports concerning the amount of the expenditures already incurred and concerning the expected amount of the expenditures yet to be incurred until the completion of the construction work;
2. During the period of operation, to submit to the Commission at least once a year, through the Operating Committee provided for in article 13, a report concerning the amount of receipts and expenditures during the past year and concerning the expected amount of receipts and expenditures during the following year.

(6) The project in its final formulation shall include the construction of two tunnel tubes having the dimensions stated in article 2, paragraph (1), the western tunnel tube being constructed first and each approach road being constructed as one half of a motorway without a direction divider. The construction of the second tunnel tube and the expansion of each approach road to form a complete motorway with a direction divider shall be carried out by the organization or the company at a later time, after agreement between the Contracting States has been arrived at.

Article 4. FINANCING

(1) The Contracting States agree that

1. The total costs (construction and financing, as well as administrative costs of the Yugoslav organization and the Austrian company) until the completion of the construction work,
2. The debt service for loans taken out (repayment of principal and payment of interest, including any additional amounts arising from differences in the rate of exchange of the dinar with respect to the currency of repayment between the time of the taking out of the loan and the time of repayment),
3. The toll receipts for the use of the structure and the expenditures for its operation and maintenance, as well as the administrative costs on both sides, starting from the time when the structure is put into operation, and
4. The expenditures arising out of payments made to third parties as compensation for damage suffered in the area of the structure,

shall be shared in a 50 : 50 ratio.

(2) 1. The Austrian side guarantees the contribution of 400,000 schillings of its own funds to its company and the Yugoslav side guarantees the contribution of an equivalent amount of its own funds in dinars to its organization in five equal annual instalments from 1978 to 1982 in accordance with a payment plan whose terms are to be agreed upon annually. The Austrian annual instalments of 80 million schillings each shall be fixed amounts. The equivalent dinar amounts shall be calculated in accordance with the average daily rate of exchange of the National Bank of Yugoslavia on the date of the payment. For partial payment of the annual instalments the same method of conversion shall apply *mutatis mutandis*.

2. Each of the two sides shall, for a period of not more than three years calculated from the date on which the structure is put into operation, make the toll receipts available, to the extent required, for coverage of the annual payments. During the

period referred to, the costs of maintenance, operation and administration shall be borne by the organization or the company itself, to the extent that such costs are not covered already by the toll receipts after the annual payments have been deducted.

3. The remaining capital requirements shall be raised through loans (including transitional loans) taken out by the Yugoslav organization, which shall also assume all liability. The loans shall be made available to the Austrian company in schilling payments in the required amount in accordance with the dynamics of a construction programme to be established jointly. All loans shall, in so far as possible be paid off within 25 years.

4. The administrative costs arising during the construction period for the Yugoslav organization and the Austrian company must be paid by the said organization or company first from its own resources (paragraph (2), item 1). If the organization's or company's own resources are insufficient, loans may be taken out, in accordance with item 3, first sentence.

5. The Austrian company shall, for the complete amortization of 50 per cent of the loans taken out (including transitional loans), make available to the Yugoslav organization, in the amount required at the time for capital service (50 per cent), and with due regard to paragraph (1), item 3, and paragraph (2), item 2, the company's half of the receipts, less its costs for operation and maintenance and less its administrative costs — that is to say, the annual Austrian surplus toll and only that. After any transitional loans required have been paid off, any annual surpluses which remain after deduction of the costs on both sides for operation, maintenance and administration and of annual payments shall be shared by the two Contracting States in a 50 : 50 ratio.

(3) Each side shall assume one half of the preliminary financing of costs for the general planning of the tunnel, including the buildings used for operation and the electromechanical equipment, as well as for those installations which are inextricably connected with the construction of the tunnel. Likewise half of the costs of the working plans and drawings for the entire structure, as well as one half of the refunding of the above-mentioned costs for the general planning, shall be borne by the organization, and one half by the company.

Article 5. CROSSINGS OF THE FRONTIER

Persons employed in the construction and operation of the structure and in its maintenance shall be exempted from the visa requirement in respect of crossings of the frontier which are required in the course of such duties and any associated stay in the territory of the other Contracting State, as far from the frontier as necessary; they must, however, be in possession of a valid passport or other official identity document bearing a photograph.

Article 6. APPROVAL OF THE PROJECT

(1) The working plans and drawings for the structure shall be prepared by the organization or the company. They shall be submitted to the Commission provided for in article 7, together with any necessary comments, and may be carried out only upon the recommendation of the Commission and after approval by the Contracting States. An account of the expenditures involved shall be attached to such documents.

(2) Any substantial change in the said plans and drawings shall be subject to the same approval process.

(3) Approval for putting the structure into operation and simultaneously opening it to public traffic shall be given by the Contracting States by agreement, upon the recommendation of the Commission.

Article 7. INTERNATIONAL COMMISSION

(1) An "International Commission for the Karavanke Road Tunnel" shall be established by the Contracting States. It shall be referred to as "the Commission".

(2) Each of the two Contracting States shall appoint a delegation consisting of not more than six members to the Commission. Either delegation may call in experts.

(3) The heads of the two delegations shall serve as chairman of the Commission alternately for one year at a time.

(4) The Commission shall establish its own rules of procedure, which shall be subject to approval by the Governments of the Contracting States.

(5) The Commission shall submit its opinions and decisions to the Contracting States; it may enlist the aid of the organization or the company, as well as of the Construction Committee (article 10) and the Operating Committee (article 13), in the preparation of its recommendations and decisions.

Article 8. TASKS OF THE COMMISSION

(1) In addition to the powers assigned to the Commission under article 3, paragraph (5), article 6; article 7; article 9, paragraph (2); article 10, paragraph (3); article 12, paragraph (3); article 27 and article 28, it may make suggestions of any kind in connection with the implementation of this Treaty to the Governments of the Contracting States.

(2) With respect to the activities of the organization and the company, the Commission shall:

1. Verify that the work done conforms to the relevant regulations in each case and to the approved plans and drawings;
2. Verify any changes in the plans and drawings which are proposed to the Commission by the organization or the company or which have been agreed to by the organization or the company; and
3. During the period of operation, ensure that the provisions governing operation are complied with.

Article 9. RULES OF OPERATION OF THE TUNNEL

(1) The operation shall be regulated uniformly for the entire tunnel by a set of rules of operation.

(2) The Commission shall prepare the rules of operation on the basis of recommendations made by the organization or the company and must obtain the approval of the Contracting States.

Article 10. JOINT CONSTRUCTION COMMITTEE

(1) Before the start of the construction work, the organization and the company shall establish a Joint Construction Committee, one half of whose members shall be representatives of the Yugoslav organization and one half representatives of the Austrian company. The said representatives shall be appointed to the Construction Committee by those organs of the organization or the company which are empowered to do so in accordance with the legislation in force in the Contracting States.

(2) The Joint Construction Committee shall have the task of co-ordinating the construction process.

(3) The activities and powers of the Joint Construction Committee shall be established in a co-operation contract between the organization and the company, which must be submitted to the Commission; the latter shall verify whether the co-operation contract is in conformity with this Treaty.

(4) The Joint Construction Committee shall be dissolved after the completion of its task.

Article 11. FOUND OBJECTS

Veins of water, ore deposits, fossils and other found objects uncovered during the construction of the structure shall be subject to the legislation of the Contracting State in whose territory they are found, irrespective of who the finder is.

Article 12. TUNNEL USE TOLL

(1) The Contracting States agree to collect a toll for the use of the structure and to entrust its collection to the organization or the company, as the case may be. Each Contracting State shall relinquish its share of the collected toll (article 4, paragraph (1), item 3) to its organization or company.

(2) The amount of the toll shall be based on the kind of vehicle concerned. In determining the toll, consideration shall also be given to the costs of construction, operation, maintenance and financing of the structure. The amount of the toll may also be made to depend on other factors, such as frequency of use, in so far as such dependence is in the interest of economy of operation.

(3) The organization and the company shall make recommendations to the Commission in respect of the determination of the toll; the Commission shall report on the subject to the Contracting States, submitting an opinion together with its recommendations.

(4) Service vehicles and private vehicles used by the officials of each Contracting State (article 15, item 3) for the performance of their duties in the territory of the other Contracting State and while travelling between the frontier clearance offices or between their place of residence and their place of service in connection with the performance of their duties, as well as emergency vehicles of the rescue service, the fire brigade and the road maintenance service, shall be exempt from payment of the toll.

Article 13. JOINT OPERATING COMMITTEE

(1) The organization and the company shall establish a Joint Operating Committee; the said Committee shall have the task of co-ordinating the operation and maintenance of the structure. Maintenance shall not include any work for the construction of new structures or parts thereof.

(2) The organization and the company may delegate specific powers to the Operating Committee by agreement.

Article 14. COURSE OF THE FRONTIER

The course of the Yugoslav-Austrian State frontier in the tunnel shall be determined by the vertical projection of the frontier line on to the surface of the Earth and shall be marked in the tunnel.

SECTION II. FRONTIER CLEARANCE

Article 15. DEFINITIONS OF TERMS

1. The term "frontier clearance" shall mean the application of all legislation of the Contracting States which is applicable in connection with the passage of persons and articles across the frontier; the term "entry clearance" shall mean the application of the legislation applicable in connection with the entry of persons and the import and conveyance in transit of articles, and the term "exit clearance" shall mean the application of the legislation applicable in connection with the exit of persons and the export and conveyance in transit of articles.

2. The term "territorial State" means the Contracting State in whose territory the entry clearance of the other Contracting State is carried out or whose territory is used for passage in transit (article 23) by the officials of the other Contracting State, and the term "neighbouring State" means the other Contracting State.

3. The term "officials" means the persons (other than military personnel) who are responsible under the legislation of the Contracting States for carrying out official actions.

4. The term "frontier clearance officials" means the officials who are responsible under the legislation of the Contracting States for carrying out the frontier clearance.

5. The term "zone" means the local area of the territorial State in which the officials of the neighbouring State are entitled to carry out the frontier clearance or through which they are entitled to passage in transit (article 23) in order to return to the territory of their own State.

Article 16. FRONTIER CLEARANCE OFFICES

(1) At the "Karavanke Tunnel" frontier crossing point, a Yugoslav entry clearance office and an Austrian entry clearance office shall be established, each in the territory of the other Contracting State (article 2, paragraph (2)). The said frontier clearance offices shall be marked with official signboards in the Slovenian and German languages, where preference shall be given to the language of the Contracting State whose frontier clearance office is involved.

(2) Each Contracting State's exit clearance shall be carried out in its own territory.

Article 17. ZONE

(1) The zone shall include that portion of the neighbouring State's frontier clearance office which is situated in the territory of the territorial State (buildings, premises, road segments, car parks and other installations) and the road segments situated between the said frontier clearance office and the State frontier. The question concerning which spaces, buildings, parts of buildings and other installations constitute the local area of the frontier clearance office shall be settled by agreement between the Contracting States.

(2) Where offences against the legislation of the neighbouring State which is applicable in connection with the passage of persons and articles across the frontier are committed in the zone, they shall be deemed to have been committed in the neighbouring State.

(3) In respect of official actions carried out by the officials of the neighbouring State, the zone shall be deemed to be situated in the local area of competence of the

authorities of the neighbouring State in whose local area of competence the "Karavanke Tunnel" frontier crossing point is situated.

Article 18. SCOPE AND OPERATION OF FRONTIER CLEARANCE

(1) The frontier clearance officials of the neighbouring State may, except as otherwise specified hereinafter, carry out frontier clearance operations in the zone to the same extent and with the same legal consequences as in the territory of their own State.

(2) The exit clearance of the territorial State shall be carried out before the entry clearance of the neighbouring State.

(3) The entry clearance of the neighbouring State may be begun when the exit clearance of the territorial State has evidently been completed.

(4) After the beginning of the entry clearance, the frontier clearance officials of the territorial State may no longer arrest any person or seize any article by reason of offences against the legislation relating to the exit of persons and the export and conveyance in transit of articles except where the said person or article has been turned back by the frontier clearance officials of the neighbouring State or in the case of a make-up exit clearance carried out at the request of the person concerned and with the consent of the neighbouring State's frontier clearance official.

(5) Arrests and seizures for reasons other than those specified in paragraph (4) may be carried out by the officials of the territorial State at any time. This provision shall apply even when the frontier clearance officials of the neighbouring State have already carried out an arrest or seizure; in such case the arrested person or the seized article must be surrendered to the officials of the territorial State.

(6) The frontier clearance officials of the neighbouring State may bring to the territory of their State without impediment any articles which have been held back or seized in the course of the performance of their duties and any sums of money collected or taken from persons.

Article 19. SPECIAL CASES OF THE RIGHT OF ARREST

(1) Arrested persons may be transferred to the territory of the neighbouring State by that State's frontier clearance officials if the said persons are not nationals of the territorial State and if their transfer is not contrary to any obligation of the territorial State which arises out of the Convention relating to the Status of Refugees, of 28 July 1951,¹ and the Protocol relating to the Status of Refugees, of 31 January 1967.² In such cases the arrested persons may be taken by the frontier clearance officials of the neighbouring State to their frontier clearance office situated in the territorial State for the purpose of establishing such persons' identity and interrogating them. An official of the territorial State shall without delay be called in to participate in such official action.

(2) Unless one of the exceptional cases referred to in paragraph (1) exists, persons who are present in the zone for reasons other than an intention to cross the frontier may be not only arrested by the frontier clearance officials of the neighbouring State for the purpose of establishing their identity and interrogating them but also taken into the neighbouring State only if the said persons have, in the zone, committed offences against the neighbouring State's legislation governing the passage of persons and articles across the frontier and have been caught in the act. Before being

¹ United Nations, *Treaty Series*, vol. 189, p. 137.

² *Ibid.*, vol. 606, p. 267.

taken to the neighbouring State, the arrested person must be interrogated at the neighbouring State's frontier clearance office situated in the territorial State. An official of the territorial State must be called in without delay to participate in such official action.

Article 20. FRONTIER CLEARANCE OFFICES OF THE NEIGHBOURING STATE

(1) The territorial State shall afford the frontier clearance office of the neighbouring State the same protection as it affords its own corresponding official premises and installations. The criminal law provisions applicable in the territorial State for the protection of official premises and installations shall also be applicable to criminal acts committed in the territorial State against the official premises and installations of the neighbouring State. The frontier clearance officials of the neighbouring State shall, however, have the right to remove persons from their official premises, even by using bodily force, if the said persons disturb the order of such official premises by behaviour likely to create a nuisance.

(2) A search of the frontier clearance office of the neighbouring State by officials of the territorial State shall be permissible only with the consent of the frontier clearance officials of the neighbouring State. Each Contracting State undertakes to surrender to the territorial State any persons who have taken refuge in the premises of the said Contracting State and the articles which the said persons have carried with them.

(3) The superior officers in service and technical matters of the neighbouring State's frontier clearance officials may enter the frontier clearance office at any time and undertake any interrogations and inquiries necessary for monitoring the performance of duties.

Article 21. TELECOMMUNICATIONS EQUIPMENT

(1) The territorial State shall permit free of all charges the installation of such telephone, telegraph and radio equipment, including teleprinters and remote data input devices, as are necessary for the activities of the neighbouring State's offices in the territorial State, the connecting of such equipment to the corresponding equipment of the neighbouring State and the direct exchange with the said offices of information used solely for official purposes, subject to the payment of any costs for the installation and the rental of the equipment. Such transmissions of information shall be deemed to be internal traffic of the neighbouring State.

(2) The Contracting States undertake, to that end and in so far as possible, to furnish all facilities relating to the use of other telecommunications media.

Article 22. OFFICIAL CONSIGNMENTS

Official consignments from or to the offices of the neighbouring State may be carried by the frontier clearance officials of that State without involvement of the postal administration and shall be free of all charges. They must bear the mark of the office concerned.

Article 23. PASSAGE IN TRANSIT

(1) Officials of a Contracting State who are carrying out official actions in the tunnel in the territory of their own State may, in order to return to their own territory through the tunnel, pass through the zone which lies in the territory of the other Contracting State and remain there for a short time (passage in transit).

(2) Patrolling by officials of a Contracting State in that State's own territory in the tunnel shall be deemed to be an official action.

*Article 24. LEGAL POSITION OF OFFICIALS
OF THE NEIGHBOURING STATE*

(1) The territorial State shall afford the officials of the neighbouring State the same protection and assistance as it affords its own corresponding officials. The criminal law provisions in force in the territorial State for the protection of that State's own officials in the performance of their duties or in relation to those duties, as well as for the protection of official actions themselves, shall also apply to criminal acts committed in the territorial State against officials of the neighbouring State.

(2) Claims in respect of official liability arising out of 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 if the action causing the damage had taken place in the neighbouring State. In this connection, nationals of the territorial State shall be treated in the same way as nationals of the neighbouring State.

(3) Officials of the neighbouring State in the performance of their duties shall require only a service identification document bearing a photograph in order to cross the frontier and stay in the zone. Any personal prohibitions of entry against such an official shall, however, remain valid.

(4) Criminal acts committed by an official of the neighbouring State in the territorial State shall be notified without delay to that official's service office. Such notification may be made through the frontier clearance offices.

(5) The neighbouring State shall, at the request of the officials of the territorial State, exclude officials from the performance of duties in the latter's territory or recall such officials to the neighbouring State. Such action shall nullify the entitlements of the said officials of the neighbouring State in the territorial State.

(6) Officials of the neighbouring State may wear their service uniform and carry their service weapons in the zone; frontier clearance officials of the neighbouring State must wear their service uniform or a visible service badge.

(7) Officials of the neighbouring State shall not be permitted to use a firearm except in self-defence. The use of other service weapons shall be governed by the legislation in force in the territorial State.

Article 25. EXEMPTION FROM TAXES

(1) Articles required for service use by the frontier clearance offices and articles used by the officials of the neighbouring State for the performance of their duties shall be exempt from all import and export taxes. No deposit of security shall be required therefor. Economic prohibitions and restrictions with regard to import and export shall not be applied to such articles. The same shall be true of service vehicles or private vehicles used by the officials of the neighbouring State for the performance of their duties in the territorial State and while travelling between the frontier clearance offices or between their place of residence and their place of service in connection with the performance of their duties.

(2) Officials of the neighbouring State shall be exempt in the territorial State from all personal service obligations and material obligations under public law.

SECTION III. OTHER PROVISIONS

Article 26. GENERAL MEASURES

(1) Questions of any kind which arise in the course of design, construction, operation and maintenance, including measures for the safety of traffic and for the prevention of accidents and fires, shall be dealt with in special arrangements between the Contracting States, except as regulated in this Treaty.

(2) The Contracting States shall endeavour to find a solution by agreement if the legal situation of the organization or the company is substantially altered by acts of sovereignty.

Article 27. DISPUTES BETWEEN THE COMPANY
AND THE ORGANIZATION

The organization and the company shall settle by agreement any disputes concerning the design, construction, operation and maintenance of the structure. If no agreement is reached, the organization or the company shall so notify the Commission as soon as possible. If the Commission cannot bring about agreement within a reasonable time, but in any case not later than within one month, the organization or the company shall be entitled to submit the matter to an arbitration procedure. The arbitral tribunal before which the matter is to be brought shall be agreed upon between the organization and the company.

Article 28. ARBITRATION PROCEDURE

(1) Disputes concerning the interpretation or application of this Treaty which are not settled in the Commission within three months after the time when they arise shall be submitted to an arbitral tribunal at the request of either Contracting State.

(2) The arbitral tribunal shall be composed as follows: Each Contracting State shall appoint an arbitrator; the arbitrators shall agree on a national of a third State as chairman. If the arbitrators have not been appointed within a period of three months after the time when one of the Contracting States announces its intention of convening the arbitral tribunal, either Contracting State may, in the absence of any other agreement, request the President of the International Court of Justice to make the necessary appointments. If the President of the International Court of Justice is a national of a Contracting State or is disqualified for any other reason, the appointments shall be made by the Vice-President or by the longest-serving judge who is not a national of either Contracting State.

(3) The arbitral tribunal shall take its decisions by majority vote. The decisions of the arbitral tribunal shall be binding on the Contracting Parties and shall be enforced in each case by the competent officials of the Contracting State required to do so. Each Contracting State shall bear the costs of the arbitrator it has appointed, and any other costs shall be shared equally between the Contracting States. In all other respects the arbitral tribunal shall determine its own rules of procedure.

Article 29. PROVISIONAL INAPPLICABILITY; DENUNCIATION

(1) Either Contracting State may, if its security is endangered or if other cogent public interests exist, declare section II of this Treaty to be inapplicable in whole or in part for the duration of that situation. The other Contracting State must be notified of the fact without delay.

(2) The Treaty is concluded for a period of 25 years. Its validity shall be extended for similar periods unless it is denounced in writing through the diplomatic channel one year before the expiry of the period of validity. Financial obligations arising out of this Treaty which still exist at the time of the denunciation shall remain valid.

Article 30. FINAL PROVISIONS

The Treaty is subject to ratification and shall enter into force on the first day of the third month following the exchange of the instruments of ratification. The exchange of the instruments of ratification shall take place at Vienna as soon as possible.

DONE at Bled on 15 September 1977, in duplicate in the Slovenian and German languages, both texts being equally authentic.

For the Socialist Federal
Republic of Yugoslavia:

[Illegible]

For the Republic of Austria:

[Illegible]

[TRANSLATION — TRADUCTION]

TREATY¹ BETWEEN THE SOCIALIST FEDERAL REPUBLIC OF YUGOSLAVIA AND THE REPUBLIC OF AUSTRIA AMENDING THE TREATY OF 15 SEPTEMBER 1977 BETWEEN THE SOCIALIST FEDERAL REPUBLIC OF YUGOSLAVIA AND THE REPUBLIC OF AUSTRIA CONCERNING THE ROAD TUNNEL THROUGH THE KARAVANKE MOUNTAINS²

Desiring to amend and supplement the Treaty of 15 September 1977 between the Socialist Federal Republic of Yugoslavia and the Republic of Austria concerning the Road Tunnel through the Karavanke Mountains² (hereinafter referred to as "the Treaty"), the Contracting States have agreed as follows:

Article I

1. Article 4 of the Treaty should read as follows:

"Article 4. FINANCING

"The Contracting States agree that:

"1. Each side shall assume the financing of construction, maintenance, administration and operation in respect of that part of the structure which lies in its territory. This provision shall also apply to previously incurred costs on both sides.

"2. The design costs for the structure, in so far as the design work has already been jointly assigned by contract, shall be shared in a 50:50 ratio.

"3. Toll receipts shall remain the property of the Contracting State which collected them."

2. An article 5a shall be inserted after article 5:

"Article 5a. IMPORT AND EXPORT OF GOODS FOR THE TUNNEL

"(1) Materials and operating supplies which, in fulfilment of the obligations under article 1, paragraph (1), are carried from the territory of one Contracting State to the territory of the other Contracting State under customs supervision for purposes of the design, construction, maintenance and operation of the Karavanke Road Tunnel, together with the objects appertaining thereto, and are used there shall be exempt from all import and export taxes; this provision shall also apply to designs and to all technical documentation.

"(2) If goods of the kind referred to in paragraph (1), which are subject to consumption tax, are reimported into the Contracting State from which they had been exported, the said consumption tax shall be collected at the time of reimportation in so far as the export of the goods served as the basis for exemption or release from such tax.

¹ Came into force on 1 June 1983, i.e., the first day of the third month following the exchange of the instruments of ratification, which took place at Belgrade, in accordance with article II.

² See p. 296 of this volume.

“(3) Vehicles and equipment (machines, tools, measuring instruments and the like) for the purposes referred to in paragraph (1) shall remain free from all import and export taxes, provided that they are exhibited to the customs office for identification and are re-exported within the time-limit specified by the customs office; the deposit of security shall also be dispensed with in such case. If such goods are not re-exported, the customs duties shall be collected unless their return has been prevented by their complete consumption or destruction.

“(4) Goods exempted from taxes under paragraphs (1) and (3) shall be exempt from economic import and export prohibitions and restrictions.

“(5) The conditions for exemption from taxes under paragraphs (1) and (3) must be demonstrated to the customs officials of the Contracting States by means of written notations and certificates.”

3. Article 6, paragraph (1), should read as follows:

“(1) The working plans and drawings for the structure shall be prepared by the organization or the company. They shall be submitted for approval to the Contracting State concerned, together with any necessary comments. An account of the expenditures involved shall be attached to such documents.”

4. Article 8, paragraph (2), should read as follows:

“(2) With respect to the activities of the organization and the company, the Commission shall ensure during the period of operation that the provisions governing operation are complied with.”

5. Article 12, paragraph (1), should read as follows:

“(1) The Contracting States agree to collect a toll for the use of the structure and to entrust its collection to the organization or the company, as the case may be.”

6. An article 25a should be inserted after article 25:

“*Article 25a.* ACTIVITIES OF FORWARDING ORGANIZATIONS
OR FORWARDING ENTERPRISES

“The activities of forwarding organizations or forwarding enterprises in connection with frontier-crossing traffic through the Karavanke Road Tunnel shall be subject to the provisions of the annex, which forms an integral part of the Treaty.”

7. The following annex shall be appended to the Treaty:

“ANNEX. ACTIVITIES OF FORWARDING ORGANIZATIONS
OR FORWARDING ENTERPRISES

“*Article 1.* (1) With regard to the type of frontier clearance referred to in article 2, paragraph (2), of the Treaty, forwarding organizations or forwarding enterprises (hereinafter referred to as “forwarders”), which have a place of business in one of the Contracting States and are there entitled to carry on forwarding activities under the domestic legislation of the Contracting States shall likewise be entitled to carry on in the zone situated in the territory of the other Contracting State any forwarding activities directly related to entry clearance.

“(2) Forwarding activities in connection with entry clearance may be carried on only by forwarders of the State whose frontier clearance officials carry out the entry clearance.

“*Article 2.* Forwarding activities in accordance with article 1 of this annex shall be deemed to have been carried on in the territory of the Contracting State in which the location at which the forwarder is entitled to carry on such activities is situated.

“*Article 3.* If a forwarder is not entitled, or no longer entitled, under the legislation of its own State to carry on forwarding activities in accordance with article 1 of this annex, the territorial State shall, at the request of the other Contracting State, prevent the further exercise of such activities in its territory.

“*Article 4.* (1) Persons employed by the forwarders shall be exempt from the visa requirement in respect of the crossings of the frontier which are required in the course of their forwarding activities (article 1 of this annex) and any associated stay in the zone in each case; they must, however, be in possession of a valid passport or other official identity document bearing a photograph and, in either case, a certificate prepared by the forwarder in the Slovenian and German languages which attests to the employment relationship.

“(2) The officials of the territorial State may prohibit an individual from staying in the zone situated in the territory of that State on the ground of a threat to public peace, order and safety or other public interests.

“*Article 5.* (1) Each Contracting State shall allow its forwarders to use at the platform situated in its territory the areas necessary for the construction, by the forwarders themselves, of buildings to be used for forwarding, subject to the requirement that they must make available to the neighbouring State's forwarders the buildings required for the exercise of the activities described in article 1 of this annex.

“(2) The buildings shall be constructed in accordance with the legislation of the territorial State and in conformity with the usual standards, with due regard to the proposals made by the neighbouring State's forwarders, in accordance with principles to be worked out jointly by the forwarders of both States.

“(3) The Contracting States shall provide a building having a usable area of 300 m² for the activities of Yugoslav forwarders in the zone situated in Austrian territory and a building having a usable area of 600 m² for the activities of Austrian forwarder in the zone situated in Yugoslav territory.

“*Article 6.* (1) The territorial State shall permit the installation of telephone and telegraph equipment required for the activities of the neighbouring State's forwarders in the territorial State, including teleprinters and remote data input devices, and shall permit the connecting of such equipment to the corresponding equipment of the neighbouring State.

“(2) The Contracting States shall, in so far as possible, provide all facilities in connection with the use of other telecommunications media.

“*Article 7.* (1) Articles which are required by the neighbouring State's forwarders and their employees in accordance with article 1 of this annex in the zone and which have been imported under customs supervision shall be exempt

from all import and export taxes. No deposit of security shall be required therefor. Economic prohibitions and restrictions relating to import and export shall not apply to such articles.

“(2) The neighbouring State’s forwarders may without impediment bring into the territory of their State any detained articles and any sums of money and valuables which are required for, or have been collected in the course of, their activities.

“(3) Employees of the neighbouring State’s forwarders shall be exempt in connection with their activities in the zone from any personal service and material obligations under public law to the territorial State.

“(4) The provisions of article 12, paragraph 4, of the Treaty shall apply *mutatis mutandis* to the service vehicles and private vehicles of the persons referred to in article 4 of this annex.”

Article II

This Treaty is subject to ratification and shall enter into force on the first day of the third month following the exchange of the instruments of ratification.

The exchange of the instruments of ratification shall take place at Belgrade as soon as possible.

DONE at Vienna on 20 October 1980, in duplicate in the Slovenian and German languages, both texts being equally authentic.

For the Socialist Federal
Republic of Yugoslavia:

[Signed]

ANDREJ GRAHOR

For the Republic of Austria:

[Signed]

DR. FRANZ BOGEN