

**No. 23742**

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**AUSTRIA  
and  
FEDERAL REPUBLIC OF GERMANY**

**Agreement concerning the regulation of railway frontier crossings (with final protocol). Signed at Vienna on 28 October 1955**

*Authentic text: German.*

*Registered by Austria on 13 February 1986.*

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**AUTRICHE  
et  
RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE**

**Accord portant réglementation des passages ferroviaires aux frontières (avec protocole final). Signé à Vienne le 28 octobre 1955**

*Texte authentique : allemand.*

*Enregistré par l'Autriche le 13 février 1986.*

[TRANSLATION — TRADUCTION]

AGREEMENT<sup>1</sup> BETWEEN THE REPUBLIC OF AUSTRIA AND THE  
FEDERAL REPUBLIC OF GERMANY CONCERNING THE REGU-  
LATION OF RAILWAY FRONTIER CROSSINGS

The Federal President of the Republic of Austria and the President of the Federal Republic of Germany,

Desiring to regulate the railway frontier crossings between the two States, have decided to conclude an Agreement.

For that purpose they have appointed as their Plenipotentiaries:

The Federal President of the Republic of Austria:

Dr. Wilfried Platzer, Ambassador Extraordinary and Minister Plenipotentiary in the Federal Chancellery (Foreign Affairs), and

Dr. Erich Jarisch, Adviser in the Federal Ministry of Transport and Nationalized Enterprises;

The President of the Federal Republic of Germany:

Ambassador Carl Hermann Mueller-Graaf, Head of the Economic Delegation of the Federal Republic of Germany at Vienna, and

Dr. Paul Schröter, Assistant Secretary in the Federal Ministry of Transport, who, having exchanged their full powers, found in good and due form, have agreed as follows:

*Article 1. GENERAL PROVISIONS*

(1) The two Contracting States undertake to make railway frontier crossing possible. They shall do their utmost to expedite and facilitate such crossing.

(2) For this purpose, connecting and transfer service on the railway lines crossing the frontier shall be provided in joint or transfer railway stations. Frontier control operations shall also be carried out in joint railway stations.

*Article 2. DEFINITIONS*

For the purposes of this Agreement:

(a) The term “territorial State” shall mean the State in whose territory the railway administration of the other State establishes advance posts, or assigns its employees to operate the connecting and transfer service; the term “adjoining State” shall mean the other State.

(b) The term “frontier connecting line” shall mean the line between the frontier of a State and the joint railway station.

(c) The term “administration providing connection” shall mean the railway administration of the territorial State.

(d) The term “administration receiving connection” shall mean the railway administration of the adjoining State.

<sup>1</sup> Came into force on 31 October 1957, i.e., 14 days after the exchange of the instruments of ratification, which took place at Bonn on 17 October 1957, in accordance with article 39 (2).

(e) The term “connecting traffic” shall mean the traffic of the administration receiving connection on the frontier connecting line and in the joint railway station.

(f) The term “offices” shall mean the railway administration offices in joint or transfer railway stations.

(g) The term “employees” shall mean the officials, salaried employees and wage-earners working in offices of the railway administrations.

#### *Article 3. JOINT AND TRANSFER RAILWAY STATIONS*

(1) The following shall be joint railway stations:

- (a) Passau Central,
- (b) Simbach am Inn,
- (c) Salzburg Central,
- (d) Kufstein,
- (e) Lindau Central and Lindau-Reutin.

The Government of the two Contracting States may agree to establish additional joint railway stations.

(2) The railway administrations shall agree on the type of traffic (passengers, baggage, express parcels, express freight, ordinary freight and livestock) to be handled in joint railway stations. They may also agree to consolidate the connecting and transfer service of Lindau Central and Lindau-Reutin.

(3) Connecting and transfer service not available in joint railway stations shall be provided at transfer stations to be established by agreement between the railway administrations.

#### *Article 4. RAILWAY OPERATIONS ON THE FRONTIER CONNECTING LINES AND IN THE JOINT RAILWAY STATIONS*

(1) Each railway administration shall be entitled and required to provide public rail service in the territory of the other Contracting State from the State frontier to the joint railway station. Accordingly, the administration receiving connection shall allow access to the frontier connecting line, and permit use of the joint railway station in so far as this is necessary for carrying out therein its special service and the joint connecting and transfer service. The railway administrations shall regulate the connecting and transfer service by special arrangements.

(2) The railway administrations may agree on exceptions for purposes of railway operation between frontier control offices on frontier connecting lines and between those offices and the joint railway station.

#### *Article 5. RAIL SERVICE ON LINES WITH TRANSFER STATIONS*

On lines with transfer stations, connecting and transfer service shall be regulated by agreement between the railway administrations.

#### *Article 6. EXTENDED TRAIN OPERATION AND TRAIN-CREW SERVICE*

The railway administrations may agree that the administration receiving connection shall provide train operation and train-crew service beyond the joint or transfer railway station.

*Article 7. USER'S FEE*

Unless provision is made for settlement in kind the administration receiving connection shall pay to the administration providing connection, as a fee for its use of the joint railway stations and use of the frontier connecting lines, interest on the investment value of the railway facilities designated for its special service, or for the joint service to the extent of such use. The details shall be agreed between the railway administrations.

*Article 8. NEW FACILITIES*

The costs of new construction, extensions and renovations carried out in joint railway stations and on frontier connecting for the joint or special service of the administration receiving connection shall, by agreement between the railway administrations, be borne by the administration providing connection, unless otherwise agreed by the railway administrations in individual cases.

*Article 9. MAINTENANCE*

The administration providing connection shall maintain all installations and equipment belonging to the joint railway station or the frontier connecting line, unless otherwise agreed by the railway administrations.

*Article 10. SERVICING*

(1) Notwithstanding the provision in article 4, paragraph (2), the administration receiving connection shall operate traffic with its trains on the frontier connecting line.

(2) The administration providing connection shall as a rule render service to the administration receiving connection in the joint railway station; it shall do so as diligently as it renders its own services. The railway administrations shall agree on the services to be provided by the receiving connection administration.

(3) The administration receiving connection may establish a post in the joint railway station whose functions shall be agreed on by the railway administrations.

*Article 11. REIMBURSEMENT*

Where services rendered are not settled in kind or on the basis of other agreements, the first costs shall be reimbursed, together with any additional charges to be specially agreed between the railway administrations.

*Article 12. RAILWAY REGULATIONS*

(1) The railway regulations of the administration receiving connection shall apply on the frontier connecting lines. The railway administrations may agree, however, that the railway regulations of the administration providing connection shall apply to the railway service as a whole or a specific part thereof.

(2) The railway regulations of the administration providing connection shall apply in the joint railway stations. The railway administrations may, however, agree that the railway regulations of the administration receiving connection shall apply to a specific part of the railway service.

(3) Motor-power-unit licences and operator tests which are valid in the territory of one Contracting State shall also be valid in the territory of the other Contracting State.

*Article 13. RAILWAY POLICE*

(1) The functions prescribed in the railway regulations for the maintenance of safety and order in railway operations and traffic shall be carried out in trains travelling on the frontier connecting lines by the railway police officers of the administration receiving connection. As regards the exercise of these functions, the authority of the railway police officers shall be determined in accordance with the railway regulations of the adjoining State. These regulations shall also include the definition of a railway police officer.

(2) Violations of safety and order in railway operations and traffic on the frontier connecting lines shall be referred for further action to the competent local office of the administration providing connection.

(3) Railway police officers of the administration receiving connection shall be forbidden to make arrests on the frontier connecting lines. They shall, however, be authorized to compel persons who have violated the provisions of paragraphs (1) and (2) above, or are suspected of such violation, to appear at the nearest competent local railway office or, in joint railway stations, at the office of the administration providing connection, in order to make a written statement of the facts.

(4) Agents aboard travelling trains for the purpose of carrying out police frontier control operations and the railway police officers shall, on request, be required to render each other assistance in so far as their other functions and authority so permit.

*Article 14. ESTABLISHMENT OF TIMETABLES*

The railway administrations shall establish the timetables for connecting trains in such a way that passengers or goods shall not be delayed any longer than railway operation and traffic and frontier control operations require.

*Article 15. LAW RELATING TO CARRIAGE, TARIFFS*

(1) The carriage of persons, hand baggage, heavy baggage, express parcels or goods (including corpses and live animals) between a joint railway station and a railway station of destination or of departure (dispatch) of the adjoining State shall not be deemed to be an international carriage within the meaning of the International Convention (with annexes) concerning the Carriage of Passengers and Luggage by Rail,<sup>1</sup> nor of the International Convention (with annexes) concerning the Carriage of Goods by Rail,<sup>2</sup> unless the sender lays claim, through the choice of the model bill of lading, to the application of international provisions relating to carriage.

(2) Except as provided in article 16, the law relating to carriage and tariffs of the administration receiving connection shall apply to carriages which are not deemed to be international carriages within the meaning of paragraph (1).

(3) The tariff connecting point in joint railway stations shall be in the centre of the passenger building. The tariffs shall not be less favourable than those in the State of the administration receiving connection. That State shall reserve the right to approve a tariff, in so far as such approval is required.

*Article 16. LIABILITY*

(1) If a passenger is killed or injured in connecting traffic, or if an article carried by or accompanying a passenger is damaged, the administration receiving

<sup>1</sup> United Nations, *Treaty Series*, vol. 242, p. 355.

<sup>2</sup> *Ibid.*, vol. 241, p. 336, and vol. 242, p. 5.

connection shall be liable under the law of the territorial State; it shall thus act as guarantor for the administration providing connection. In addition to the first-named administration, the second-named administration shall also be jointly and severally liable.

(2) If heavy baggage, express parcels or goods (article 15, paragraph (1)) are carried in connecting traffic, the administration receiving connection shall be liable under the law of its State for damages arising from total or partial loss, injury or late delivery; it shall thus act as guarantor for the administration providing connection. The administration providing connection shall in no case be liable.

(3) If an employee of the administration receiving connection sustains, while employed in connecting traffic injury to his person or damage to articles carried by or accompanying him, the administration providing connection shall be liable only in so far as its liability arises from malicious misconduct on the part of one of its employees. Correspondingly, this shall apply to employees of other administrations of the adjoining State who are engaged in the territorial State on connecting traffic work.

(4) In the case of damage to rolling stock and loading tackle, the relevant agreements in force shall apply.

(5) Liability for damage to property in railway postal transport shall be determined in accordance with the agreements between the administrations concerned.

(6) Unless a special regulation is introduced in the preceding paragraphs or in another agreement, liability for damage arising from railway operations in connecting traffic shall be determined in accordance with the law of the territorial State. Where, in such a case, the liability rests solely with the administration receiving connection, the other administration shall be jointly and severally liable in respect of such connection.

(7) Where both administrations are liable, the injured party may file a complaint against either of them at his discretion. Such option expires once the complaint is filed.

(8) Complaints shall be filed only with the courts of the State of the administration against which the claim is made.

(9) Recourse procedures and mutual liability of the administrations for damages shall be regulated by agreement between administrations.

(10) For international carriages within the meaning of the agreements referred to in article 15, paragraph (1), the provisions of paragraphs (1), (2) and (7) to (9) above shall apply except as otherwise provided in these agreements.

#### *Article 17. EXEMPTION FROM PASSPORT AND VISA OBLIGATIONS*

(1) Employees and supervisors of the administration receiving connection who are employed in the territorial State under this Agreement shall be exempt from passport and visa obligations in the performance of their duties. They may proceed to their workplace in the territorial State on the basis of an identity card with photograph plus a special certificate from the supervisory office. So long as they live there, they may also stay in the territorial State without special permission.

(2) So long as the employees referred to in paragraph (1) live in the territorial State, the members of their household shall also be exempt from passport and visa obligations. In order to cross the frontier in traffic with the adjoining State and stay in the territorial State, such employees shall require only an identity card with photograph, to be issued by their supervisory office.

*Article 18. UNIFORMS*

Employees of the administration receiving connection may wear their uniform at their workplace in the territorial State and on their way to and from work.

*Article 19. ASSISTANCE-IMMUNITY OF EMPLOYEES FROM PROSECUTION*

(1) The offices and employees of each Contracting State shall render requisite assistance to the offices and employees of the other Contracting State in the performance of their duties and respond to their requests in the same way as to similar requests from their own offices and employees.

(2) The penal provisions of the territorial State for the protection of official acts and the protection of officials shall also apply to criminal offences committed against employees of the administration receiving connection who are working in the territorial State under this Agreement, provided that the offences occur in their line of duty or in connection with their duty.

*Article 20. LEGAL PROVISIONS RELATING TO EMPLOYEES*

(1) Employees of the administration receiving connection who are employed in the territorial State shall be subject to the regulations of the territorial State, notwithstanding the provisions of international private law.

(2) They shall be exempt from the requirement of any personal or material services under public law, in so far as they are nationals of the adjoining State. The same shall apply to members of their households. The fiscal treatment of such persons shall be governed by the provisions of article 18 of the Convention between the Republic of Austria and the Federal Republic of Germany for the Avoidance of Double Taxation with respect to Taxes on Income and on Capital as well as Trade Taxes and Real Property Taxes, of 4 October 1954,<sup>1</sup> or of such arrangements as may replace the aforesaid provisions in the future.

(3) With regard to contract for the employees referred to in paragraph (1), and particularly to the disciplinary code, the provisions in force in the adjoining State shall apply exclusively.

(4) The employees' supervisory office shall be informed immediately, through the corresponding office of the territorial State, of criminal offences committed in the territorial State by the employees referred to in paragraph (1).

*Article 21. SOCIAL SECURITY, UNEMPLOYMENT INSURANCE*

The intergovernmental provisions on social security and unemployment insurance in force between the Republic of Austria and the Federal Republic of Germany shall apply to the social security and unemployment insurance of the employees of the administration receiving connection.

*Article 22. APPOINTMENT AND RECALL OF EMPLOYEES*

(1) Employees of the administration receiving connection who are regularly employed in the territorial State under this Agreement shall be appointed to the offices of the administration providing connection by a written notice indicating their birthdate and grade. Appointment shall be made, if possible, prior to the employee's assignment, or otherwise simultaneously with it. Members of their household shall

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<sup>1</sup> United Nations, *Treaty Series*, vol. 1513, No. I-26159.

be notified in the same manner before their transfer to the territorial State; their last residence shall also be indicated.

(2) The administration receiving connection shall, at the request of the territorial State, exclude its employees or recall them from employment in the territory of that State.

*Article 23. EMPLOYEES ARTICLES FOR OFFICIAL USE AND REQUISITES*

(1) All articles for official use brought into or taken out of the territorial State by employees of the administration receiving connection shall be exempt from taxes and other duties. The same preferential treatment shall be granted for used and unused removal goods of the said employees having their official residence in the territorial State, and of the members of their households. Articles belonging to these employees and the members of their household, which are sent out to the adjoining State for repair, cleaning, etc., and returned therefrom shall under the relevant control arrangements, be exempt from taxes and other duties; a security deposit shall not be required.

(2) Personal requisites, including food items which employees not residing in the territorial State take with them on their way to or from work and which they need during their official stay in the territorial State, shall also be exempt from taxes and other duties.

(3) Prohibitions and restrictions on imports and exports shall not apply to the articles specified in paragraphs (1) and (2).

*Article 24. OFFICIAL VEHICLES, VEHICLES OF EMPLOYEES*

(1) Official and private vehicles used by employees of the administration receiving connection for their official travel to the territorial State and return to the adjoining State shall be exempt under the relevant control arrangements from taxes and other duties upon entry and departure; a security deposit shall not be required. The same preferential treatment shall also apply to vehicles of the supervisory offices and employees of the administration receiving connection.

(2) Prohibitions and restrictions on imports and exports shall not apply to the vehicles specified in paragraph (1).

*Article 25. IDENTIFICATION OF OFFICE SPACE*

Office space made available to the administration connection may be identified by means of signs and emblems.

*Article 26. DOMICILIARY RIGHT*

Offices of the administration receiving connection shall have the right, within the premises allocated to them for their exclusive use, to maintain order and remove unruly persons. Assistance in such cases shall be provided upon request by the competent offices and employees of the territorial State.

*Article 27. OFFICE REQUISITES*

Articles for official use by the offices of the administration receiving connection shall be exempt from taxes and other duties upon entry and departure. Prohibitions and restrictions on imports and exports shall not apply to these articles.



*Article 28. MONIES RECEIVED IN AN OFFICIAL CAPACITY*

Monies received in an official capacity by employees of the administration receiving connection in trains crossing the frontier may be taken by them in the territorial State and transferred to the adjoining State.

*Article 29. OFFICIAL PAYMENT SYSTEM*

(1) Payments under this Agreement or additional agreements hereto shall be effected in accordance with the provisions in force concerning the payment system between the Republic of Austria and the Federal Republic of Germany.

(2) The two Contracting States shall take the requisite action to devise an official payment system between the offices of the administration receiving connection and the adjoining State, including the payment of salaries and wages as well as the pension payments and social insurance benefits of former employees and their survivors.

*Article 30. OFFICIAL CONSIGNMENTS*

(1) Official letters and parcels and official remittances of cash and valuables which are addressed to the offices of the administration receiving connection or sent by them to the adjoining State may be conveyed by employees of the administration receiving connection independently of the postal administration and exempt from postal charges.

(2) These consignments shall be subject to customs and currency control only if a criminal offence is suspected; in order to prevent abuses, they shall bear the official seal of the originating office.

*Article 31. POSTAL EXCHANGE*

(1) For the exchange of postal consignments in frontier railway stations, the provisions of the Universal Postal Convention and its subsidiary agreements and regulations governing implementation shall apply. The postal administrations of the two Contracting States may adopt additional regulations in keeping with the laws in force.

(2) Articles 17 to 27 of this Agreement shall also apply *mutatis mutandis* to the postal employees of the adjoining State working in the railway postal service of the territorial State.

*Article 32. TELECOMMUNICATION FACILITIES ON FRONTIER CONNECTING LINES*

Telecommunication facilities necessary for purposes of railway operations on the frontier connecting lines shall be made available by the administration providing connection.

*Article 33. SIGNALLING INSTALLATIONS ON FRONTIER CONNECTING LINES*

Where the signalling installations necessary for railway operation on the frontier connecting lines are not made available by the administration providing connection, the administration receiving connection shall be entitled to establish and operate such installations.

*Article 34. TAXES*

The administration receiving connection shall be deemed to be on equal footing with the administration providing connection in respect of taxes in the territorial State. The provisions of the Agreement between the Republic of Austria and the

Federal Republic of Germany for the Avoidance of Double Taxation with respect to Taxes on Income and Fortune as well as Industrial and Land Taxes, of 4 October 1954, especially article 6 thereof, or such arrangements as may replace those provisions hereafter, shall apply. The transport services of the administration receiving connection on the frontier connecting lines shall be subject solely to the transport tax of the adjoining State.

*Article 35. TAX EXEMPTION FOR ARRANGEMENTS*

Arrangements concluded on the basis of this Agreement shall be exempt from taxes in both Contracting States.

*Article 36. DISPUTES, ARBITRAL TRIBUNAL*

(1) Disputes concerning the interpretation or application of this Agreement shall be settled by the competent authorities of the two sides. This shall not exclude settlement through the diplomatic channel.

(2) Where a dispute cannot be settled in this manner, it shall be submitted to an Arbitral Tribunal at the request of either Contracting State.

(3) The Arbitral Tribunal shall be formed in each individual case in such a way that each Party appoints a representative and the two representatives agree on a national of a third State as umpire. If the representatives and the umpire are not appointed within three months after one Party has given notice of its intention to convene the Arbitral Tribunal, then, in the absence of any arrangement to the contrary, either Party may request the President of the International Court of Justice at The Hague to make the necessary appointments. If the President is a national of one of the two Parties or is otherwise disqualified, a deputy of the President shall make the necessary appointments.

(4) The Arbitral Tribunal shall render its award on the basis of this Agreement and in accordance with international customary law and generally recognized principles of law.

(5) The award of the Arbitral Tribunal shall be by majority vote. Its awards shall be binding. Each Contracting State shall defray the costs of its arbitrator. Remaining costs shall be borne equally by the two Contracting States. The Arbitral Tribunal shall establish its own rules of procedure.

(6) With regard to the summoning and questioning of witnesses and experts, the authorities of the two Contracting States shall, at the request of the Arbitral Tribunal addressed to the appropriate Government, provide legal aid in the same manner as they would at the request of their national civil courts.

*Article 37. TERM OF THE AGREEMENT DENUNCIATION*

(1) This Agreement shall remain in force for an indefinite period. It may be denounced with six months' notice at the end of the calendar year.

(2) In the event of denunciation, the two Contracting States shall immediately enter into negotiations concerning new regulations.

*Article 38. SCOPE OF APPLICATION*

This Agreement shall apply also to *Land Berlin*, provided that the Government of the Federal Republic of Germany does not make a declaration to the contrary to the Federal Government of the Republic of Austria within the three months following the entry into force of this Agreement.

*Article 39.* RATIFICATION

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

(2) The Agreement shall enter into force 14 days after the exchange of the instruments of ratification.

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

DONE in duplicate at Vienna on 28 October 1955.

For the Republic of Austria:

PLATZER  
Dr. JARISCH

For the Federal Republic of Germany:

MUELLER-GRAAF  
Dr. SCHRÖTER

FINAL PROTOCOL TO THE AGREEMENT BETWEEN THE REPUBLIC OF AUSTRIA AND THE FEDERAL REPUBLIC OF GERMANY CONCERNING THE REGULATION OF RAILWAY FRONTIER CROSSINGS

On the occasion of the signature of this Agreement, the undersigned Plenipotentiaries have unanimously decided to issue the following statement, which shall constitute an integral part of this Agreement:

Nationals of the Contracting States within the meaning of article 20, paragraph (2), first sentence, shall be, on the one hand, Austrian citizens, and, on the other hand, Germans as defined in article 116, paragraph 1, of the Fundamental Law of the Federal Republic of Germany.

IN WITNESS WHEREOF, the Plenipotentiaries have signed this Protocol and affixed their seals thereto.

DONE in duplicate at Vienna on 28 October 1955.

For the Republic of Austria:

PLATZER  
Dr. JARISCH

For the Federal Republic of Germany:

MUELLER-GRAAF  
Dr. SCHRÖTER

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