

No. 23738

AUSTRIA
and
FEDERAL REPUBLIC OF GERMANY

Agreement concerning simplified procedures for transit traffic by road between Salzburg and Lofer through German territory and between Garmisch-Partenkirchen and Pfronten/Füssen through Austrian territory. Signed at Bonn on 14 September 1955

Authentic text: German.

Registered by Austria on 13 February 1986.

AUTRICHE
et
RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE

Accord en vue de faciliter la circulation routière en transit entre Salzbourg et Lofer à travers le territoire allemand et entre Garmisch-Partenkirchen et Pfronten/Füssen à travers le territoire autrichien. Signé à Bonn le 14 septembre 1955

Texte authentique : allemand.

Enregistré par l'Autriche le 13 février 1986.

[TRANSLATION — TRADUCTION]

AGREEMENT¹ BETWEEN THE REPUBLIC OF AUSTRIA AND THE FEDERAL REPUBLIC OF GERMANY CONCERNING SIMPLIFIED PROCEDURES FOR TRANSIT TRAFFIC BY ROAD BETWEEN SALZBURG AND LOFER THROUGH GERMAN TERRITORY AND BETWEEN GARMISCH-PARTENKIRCHEN AND PFRENTEN/FÜSSEN THROUGH AUSTRIAN TERRITORY

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

Have, for the purpose of facilitating transit traffic along certain roads of their States, decided to conclude an Agreement.

For that purpose they have appointed as their Plenipotentiaries:

The Federal President of the Republic of Austria:

Mr. Adrian Rotter, Ambassador Extraordinary and Plenipotentiary;

The President of the Federal Republic of Germany:

Dr. Hans Berger, Under-Secretary and Chief of the Legal Department of the Ministry of Foreign Affairs, and

Dr. Wilhelm Ter-Nedden, Assistant Secretary and Chief of the Department of General Transport Policy and Transport Economics in the Federal Ministry of Transport,

who, having exchanged their full powers, found in good and due form, have agreed on the following provisions:

Article 1. 1. The Contracting Parties shall permit transit traffic consisting of motor vehicles and bicycles facilitated in accordance with the provisions of this Agreement, along the following roads:

(a) Through German territory:

1. German federal road 31 from the national frontier at Schwarzbach as far as the national frontier at Melleck, subject to the provision that motor vehicles may also use the Salzburg-Munich motorway from the national frontier as far as the exit for federal road 20 to Bad Reichenhall, and the latter road as far as the junction with federal road 31;
2. German federal road 305 from the national frontier at Schellenberg as far as the junction with federal road 31 at Unterjettenberg, and the latter road as far as the national frontier at Melleck.

(b) Through Austrian territory:

1. Austrian federal road No. 190 from the national frontier at Griesen as far as federal road No. 139a;
2. Austrian federal road No. 189a;

¹ 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 22 (2).

3. Austrian federal road No. 189 from Lermoos, via Reutte, to the national frontier between Ulrichsbrücke and Füssen;
4. Austrian federal road No. 196 from Ulrichsbrücke, via Vils, to the national frontier between Schönbichl and Pfronten.

2. A diversion from these roads shall not be permitted. If a transit road becomes impassable, the competent authorities shall, where possible, make an alternative route available.

Article 2. The facilitated road transit traffic shall be subject to the legislation of the transit State, provided that this Agreement does not include any provisions to the contrary.

Article 3. 1. Transit through German territory must be completed within two hours and through Austrian territory within three hours. Vehicles which are unable to maintain these schedules shall be excluded from the transit traffic. Lorries, tractors and other vehicles loaded with goods — with the exception of travel baggage — may not stop on the transit roads unless they have a compelling reason to do so; their transit time may, in individual cases, be subject to the imposition of restrictions by the customs authorities at the point of entry.

2. The picking up or setting down of passengers, and the loading or unloading of goods, during transit shall be forbidden.

3. In the case of lorry traffic and the transportation of goods — with the exception of travel baggage — in other vehicles, transit through German territory shall be permitted, notwithstanding the provision of article 1, paragraph 2, only along the Salzburg-Munich motorway from the national frontier as far as the exit for federal road 20 to Bad Reichenhall, along federal road 20 as far as the junction with federal road 31 and along federal road 31 as far as the national frontier at Melleck.

4. If the driver of the vehicle is unable, for reasons which arise during transit, to maintain the prescribed schedule, he shall immediately report the delay and the reason for such delay to the nearest customs or police post (*gendarmerie*). The post shall confirm the report.

Article 4. 1. The facilities provided under this Agreement shall apply to Austrian citizens and to Germans in the sense of article 116, paragraph 1, of the Basic Law of the Federal Republic of Germany. The transit States shall retain the right to decide whether to permit other persons to join in the facilitated transit traffic.

2. The Governments of the Contracting Parties shall, following closer consultations, extend the facilities provided for in this Agreement to law enforcement officials in so far as such facilities are required for the performance of their duties. They may also permit such officials to carry service weapons and ammunition.

Article 5. 1. The persons referred to in article 4, paragraph 1, shall not require any transit permit or passport for the purpose of transit traffic. Persons over 16 years of age must, however, be in possession of an official identity card with a photograph, which they shall present at the request of the authorities responsible for supervising the traffic.

2. For the purpose of transit traffic, a driver's licence and a vehicle licence which are recognized by one of the two Contracting Parties shall be sufficient.

Article 6. The exit State shall be obliged to grant the right of entry to all persons who have entered the territory of the transit State for the purpose of transit traffic, irrespective of the length of time they have spent in the transit State.

Article 7. 1. The competent Austrian and German frontier posts shall by mutual agreement determine control procedures for persons, motor vehicles, bicycles, goods and foreign exchange; facilities may be established for scheduled bus services.

2. For the purpose of simplifying frontier clearance, the clearance papers of the exit State shall also, where possible, be used in the transit State.

Article 8. Foreign exchange clearance shall be carried out in the simplest manner possible. Provided that they comply with the regulations imposed by the authorities supervising the transit traffic, travellers shall also be permitted to carry with them monetary instruments the import, export or transit of which is otherwise prohibited under the legislation of the transit State.

Article 9. 1. Motor vehicle taxes shall not be levied by the transit State in respect of motor vehicles which are officially licensed in the Republic of Austria or the Federal Republic of Germany. Neither shall transport operations by such motor vehicles in transit traffic be subject to the transport tax of the transit State. They shall be subject to the transport tax of the exit State.

2. Paragraph 1 shall also apply to such motor vehicles of persons referred to in article 4 as are licensed in a third State.

Article 10. 1. The beneficiaries of this Agreement may take their motor vehicles and the goods transported therein and their bicycles through with them in transit traffic, free of customs duties or any other charges and without being subject to any commercial ban on their import, export or transit. Bicycles and motor-assisted bicycles may not be used to transport such goods as would incur customs duties or other charges if cleared in normal traffic.

2. The deposit of a security against entry charges for motor vehicles and goods transported therein shall be required only if there is reason to suspect a contravention of the regulations governing the customs duties or charges of the transit State.

3. For the purpose of customs clearance of goods outside official working hours and the official escorts deemed necessary by the customs authorities, the fees prescribed in the transit State shall apply.

4. The frontier customs authorities of the transit State shall be entitled to require that a customs officer should travel on board motor vehicles which are transporting goods. The officer shall be provided with a seat next to the driver of the vehicle. The frontier customs authorities may also require that such vehicles should be amalgamated into convoys, to be accompanied by customs officers of the transit State. The transit of such vehicles during the hours of darkness may be prohibited.

5. The frontier customs authorities may attach some form of special identification to motor vehicles in transit. The removal of such identification during transit shall be prohibited.

Article 11. Seals affixed by the customs authorities of the exit State shall be recognized by the customs authorities of the transit State, upon presentation of a certificate valid in the transit State, stating that the vehicles can be sealed satisfactorily for

customs purposes (recognition of seal). The customs authorities of the transit State shall nevertheless be at liberty to remove such customs seals if an inspection appears to be necessary in order to prevent irregularities or to affix their own seals.

Article 12. Transit traffic shall exclude:

- (a) The transport of prisoners;
- (b) The transport of explosive materials; and
- (c) Notwithstanding the provisions of article 4, paragraph 2, the transport of weapons and ammunition, with the exception of weapons and ammunition for the purpose of hunting.

Article 13. 1. Restrictions on transport in the transit State for the purpose of protecting humans, animals or plants shall also apply to transit traffic.

2. Perissodactyla, cattle, sheep, goats, pigs and poultry may be transported in transit traffic without veterinary examination at the frontier upon presentation of animal passes or certificates of origin and health in which veterinary officials certify that the animals do not come from areas affected by epidemics and are free of disease. The same shall apply to meat, fats and skins (hides) from slaughtered animals if the certificates of origin state that these products originate from healthy animals.

3. No special certificate of origin or health shall be required in respect of live plants and parts of plants transported in transit traffic.

Article 14. 1. No additional third-party insurance shall be required for transit traffic if damage caused by the vehicle is already covered in accordance with the laws of the exit State. If, exceptionally, the laws of the exit State do not provide for third-party insurance, such insurance shall likewise not be required in the transit State.

2. The Contracting Parties undertake to ensure that payments in compensation for damage caused in transit traffic by a motor vehicle licensed in the exit State may be paid in local currency in the transit State up to the level of the minimum insurance payments prescribed for third-party insurance in that State, provided that the claimant is resident for foreign exchange purposes in the transit State.

3. In the event that international agreements are concluded on this subject and the Contracting Parties accede to such agreements, the provisions of such international agreements shall apply.

Article 15. 1. Suits concerning claims in respect of damage sustained in transit traffic may be heard only by the courts of the transit State. If, under the law of the transit State, there is no competent court in that State, the court in whose jurisdiction the damage was sustained shall be deemed competent. The right of the Parties to agree that the courts of the exit State or of another State are competent shall remain unaffected. If neither the claimant nor the person liable to pay compensation has his residence, abode or domicile in the transit State, the arrangement set forth in the first and second sentences of this paragraph shall not apply.

2. Nationals of one of the Contracting Parties who file claims in respect of damage sustained in transit traffic as claimants or intermediaries before courts of the other Contracting Party which are competent in accordance with paragraph 1 shall not be required, on account of their status as aliens, or because they have no residence or domicile in the transit State, to pay a security or deposit in respect of the costs of the lawsuit or to make an advance payment to cover court charges.

3. Final judgements of the courts of one Contracting Party which are competent in accordance with paragraph 1 concerning claims in respect of damage sustained in transit traffic shall be recognized and executed in the territory of the other Contracting Party; the same shall apply to judicial settlements and rulings relating to costs. The procedure for recognition and execution shall be governed by articles 20 to 24 and 26 to 31 of the Austrian-German Treaty regarding Legal Protection and Assistance of 21 June 1923,¹ which become a part of this Agreement. The references to article 25 in articles 24 and 26 are irrelevant.

4. If the damage involves a vehicle whose owner is the exit State or a separate entity of the exit State and a court of the transit State is competent in accordance with paragraph 1, the exit State shall, in respect of claims arising from such damage, be subject to the jurisdiction of the transit State.

Article 16. 1. The transit traffic of the Austrian and German mails shall not be subject to any restrictions or charges imposed by the transit State. The exemption from charges shall not extend to items of mail sent from a third country to another third country through the transit State.

2. The letter boxes on mail vehicles shall be kept closed during transit.

3. The items of mail carried in the mail vehicles shall not be subject to inspection.

Article 17. 1. Persons may be excluded from transit traffic for reasons of public security. The same shall apply to persons who have violated either the provisions of this Agreement or regulations governing passports, customs or foreign exchange.

2. If there is reason to fear that vehicles may endanger traffic or damage roads, the transit of such vehicles may be prohibited.

3. In the event of a public emergency or danger to public security, the transit traffic may be subject to temporary closure.

Article 18. The frontier posts of the Contracting Parties shall assist each other in the implementation of this Agreement and the supervision of transit traffic and shall notify each other of any confirmed violations or cases of exclusion from transit traffic.

Article 19. Should substantial difficulties arise in connection with the implementation of individual provisions of the Agreement or should the circumstances prevailing at the time of concluding the Agreement change substantially, the two Contracting Parties shall, at the request of either Party, enter into negotiations in order to arrive at an appropriate settlement.

Article 20. 1. Disputes concerning the interpretation or implementation of this Agreement shall be settled by the competent authorities of each Party. This provision shall not preclude settlement through the diplomatic channel.

2. Where a dispute cannot be settled in the foregoing manner, it shall, at the request of a Contracting Party, be submitted to an Arbitral Tribunal.

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

¹ League of Nations, *Treaty Series*, vol. XXVII, p. 57.

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 other arrangement, 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 make its decision on the basis of this Agreement and applying customary international law and universally recognized legal principles.

5. The Arbitral Tribunal shall make its decision by majority vote. Its decisions shall be binding. Each Party shall bear the costs of its own arbitrator. Other costs shall be shared equally by the two Parties. In other respects the Arbitral Tribunal shall establish its own rules of procedure.

6. With respect to the summoning and hearing of witnesses and experts, the authorities of the two Parties shall provide legal assistance in the same manner in response to requests made by the Arbitral Tribunal to the Government concerned as in response to requests made by domestic civil courts.

Article 21. 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 Austrian Federal Government within the three months following the entry into force of this Agreement.

Article 22. 1. This Agreement shall be ratified as soon as possible. The instruments shall be exchanged in Bonn.

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

Article 23. 1. The Agreement shall remain in force for an indefinite period. It shall not be subject to denunciation for 10 years after the date of its entry into force and may thereafter be denounced on two years' notice.

2. Should the Agreement be denounced, the Contracting Parties shall enter into negotiations concerning the possibility of finding some other satisfactory settlement regarding simplified procedures for transit traffic.

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

DONE in duplicate at Bonn on 14 September 1955.

For the Republic of Austria:

ROTTER

For the Federal Republic of Germany:

BERGER

TER-NEDDEN