

No. 30279

**FRANCE
and
SWITZERLAND**

Agreement concerning the practice of fishing and the protection of aquatic habitats in the part of the Doubs constituting a frontier between the two States (with annex, detailed regulations and declaration). Signed at Paris on 29 July 1991

Authentic text: French.

Registered by France on 27 September 1993.

**FRANCE
et
SUISSE**

Accord concernant l'exercice de la pêche et la protection des milieux aquatiques dans la partie du Doubs formant frontière entre les deux États (avec annexe, règlement d'application et déclaration). Signé à Paris le 29 juillet 1991

Texte authentique : français.

Enregistré par la France le 27 septembre 1993.

[TRANSLATION — TRADUCTION]

AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE FRENCH REPUBLIC AND THE SWISS FEDERAL COUNCIL CONCERNING THE PRACTICE OF FISHING AND THE PROTECTION OF AQUATIC HABITATS IN THE PART OF THE DOUBS CONSTITUTING A FRONTIER BETWEEN THE TWO STATES

The Government of the French Republic and the Swiss Federal Council,

Having regard to the Agreement of 20 June 1780 between the King of France and the Prince Bishop and Church of Basel concerning the boundaries of their respective States,²

Desiring to resolve problems relating to fishing and the protection of aquatic habitats in the part of the Doubs constituting the frontier,

Have agreed as follows:

Article 1

SCOPE OF APPLICATION

1. This Agreement applies to the part of the Doubs constituting the frontier between France and Switzerland which includes:

(a) The section from Villers-le-Lac to boundary marker 606 (Biaufond), hereinafter referred to as “Franco-Swiss Doubs”;

(b) The section from boundary marker 606 (Biaufond) to boundary marker 605 (Clairbief), hereinafter referred to as “French Doubs”;

(c) The section from boundary marker 559 (La Motte) to boundary marker 558 (Ocourt), hereinafter referred to as “Swiss Doubs”.

2. For the purposes of this Agreement, the term “fish” means also crayfish.

Article 2

OBJECT

The object of this Agreement is:

(a) To harmonize between the two States the provisions regarding fishing in the areas of the Doubs defined in article 1 of this Agreement;

(b) To ensure the effective protection of fish and their habitat.

¹ Came into force on 1 July 1993, i.e., the first day of the second month following the date of the last of the notifications (of 15 October 1991 and 12 May 1993) by which the Parties informed each other of the completion of the required constitutional procedures, in accordance with article 18.

² De Martens, *Recueil des Principaux Traités*, tome II, p. 85.

Article 3

IMPLEMENTING REGULATIONS

1. The technical and financial provisions relating to fishing in the sections of the Doubs defined in article 1 are the subject of the Implementing Regulations annexed to this Agreement of which they are an integral part. The other provisions relating to fishing, the preservation of aquatic habitats and the protection of fishery resources which are not contained in the Regulations, including those concerning contraventions, shall be determined by each State's legislation and regulations governing the waters of its territory.

2. Without prejudice to the provisions of this Agreement, the Parties may, by an exchange of notes, after receiving notification from the Mixed Commission provided for in article 9, make any amendments which they may deem necessary in the Implementing Regulations referred to in paragraph 1.

Article 4

FISHING RIGHTS

1. Fishing in the sections of the Doubs defined in article 1 of this Agreement shall be prohibited without a fishing permit that is valid for the waters in question.

2. The issue of the permit and the conditions under which the right to fish may be exercised shall be subject to:

(a) The provisions of this Agreement and its Implementing Regulations;

(b) The respective legislation and regulations of each State governing the waters of its territory, provided that such provisions are not in conflict with the provisions of this Agreement.

3. A person who has been deprived of the right to fish in one State shall not be granted a fishing permit in the other State.

4. In the case of the French Doubs, the French Association holding a fishing permit shall pay directly to the Canton of Jura a fee, to be determined each year by the Mixed Commission and approved by the competent authorities, as compensation for fishery development and restocking activities and for monitoring by Swiss officials.

Article 5

PROTECTION OF THE FISH HABITAT

1. The fish habitat, in particular the areas which are especially important for fish reproduction and development, shall be protected from all harmful influences.

2. When work is carried out on the banks or in the bed of the Doubs, and when measures are taken to alter the streamflow regime or the quality of the water, the two Parties agree to make all necessary arrangements to ensure the protection of fish and their habitat.

Article 6

SUPERVISION OF FISHING

1. The competent authorities of each State shall indicate to the other State the categories of officials who shall be responsible for monitoring fishing and enforcing fishing regulations in the areas of the Doubs defined in article 1 of this Agreement.

2. Such officials shall perform their duties only in the territory of the State of which they are nationals. However, in cases of flagrant offences and in the areas of the Swiss Doubs and the French Doubs with respect to monitoring the possession of fishing permits, they may perform their duties and, in particular, draw up reports in the part of the Doubs belonging to the other State and on the bank of that State, which would be limited to the area required for fishing and for the passage of fishermen and supervisory officials. They may not, however, take any coercive measures or carry out seizures in the territory of the other State.

3. The officials may request the competent authorities of the neighbouring State to search for persons or to seize articles used in the commission of an offence, situated in the territory of that State, and fish caught illegally. Acts of assistance shall be carried out in conformity with the law of the State in whose territory they are executed.

4. Officials carrying out their duties in the territory of the other State must wear their insignia. They may wear their uniform and carry their service weapon. They may use their service weapon only in cases of self-defence.

Article 7

OFFENCES AGAINST OFFICIALS

1. Where, in conformity with the provisions of article 6, paragraph 2, of this Agreement, officials perform their duties in the territory of the other State, they shall enjoy the same protection and the same assistance as the officials of that State.

2. In cases of offences committed against officials of either State while they are on duty in the territory of the other State, the provisions of the Penal Code which deal with similar acts committed against officials of that other State who perform similar duties shall be applied.

Article 8

PROSECUTION OF OFFENCES

1. Each party shall prosecute persons residing in its territory who have allegedly infringed, in the territory of the other State, articles 4 and 7 of this Agreement or its Implementing Regulations, in the same manner and applying the laws as would have been applied if the offence had been committed in its territory.

2. Proceedings shall be instituted upon official transmittal of the report establishing the offence by the judicial authorities of the State where the offence has been committed to the judicial authorities of the State competent to take cognizance of the offence in accordance with paragraph 1 of this article.

3. However, no legal proceedings shall take place if the offender proves that the public right of action against him has been terminated definitively, or that he has been sentenced definitively in the other State for the same offence and, in the case of conviction, that he has served his entire sentence or that the sentence has lapsed or has been waived under a pardon or an amnesty applicable to the entire sentence or that part of the sentence not served.

4. The costs of proceedings shall not be reimbursed. The total amount of the fines and the proceeds received from sales shall remain the property of the State which pronounces sentence. The damages shall go to the injured party.

Article 9

MIXED COMMISSION

1. A Mixed Commission shall be established as soon as this Agreement enters into force.

2. Each Party shall appoint the members of its delegation, which shall be limited to three persons. The Commission shall establish its rules of procedure.

3. Experts may be appointed to form part of each delegation. Any member of a delegation may be replaced by an expert.

4. The Mixed Commission shall hold an annual meeting, alternately in French and Swiss territory. It may, additionally, meet at the request of either delegation within three months.

5. In particular, the Mixed Commission shall:

(a) Monitor the application of this Agreement and its Implementing Regulations;

(b) Ensure the flow of information between the Parties;

(c) Establish each year the amount and method of payment of the fee provided for in article 4, paragraph 4, of this Agreement;

(d) Prepare and submit to the two Contracting Parties proposals with a view to amending the Implementing Regulations in conformity with article 3, paragraph 2, of this Agreement;

(e) Facilitate relations between the authorities entrusted with the implementation of the provisions of this Agreement and its Implementing Regulations.

In addition, any difficulties arising from the application of this Agreement and its Implementing Regulations may be brought before the Mixed Commission, which may propose appropriate measures for resolving them.

Article 10

INFORMATION IN CASE OF EMERGENCY

In the event of pollution or a significant drop in water level in the sections of the Doubs defined in article 1 above and, more generally, in the event of occurrences likely to harm the aquatic habitat and fish population, the competent authorities of the two States shall inform each other as soon as possible of the measures which they adopt to protect the fish and their habitat.