

No. 17542

**SWITZERLAND
and
ITALY**

**Convention relating to the hydraulic development of the
Torrente Breggia on the Italian-Swiss border (with annex).
Signed at Berne on 23 June 1972**

Authentic text: Italian.

Registered by Switzerland on 15 February 1979.

**SUISSE
et
ITALIE**

**Convention relative à l'aménagement hydraulique du torrent
Breggia à la frontière italo-suisse (avec annexe).
Signée à Berne le 23 juin 1972**

Texte authentique : italien.

Enregistrée par la Suisse le 15 février 1979.

[TRANSLATION — TRADUCTION]

CONVENTION¹ BETWEEN SWITZERLAND AND ITALY RELATING
TO THE HYDRAULIC DEVELOPMENT OF THE TORRENTE
BREGGIA ON THE ITALIAN-SWISS BORDER

The Swiss Federal Council and the President of the Italian Republic,
Considering the need for undertaking the development of the hydraulic section
of the Torrente Breggia which constitutes the boundary between the Swiss Confederation
and the Italian Republic,

Have decided to conclude a convention and have appointed as their plenipotentiaries:

The Swiss Federal Council:

Pierre Graber, Federal Councillor, Head of the Federal Political Department;

The President of the Italian Republic:

His Excellency Adalberto Figarolo di Gropello, Ambassador of Italy to Switzerland;

who, having exchanged their full powers, found in good and due form, have agreed as follows:

Article 1. Approval is hereby given for the implementation of the project drafted on 5 August 1968 on the basis of the results of the tests performed on the hydraulic model designed by the Swiss National Highways Office of the Canton of Ticino and executed under the supervision of that Office and the Civil Engineering Office of Como for the works to be carried out on the Torrente Breggia respectively by the two States. Such approval replaces that provided for under the respective legislations of the two States.

Article 2. 1) With a view to preventing overlapping in the letting of contracts and in the direction and execution of the work, while remaining within the limits of the division of the respective responsibilities, it is agreed that in the implementation of the technical agreements entered into between the Chief Engineer of the Office of Civil Engineering of Como and the Head of the National Highways Office of the Canton of Ticino, according to procès-verbaux dated 12 December 1967 and 8 March 1968, which constitute an integral part of this Convention:

A) *By and at the expense of the Swiss Confederation*

The following works shall be executed:

1. Confluence works between Faloppia and Breggia, with prolongation of the right wall 5 metres beyond the terminal dike;
2. Left wall (Swiss bank) between the end of the said confluence work and the Pizzamiglio dike;

¹ Came into force on 5 October 1976 by the exchange of the instruments of ratification, which took place at Rome, in accordance with article 10.

3. Complete lining of the bottom, in conformity with the project, of the section between the confluence works and the Pizzamiglio dike, as well as all the earth-moving and foundation excavations for making the said lining;
4. Foundations, including excavations, of the wall and subsequent bank protectors on the right (Italian bank) as far as the Pizzamiglio dike and elevation thereof up to the highest level of the bottom lining;

B) *By and at the expense of the Italian Republic*

The following works shall be executed:

5. Right wall (Italian bank) starting from 5 metres from the dike of the confluence structure (Faloppia-Breggia) and subsequent bank protector up to the Pizzamiglio dike, limited to the elevated part, measured from the highest level of the bottom lining to the top of the structures, in accordance with the project drawings, to be executed as standards, immediately after the execution of the related foundations on the Swiss side;
6. Drainage and backfilling behind the right walls and the bank works downstream from those referred to in subparagraph 5;
7. All the development works on the right and left downstream from the Pizzamiglio dike provided for in the project.

2) The works shall be completed within two years of the entry into force of this Convention.

Article 3. 1) The two Governments agree to recognize the public-utility nature of the works referred to in this article.

The competent authorities of the two States shall consequently, each for its own territory, provide, if necessary, for the acts of expropriation of the lands required for the execution and maintenance of the works, as well as of any rights that may be opposed thereto.

2) Areas in the public domain may be occupied and used free of charge to the extent necessary for the execution and maintenance of the works.

Article 4. The two Governments agree to facilitate the execution of the work, in particular by granting the following facilities:

- (a) The respective managements of the works assured of the support of the competent administrative authorities of the two countries;
- (b) Persons assigned to the work shall be able to circulate freely on the Swiss and Italian banks during the execution of the development works, provided, however, that they shall remain subject to the requisite police and customs regulations;
- (c) The two Governments agree to grant exemption from customs duties, taxes and import and export licences for materials originating in and coming from the domestic free trade of the two States and intended for the execution of the works, from the beginning of the work provided for under the technical agreements referred to in article 2, subject to the obligation of declaration, from time to time, to the competent customs.

Article 5. 1) The cost of the work specified in article 2, section A, provisionally estimated at 2 233 000 Swiss francs, shall be borne fully by Switzerland.

2) The cost of the work specified in the said article, section B, provisionally estimated at 152 000 000 lire, shall be borne fully by Italy.

Article 6. During the execution of the work, in the event that variations or modifications of the approved project should become necessary, they must be previously agreed upon between the Chief Engineer of the Office of Civil Engineering of Como and the Head of the Swiss National Highways Office of the Canton of Ticino and approved by the respective competent authorities, namely, for Switzerland, by the Federal Office of Roads and Dikes, and for Italy, by the Magistracy of the Po, with main office in Parma.

Article 7. 1) The inspection of the work upon completion shall be jointly entrusted — with a waiver, if necessary, of the respective legislations of the two States — exclusively to two technicians, one designated by the Swiss National Highways Office of the Canton of Ticino and the other by the Magistrate for the Po, with main office in Parma.

2) The certificate of inspection shall be approved exclusively by the aforementioned authorities of the two States.

Article 8. The maintenance expenses for the works executed shall be borne by the respective States, each as relates to the part located within its own territory.

Article 9. 1) The two Governments agree to adopt the appropriate measures for maintaining the normal flow of the Torrente Breggia, taking the appropriate steps for remedying any disruptions that may occur.

2) Each Government shall provide, within its own territory, for the adoption of the necessary measures to prevent the normal flow of the Torrente Breggia from being hindered and impeded and the bank belonging to the other State from being damaged as a consequence of the construction and modification of artificial works such as roads, bridges, buildings, hydraulic works, etc.

Article 10. This Convention shall be ratified and the instruments of ratification shall be exchanged in Rome.

It shall enter into force on the day on which the instruments of ratification are exchanged.

IN WITNESS WHEREOF, the plenipotentiaries of the two States have signed this Convention.

DONE at Berne, on 23 June 1972, in two original copies in the Italian language.

For the Swiss Confederation:

GRABER

For the Italian Republic:

A. FIGAROLO DI GROPELLO

A N N E X

Como, 12 December 1967

MINISTRY OF PUBLIC WORKS

Office of Civil Engineering
COMODEPARTMENT OF PUBLIC WORKS
CANTON OF TICINONational Highways Office
BELLINZONA

INTERNATIONAL BREGGIA DEVELOPMENT

WHEREAS:

— As early as 1960 the technical organs of the Swiss Confederation pointed out to the Office of Civil Engineering of Como the desirability of carrying out radical development works on the hydraulic section of the Torrente Breggia, which constitutes the boundary between the Italian Republic and the Swiss Confederation in the areas of Brogeda/Pizzamiglio/Maslianico in the communes of Como, Maslianico (Italy), Chiasso and Vacallo (Switzerland);

— Following repeated contacts between the Office of Civil Engineering of Como and the National Highways Office of Bellinzona, both interested in the proposed development in connection with the opening of the new Valico di Brogeda, this development was found to be an absolute necessity;

— In this connection it was agreed between the Swiss National Highways Office and the Office of Civil Engineering of Como that the compilation of an appropriate project for defining the particulars of the development should be undertaken;

— For a thorough study of the question a suitable hydraulic model was constructed by the National Highways Office at the OFIMA experimental station in Brissago (Canton of Ticino), on which, under the supervision of the two Offices, hydraulic tests were carried out for the purpose of determining more accurately the shape and make-up of the bed of the said watercourse and of its banks;

— These tests showed the need to undertake the following works:

- A) Building of a confluence and control structure for the Torrente Breggia and Torrente Faloppia at the end of their respective river courses;
- B) Construction of a new wall on the left bank (Switzerland), along a line determined as a result of the above-mentioned tests done on the model from the said confluence to the existing Pizzamiglio dike;
- C) Construction of a quay wall on the right (Italy) for a distance of approximately 120 metres and of a bank protector in the subsequent section as far as the said Pizzamiglio dike;
- D) Excavating in the river bed for the purpose of making the bottom profile of the bed and lining of the bottom from the end of the Breggia-Faloppia confluence works to the Pizzamiglio dike, to be done by means of a double carpet/dry stone riprap;
- E) Development and consolidation works downstream from the existing Pizzamiglio dike according to the needs of the two countries with the construction of bank works and two ground sills, and also with the necessary terminal connecting works of the hydraulic section beyond the ground sill further downstream for a distance of 100 linear metres.

HAVING NOTED:

— That on the Swiss side the following requests from the Civil Engineering Office of Como have been received, as preliminaries to the examination of the proposed site and pertaining in particular to:

1. The planning of the works described from point A) to point E), taking into account the following basic data:
 - Flood discharge 350 cubic metres/second;
 - Constant bottom level in the area of the Pizzamiglio embankment;
 - Elimination of the largest solid alluvia already found to exist during the past few years downstream from the Pizzamiglio dike;
2. The construction of a material-retaining pocket on the Torrente Breggia in the Ghitello area, at the exit of the stream from the mountain gorge, for a total cubic capacity of approximately 50,000 cubic metres and a useful capacity of approximately 17,000 cubic metres;
3. The construction of other retaining pockets on the basin of the Torrente Faloppia, at the points where its tributaries (Riali del Penz, Torrente Raggio, Torrenti di Novazzano) enter, for a further useful cubic capacity of 2,600 cubic metres.
4. The commitment to study jointly further works on the Torrente Faloppia designed to prevent possible conveyance of solids downstream.
 - That following the drafting of the preliminary project and the acceptance on the part of the Swiss of the requests formulated by the Civil Engineering Office of Como, a plan of allocation of responsibilities based on the actual work requirements in the territories of the two States must be prepared, subject to the approval of the higher organs of the two States;

The undersigned,

Carlo Del Pecchia, Chief Engineer of the Office of Civil Engineering of Como,

Renato Colombi, Head of the Swiss National Highways Office in Bellinzona,

Meeting in Brissago on 12/12/1967,

CONSIDERING:

- That the confluence works and the left wall as far as the Pizzamiglio dike constitute a part of the project of interest exclusively to the Swiss, just as the right wall as far as the said dike constitutes a part of the project of interest exclusively to the Italians, inasmuch as they tend to impart a definitive configuration to the watercourse, both to the works existing and situated above, and to those currently being carried out in the territories of the two States;
- That the bottom lining constitutes a work that is chiefly of interest to the Swiss, inasmuch as it is for the protection not only of the quay walls, but also of the confluence works;
- That the execution of the works downstream from the Pizzamiglio dike concerns both States, due to their embankment-protecting function, and, primarily, the Italian Republic, owing to their material-retaining function.

Now, therefore, the undersigned, for the reasons above stated, and subject to the approval of the competent organs of the two States and the provision of the related financing, agree as follows:

- 1) The confluence works referred to under A) and the wall referred to under B) shall be constructed at the expense of the Swiss Confederation.
- 2) The wall referred to under C) shall be built at the expense of the Italian State.
- 3) The bottom lining referred to under D) shall be constructed with $\frac{2}{3}$ (two thirds) of the expense being borne by the Swiss Confederation and $\frac{1}{3}$ (one third) being borne by the Italian State.
- 4) The excavation in the bed of the section to be lined shall be executed with one half of the expense being borne by the Swiss Confederation and one half being borne by the Italian State.
- 5) The development works referred to under E) up to and including the second ground-stabilizing sill to be constructed downstream from the present iron bridge on the road to

Maslianico shall be built with $\frac{1}{3}$ (one third) of the expense being borne by the Swiss Confederation and $\frac{2}{3}$ (two thirds) being borne by the Italian State.

Having been drafted, read and confirmed, this procès-verbal is signed by the parties present.

C. DEL PECCHIA
Chief Engineer of the Civil Engineering
Office of Como

RENATO COLOMBI
Head of the Swiss National Highways
Office of the Canton of Ticino

A N N E X

MINISTRY OF PUBLIC WORKS

Office of Civil Engineering
COMO

DEPARTMENT OF PUBLIC WORKS
OF THE CANTON OF TICINO

National Highways Office
BELLINZONA

INTERNATIONAL BREGGIA DEVELOPMENT

WHEREAS:

— At a special meeting held in Brissago on 12 December 1967, referred to in the foregoing procès-verbal of the same date, the undersigned:

Carlo Del Pecchia, Chief Engineer of the Office of Civil Engineering of Como;

Renato Colombi, Head of the Swiss National Highways Office in Bellinzona,

Established, subject to the approval of the higher organs of the two States, a plan of allocation of responsibilities based on the actual work requirements in the territories of the two States, for the development works on the Torrente Breggia, in the section constituting the boundary between the Italian Republic and the Swiss Confederation, in the Brogeda/Pizzamiglio/Maslianico area;

— The working project for such works has now been drawn up by Mario Malfanti of Chiasso, in co-operation with the Office of Civil Engineering of Como and the National Highways Office of Bellinzona, in keeping with the general directives established at the previous meeting of 12 December 1967 and on the basis of the findings of the model prepared in the locality of Brissago, Switzerland;

— For the practical execution of the work it is necessary to divide up the works to be executed directly by the two States, so as to prevent overlapping in the letting of contracts and in execution, while remaining within the limits of the divisions of responsibilities agreed upon at the previous meeting;

NOW THEREFORE:

On this day, following a lengthy and exhaustive discussion, the undersigned:

Carlo Del Pecchia, Chief Engineer of the Office of Civil Engineering of Como;

Renato Colombi, Head of the Swiss National Highways Office in Bellinzona,

Subject to the approval of the competent organs of the two States and the provision of the related financing, agree upon the following division of works, to be executed by and at the expense:

A) *Of the Swiss Confederation*

1. Confluence work between Faloppia and Breggia, with prolongation of the right wall 5 metres beyond the terminal dike;

2. Left wall (Swiss bank) between the end of the said confluence work and the Pizzamiglio dike;
3. Complete lining of the bottom, in conformity with the project, of the section between the confluence works and the Pizzamiglio dike, as well as all the earth-moving and foundation excavations necessary for making the said lining;
4. Foundations, including excavations, of the wall and subsequent bank protectors on the right (Italian bank), as far as the Pizzamiglio dike and elevation thereof up to the highest level of the bottom lining;

B) Of the Italian Republic

5. Right wall (Italian bank) starting from 5 metres from the dike of the Faloppia/Breggia confluence structure and subsequent bank protector up to the Pizzamiglio dike, limited to the elevated part, measured from the highest level of the bottom lining to the top of the structures, in accordance with the project drawings, to be executed as standards immediately after the execution of the related foundations on the part of the Swiss;
6. Drainage and backfilling behind the walls on the right and the bank works downstream from those referred to in 5 above;
7. All the development works on the right and left downstream from the Pizzamiglio dike which are provided for in the project.

In the event that the higher organs of the two States should agree to the above distribution programme, approving the related project, it will be possible, following such approval, for the work to be started by the two Offices, with an agreement, in particular, on the necessary details of execution.

Drafted, read and signed by the parties present.

Como, 8 March 1968.

C. DEL PECCHIA

Chief Engineer of the Civil Engineering
Office of Como

RENATO COLOMBI

Head of the Swiss National Highways
Office of the Canton of Ticino