

No. 30279

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**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.*

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**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]

AGREEMENT<sup>1</sup> 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,<sup>2</sup>

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.

<sup>1</sup> 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.

<sup>2</sup> 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 same 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.

*Article 11*

## RESTOCKING MEASURES

The competent authorities of the two States shall operate, ensure the operation, or jointly authorize the operation of, incubation and breeding establishments and shall organize the capture of fish required for breeding.

*Article 12*

## RESEARCH

The two States shall encourage applied research in the fields of hydrobiology and fishing, in particular the study of natural aquatic habitats, fish diseases and their prevention, fishing economy and the development of fish breeding in the waters.

*Article 13*

## COMMUNICATIONS BETWEEN AUTHORITIES

Each Party shall appoint the competent authorities for the implementation of this Agreement and its Implementing Regulations, and shall transmit the list of such authorities to the other Party. The authorities shall communicate directly between themselves and in the shortest possible time:

- (a) The list of names of the officials responsible for monitoring fishing;
- (b) The boundaries of the protected areas;
- (c) Statistics on catches and introduction of fish into the waters;
- (d) The derogations permitted under article 8 of the Implementing Regulations;
- (e) The programmes and results of scientific studies.

*Article 14*

## ABROGATION

This Agreement replaces and abrogates the exchange of notes between France and Switzerland of 5 February and 15 June 1948 concerning fishing in the waters of the Doubs constituting a frontier between France and Switzerland.

*Article 15*

## ARBITRATION CLAUSE

Any disputes between the Parties concerning the interpretation or application of this Agreement which cannot be settled through negotiation shall, unless the Parties arrange otherwise, be submitted at the request of either Party to arbitration as laid down in the annex to this Agreement.

*Article 16*

## REVISION

This Agreement may be revised at the request of either Party. The two Parties shall consult each other about any amendments to the provisions of this Agreement.

*Article 17*

## TERM OF THE AGREEMENT

This Agreement is concluded for an initial period of five years with effect from the date of its entry into force. If notice of termination is not given by one of the Parties six months before the date of expiry of that initial period, it shall be renewed by tacit agreement for a period of two years, which shall itself be renewable under the same conditions.

*Article 18*

## ENTRY INTO FORCE

Each Party shall notify the other of the completion of the procedures required under its Constitution for the entry into force of this Agreement, which shall take effect on the first day of the second month following the date of receipt of the last of such notifications.

IN WITNESS WHEREOF, the representatives of the two Governments, being duly authorized for this purpose, have signed this Agreement and have thereto affixed their seals.

DONE at Paris on 29 July 1991 in duplicate in the French language.

For the Government  
of the French Republic:

HENRI VIGNAL

For the Swiss Federal  
Council:

CHRISTIAN DUNANT

## ANNEX RELATING TO ARBITRATION

1. Unless the parties to the dispute arrange otherwise, the arbitration procedure shall be conducted in accordance with the provisions of this annex.

2. The arbitration tribunal shall consist of three members. Each party to the dispute shall appoint one arbitrator. The two arbitrators so appointed shall nominate by mutual agreement the third arbitrator, who shall act as the presiding arbitrator of the tribunal.

If, at the end of two months after the appointment of the second arbitrator, the presiding arbitrator has not been nominated, the President of the European Court of Human Rights shall proceed to nominate him in response to the first request received from one of the parties.

3. If, within a period of two months from the receipt of the request, either party to the dispute has not nominated one member of the tribunal as required, the other party may bring the matter before the President of the European Court of Human Rights, who shall nominate the presiding arbitrator within a further period of two months. As soon as he is nominated, the presiding arbitrator shall request the party that has not appointed an arbitrator to do so within two months. After the expiry of this period, he shall refer the matter to the President of the European Court of Human Rights, who shall make the appointment within a further period of two months.

4. If, in the cases mentioned in the preceding paragraphs, the President of the European Court of Human Rights is incapacitated or if he is a national of one of the parties to the dispute, it shall be for the Vice-President of the Court or the most senior member of the Court who is not incapacitated and who is not a national of either party to the dispute to nominate the presiding arbitrator or to appoint the arbitrator.

5. The preceding provisions shall apply, according to the circumstances, for the purpose of filling vacancies.

6. The arbitration tribunal shall reach its decisions according to the rules of international law and, in particular, of this Agreement.

7. The arbitration tribunal shall adopt its decisions, in respect of both procedure and substance, by the majority vote of its members; the absence or abstention of one member of the tribunal nominated by the parties shall not prevent the tribunal from ruling. Where the votes are equally divided, the vote of the presiding arbitrator shall prevail. The decisions of the tribunal shall be binding on the parties. The parties shall bear the costs of the arbitrator nominated by them and shall share the other costs equally. On other matters, the tribunal shall determine its own rules of procedure.



IMPLEMENTING REGULATIONS OF THE AGREEMENT BETWEEN THE  
GOVERNMENT OF THE FRENCH REPUBLIC AND THE SWISS FED-  
ERAL COUNCIL CONCERNING THE PRACTICE OF FISHING IN THE  
PART OF THE DOUBS CONSTITUTING A FRONTIER BETWEEN  
FRANCE AND SWITZERLAND

The Government of the French Republic and the Swiss Federal Council, having regard to article 3 of the Agreement, have agreed as follows:

*Article 1*

CLASSIFICATION OF THE WATER OF THE DOUBS CONSTITUTING A FRONTIER  
BETWEEN FRANCE AND SWITZERLAND

1. The waters of the Doubs constituting a frontier are divided into two categories:

(a) The first category comprises waters stocked mainly with *Salmonidae* and waters where it appears desirable to provide special protection. Such waters are said to be first category.

(b) The second category comprises all waters not included in the first category. Such waters are said to be second category.

2. In the Franco-Swiss Doubs:

(a) The following waters shall be deemed to be second category:

- Lake Brenets from Villers-le-Lac to the floating dam situated upstream from the Doubs Falls; the boundary upstream is delimited by two boundary posts placed on the two banks of the Doubs by the French authorities;
- The Moron dam, from a point situated 500 metres downstream from the Doubs Falls to the Chatelot dam; the upstream point is delimited by two boundary posts placed on the two banks of the Doubs by the French and Swiss authorities;
- The section from the place known as “Les Poteaux” and the top of the upstream Rasse dam;
- The section from a point 250 metres downstream from the lower Rasse dam and boundary marker 606 (Biaufond).

(b) All the waters not mentioned in paragraph (a) above shall be deemed to be first category.

3. In the French Doubs:

(a) The following waters shall be deemed to be second category:

- The Refrain reservoir from boundary marker 606 to the Refrain dam;
- La Goule reservoir from the old dam of La Bouège to La Goule dam.

(b) All the waters not mentioned in subparagraph (a) above shall be deemed to be second category.

4. The waters of the Swiss Doubs shall be classified as first category.

## *Article 2*

### PROTECTED AREAS

1. The competent authorities shall define the protected areas in which:
  - (a) Fishing is prohibited during all or part of the year;
  - (b) Only dry-fly-fishing is authorized;
  - (c) The fish habitat, in particular the areas which are especially important for fish reproduction and development, shall be protected from all harmful influences.
2. The authorities shall inform each other as soon as possible of the location of the protected areas thus defined.

## *Article 3*

### PROHIBITED FISHING GEAR AND METHODS

1. It is prohibited to fish by hand, muddying the water or groping under roots and in other retreats frequented by fish. In addition, the following means shall not be used for fishing:

- (a) Any net or hoop net;
- (b) Carafes or bottles with minnows;
- (c) Chub as bait;
- (d) Minnows introduced under stones and weeds as bait: jigging.

It is also forbidden to use lines equipped with more than two hooks and, in first-category waters, to set hooks above the sinker or the submerged ballast.

2. In addition, fishing gear and methods shall be regulated as follows:

<i>Fishing methods and gear</i>	<i>First category waters</i>	<i>Second category waters</i>
Line fishing	Maximum of one line per fisherman permitted from the last Saturday of February to 30 September	Maximum of two lines per fisherman permitted
Troll fishing	Prohibited	Maximum of two lines per vessel permitted from 16 June to the Friday preceding the last Saturday of February
Fishing boats	Prohibited	Maximum of two lines per fisherman permitted
Bundles or dry reeds or trimmers	Prohibited	Maximum of two lines per fisherman permitted from 16 June to the Friday pre-eding the last Saturday of February only in lake of Brenets

<i>Fishing methods and gear</i>	<i>First category waters</i>	<i>Second category waters</i>
Bait The following natural or artificial bait: — Gentles, worms cultivated in liquid manure or yellow mealworms, fish eggs — Larvae not living in water, cheese and all milk products	Prohibited	Permitted, with the exception of fish eggs
Fishing by wading in the water	Permitted from 1 June to 30 September	Permitted from 16 June to 14 April

From the last Saturday of February to 15 June, fishing with live bait, dead fish, spoon-bait, minnows, any metal lures and other artificial bait (with the exception of fly bait) shall be prohibited in second-category waters.

The dates indicated above shall always be included in the periods authorized.

3. The provisions of article 3, paragraphs 1 (b), 1 (c) and 1 (d) and those concerning bait, with the exception of fish eggs, shall not be applicable to the Franco-Swiss Doubts.

#### *Article 4*

##### MINIMUM SIZE OF FISH

1. The size of fish is measured from the tip of the nose to the end of the normally extended tail fin, the size of crayfish from the tip of the head, not including pincers and antennae, to the end of the extended tail.

2. The fish below shall not be caught unless they have attained the following minimum size:

- |   |       |
|---|-------|
| (a) Trout                                 | 25 cm |
| (b) Grayling                              | 30 cm |
| (c) Pike (only in second-category waters) | 45 cm |
| (d) Crayfish other than American crayfish | 11 cm |

3. Any fish, dead or alive, caught before attaining the minimum size indicated above shall be immediately and carefully returned to the water. Where it is impossible to release the fish without mutilating it, the lower portion of the line shall be cut.

#### *Article 5*

##### FISH PROTECTION PERIODS

1. Fishing for all species of fish and crayfish shall be prohibited from 2 October to the Friday preceding the last Saturday of February in first-category waters.

2. Fishing of the various species of fish shall be prohibited during the following periods:

<i>Species</i>	<i>First-category waters</i>	<i>Second-category waters</i>
Trout	From 1 October to the Friday preceding the last Saturday of February	From 1 October to the Friday preceding the last Saturday of February
Grayling	From 1 October to 31 May	From Last Saturday of February to 15 June
Pike	From 1 October to the Friday preceding the last Saturday of February	From the last Saturday of February to 15 June
“Roi-du-Doubs” or rock pickerel	All year round	All year round
Crayfish other than American crayfish	From 1 October to 13 July	From 16 October to 13 July

3. The dates indicated in paragraphs 1 and 2 shall be included in the periods of prohibition.

4. Any fish, dead or alive, caught accidentally during the protection period in question shall be immediately and carefully returned to the water. Where it is impossible to release the fish without mutilating it, the lower portion of the line shall be cut.

### *Article 6*

#### LIMITATIONS ON THE TAKING OF FISH

1. Each fisherman may take no more than six *Salmonidae* (trout and grayling) per day. Any taking of *Salmonidae* shall be recorded in a register of catch.

2. The taking of minnows other than for personal and non-commercial use shall be prohibited. The maximum catch shall be set at 30 minnows per fisherman and per day.

### *Article 7*

#### FISHING HOURS

Fishing shall be permitted during the following hours:

<i>Month</i>	<i>Starting time</i>	<i>Ending time</i>
January	8 a.m.	5 p.m.
February	7:30 a.m.	6 p.m.
March	7 a.m.	7:30 p.m.
April	6 a.m.	8 p.m.
May	5 a.m.	9 p.m.
June	4 a.m.	9:30 p.m.
July	4 a.m.	9:30 p.m.
August	5 a.m.	9 p.m.
September	6 a.m.	8 p.m.
October	7 a.m.	7 p.m.
November	7 a.m.	5:30 p.m.
December	8 a.m.	5 p.m.

During the period in which summer time is in force, one hour must be added to the hours set out in the above table.

*Article 8*

DEROGATIONS

1. By way of exception, the competent authorities may, in respect of the Franco-Swiss Doubs, authorize by mutual agreement the taking of fish for breeding purposes during protection periods.

2. By way of exception, the competent authorities of the two States may, for a limited time, waive or authorize waivers, under their supervision, to articles 2, 3, 4, 5, 6 and 7 of these Regulations:

(a) In order to take any measures which may be necessary for biological or ecological reasons;

(b) For purposes of scientific study.

DONE at Paris on 29 July 1991 in duplicate in the French language.

For the Government  
of the French Republic:

HENRI VIGNAL

For the Swiss Federal  
Council:

CHRISTIAN DUNANT

## DECLARATION OF THE SIGNATORIES

At the time of the signing of the Agreement 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 representatives of the two Governments took note that the administrative arrangement known as the “Neuchâtel Agreement of 4 December 1957”, which was concluded between the fishing services of Switzerland and France concerning fishing in the waters adjoining the Doubs, becomes irrelevant with the conclusion today of the new international agreement between the two countries, and especially its Implementing Regulations.

Consequently, they have declared, each Party on its own account, that they have instructed the authorities responsible for fishing within their respective Governments to ensure the joint abrogation of the arrangement known as the Neuchâtel Agreement, which shall explicitly take effect on the date of the entry into force of the Agreement concluded today between the Government of the French Republic and the Swiss Federal Council.

For the Government  
of the French Republic:

HENRI VIGNAL

For the Swiss Federal  
Council:

CHRISTIAN DUNANT

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