

## France

### **The proliferation of weapons of mass destruction is a major threat**

France considers that the proliferation of weapons of mass destruction and their means of delivery is "one of the most serious threats of our time".

Furthermore, the document entitled "European Security Strategy", adopted by the Heads of State and Government meeting at the European Council in Brussels on 12 December 2003, lists the threats facing Europe and emphasizes that "proliferation of weapons of mass destruction is potentially the greatest threat to our security".

Accordingly, France endeavours, through its action in the various areas of proliferation, to bring together the members of the international community around common principles and objectives in order to confront this threat in a determined and effective manner.

### **Biological non-proliferation**

As early as 1972, France acknowledged the importance of the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction by adopting domestic legislation containing provisions analogous to the obligations set forth in the Convention.

It acceded to the Convention in 1984 and has since worked unremittingly to strengthen it and improve its implementation.

France also emphasizes the need for the universalization of the Convention and the continuation of efforts to combat the proliferation of biological weapons, on the understanding that such efforts should not impede the transfer of knowledge for peaceful purposes.

### **France is an active member of the various export control regimes for sensitive materials, equipment and technologies**

France is a member of the groups of suppliers seeking better control of exports of sensitive materials and technologies, namely the Nuclear Suppliers Group (NSG), the Australia Group, the Zangger Committee, the Wassenaar Arrangement and the Missile Technology Control Regime (MTCR).

Some of these groups (MTCR, NSG, the Australia Group and the Wassenaar Arrangement) have developed a "terrorism clause" which is designed to ensure more effective prevention of the acquisition by non-State groups of weapons of mass destruction, their means of delivery or technologies and materials that could be used to develop them.

In particular, France is the contact point (secretariat) of the MTCR and at least once a year organizes a meeting of the delegations of the Member States. It is working in particular to ensure, through cooperation among non-Member States, that the MTCR is better placed to act against the proliferation of ballistic missiles currently taking place outside the regime.

### **Measures taken by France in implementation of resolution**

#### **1540 (2004)**

#### **Text of resolution 1540 (2004):**

#### **The Security Council, (...)**

*1. Decides that all States shall refrain from providing any form of support to non-State actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery;*

France is firmly committed to the fight against the proliferation of nuclear, chemical and biological weapons and their means of delivery and more generally to the promotion of international peace and security. Accordingly, it could not under any circumstances provide any kind of support to non-State actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use such weapons.

Any such action is punishable under French law in accordance with the modalities described in this report.

*2. Decides also that all States, in accordance with their national procedures, shall adopt and enforce appropriate effective laws which prohibit any non-State actor to manufacture, acquire, possess, develop, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery, in particular for terrorist purposes, as well as attempts to engage in any of the foregoing activities, participate in them as an accomplice, assist or finance them;*

In the case of the non-proliferation of biological weapons, Act No. 72-467 prohibiting the development, production, possession, stockpiling, acquisition and transfer of biological or toxin-based weapons prohibits the foregoing activities in connection with biological weapons or agents which might be used in their manufacture.

It also prohibits inciting any State, enterprise, organization, group or person to engage in these activities or assisting it in doing so. This Act is supplemented by the Order of 22 September 2001 (as amended on 15 January 2004 and 30 July 2004) on the manufacture, import, export, possession, transfer free of charge or in return for payment, acquisition and transport of certain biological agents which cause infectious diseases, pathogenic micro-organisms and toxins.

Act No. 2004-204 of 9 March 2004 bringing the justice system into line with developments in criminal matters increases the penalties for certain offences relating to biological weapons covered by the 1972 Act, in particular when such offences are committed by organized gangs. It also creates a new offence, the dissemination of processes for the manufacture of destructive devices from explosive powders or substances or from nuclear, biological or chemical materials

*Decides also that all States shall take and enforce effective measures to establish domestic controls to prevent the proliferation of nuclear, chemical or biological weapons and their means of delivery, including by establishing appropriate controls over related materials and to this end shall:*

*(a) Develop and maintain appropriate effective measures to account for and secure such items in production, use, storage or transport;*

The Order of 22 September 2001 (as amended on 15 January and 30 July 2004) on the manufacture, import, export, possession, transfer free of charge or in return for payment, acquisition and transport of certain biological agents which cause infectious diseases, pathogenic micro-organisms and toxins imposes the requirement of a specific authorization from the French Agency for the Safety of **15S/AC.44/2004/(02)/58**

Health Products in respect of each activity of this kind. These authorizations are subject to monitoring by the Directorate-General for Customs and Indirect Taxation.

All acquisition and transfer transactions are recorded in a special register numbered and initialed by the local mayor or police commissioner. The recipients are required to submit an annual statement of movements of the substances held.

*(b) Develop and maintain appropriate effective physical protection measures;*

The physical protection of installations presenting a risk of proliferation is governed in France by Ordinance No. 58-1371 of 29 December 1958 on the strengthening of the protection of vitally important installations. All French nuclear installations, as well as a number of industrial (chemical and biological) sites presenting such a risk, are classified as installations of vital importance to the Nation. The law requires the owners of such installations to contribute financially to their physical protection.

Operators are thus under an obligation to provide effective protection of their installations in order to prevent any malicious act or act of sabotage which might affect the operation of the site and/or public safety. The measures taken in this respect supplement those taken by the governmental authorities for the protection and monitoring of nuclear material.

The protection of the installations depends on close collaboration between the operators and the governmental authorities. This collaboration entails the assignment of responsibilities to installation managers, who are required to establish:

- A security management policy;
- A system of physical and human protection (detection fence preventing/delaying intruder access) based on the principle of in-depth defence (detection, delay, intervention);
- The surveillance of personnel working at or having access to the site (administrative inquiries, authorizations, etc.).

In addition to publishing the regulations specifying the security requirements for sensitive sites and the threats, the governmental authorities ensure the protection and external defence of the installations, including defence against attack from the air, and make provision for intervention by the forces of law and order when necessary.

Installations other than nuclear installations are governed by specific regulations deriving from European Directive No. 96/82/EC of 9 December 1996 (SEVESO 2). This directive applies to more than 1,200 establishments in France, mainly in the petroleum and chemical sectors. It is applied in French law through Act No. 76-663 on classified installations, its enabling decree of 21 September 1977 and a ministerial order of 10 May 2000.

This legislation imposes on the operator the duty of assessing all the risk factors with regard to accidents and attacks, including the risk of malicious acts. The operator maintains an inventory of all the hazardous substances held in his establishment and keeps the local prefect informed on this matter. He must also prevent any risk of intrusion by taking ad hoc security measures (fences around buildings, securing of warehouse doors, access-control systems, and even round-the-clock guards with video surveillance). The installation of such facilities at SEVESO sites is supervised by the regional directorates for industry, research and the environment of the Ministry of Economic Affairs, Finance and Industry.

*Develop and maintain appropriate effective border controls and law enforcement efforts to detect, deter, prevent and combat, including through international cooperation when necessary, the illicit trafficking and brokering in such items in accordance with their national legal authorities and legislation and consistent with international law;*

France's civilian and military security organs have been mandated, as their permanent priority mission, to prevent, detect and combat illicit trafficking in and unauthorized brokering of the items in question. Accordingly, France has set up an Expert Criminal Investigation Department to Suppress Trafficking in Arms,

Explosives and Sensitive Materials, which is mandated to conduct investigations to eliminate illicit trafficking in the nuclear, radiological, biological and chemical fields.

**17S/AC.44/2004/(02)/58**

*Establish, develop, review and maintain appropriate effective national export and trans-shipment controls over such items, including appropriate laws and regulations to control export, transit, trans-shipment and re-export and controls on providing funds and services related to such export and transshipment such as financing, and transporting that would contribute to proliferation, as well as establishing end-user controls; and establishing and enforcing appropriate criminal or civil penalties for violations of such export control laws and regulations;*

There are two sets of regulations establishing controls on nuclear, chemical and biological products and their means of delivery.

Items not specifically covered by the war materiel regime come under the regulations on dual-use goods. These regulations apply to nuclear, biological and chemical products and category II products under the MTCR.

The European regime for the control of dual-use goods has been supplemented in France by an inter-ministerial control arrangement, involving the General Secretariat for National Defence and the Ministries of Economic Affairs, Finance and Industry, Foreign Affairs, Defence and the Interior. With respect to biological weaponry, this arrangement is based specifically on the following national law:

**Act No. 72-467 of 9 June 1972 prohibiting the development, production, possession, stockpiling, acquisition and transfer of biological or toxin-based weapons; supplemented by the order of 22 September 2001 (amended on 15 January and 30 July 2004) concerning the manufacture, import, export, possession, transfer free of charge or in return for payment, acquisition and transport of certain biological agents which cause infectious diseases, pathogenic micro-organisms and toxins.**

The enforcement in France of the regulations governing dual-use items and technologies is also the responsibility of the Directorate-General for Customs and Indirect Taxation as part of its duties to monitor compliance with prohibitions.

Dual use items and technologies are goods the export of which is in fact prohibited under article 38 of the Customs Code.

Articles 60 to 65 of the Customs Code empower customs officials to investigate violations.

Articles 414 to 429 of the Code define violations of the regulations and establish penalties for contraband activities and the illegal export or import of nuclear, chemical or biological weapons and their means of delivery.

The French arrangement for the control of exports of dual-use items was evaluated by other States members of the European Union as part of a peer review during the first half of 2004. The evaluation was done in accordance with the guidelines established in the Action Plan adopted at Thessaloniki, and, in particular, the European Union Strategy against the Proliferation of Weapons of Mass Destruction. The Commission should be issuing its follow-up recommendations for all member States by the end of the year.

With regard to action to stop the financing of such activities, France has set up a financial information unit within the Ministry of Economic Affairs, Finance and Industry, with the Office of the Director-General for Customs and Indirect Taxation acting as its secretariat. This unit (TRACFIN) is a centre for the collection of data on clandestine financial networks and a service with expertise

in combating money laundering. As such, TRACFIN receives and builds upon the information in the declarations of suspicion submitted by financial bodies (banks, public financial institutions, person-to-person currency exchange bureaus, insurance and reinsurance

**20S/AC.44/2004/(02)/58**

Companies, investment firms and mutual associations) and the information conveyed by many persons working in fields other than finance (accountants, auditors, process servers, court administrators and agents, lawyers, notaries, court auctioneers, real estate agents, casino managers, auctioneers and dealers handling items of great value, clubs and groups organizing games of chance, forecasters and the like).

TRACFIN has been given specific powers to enable it to perform its task: broad authority to communicate with all persons engaged in occupations requiring them to submit declarations of suspicion, authority to put a 12-hour stay on the execution of a registered transaction, and authority to exchange information with the criminal investigation officers of the Central Office for the Suppression of Serious Financial Crimes, the customs services and the authorities monitoring activities in some of the occupations requiring the submission of declarations of suspicion.

In the context of bilateral cooperation, TRACFIN is authorized to communicate and exchange information with foreign units exercising similar functions and subject to the same professional secrecy obligations, on conditions of reciprocity. TRACFIN has increased its cooperation with such foreign financial information units, and has to date signed 25 bilateral agreements with some of them.

If a review by its financial experts confirms that an initial suspicion must be regarded as a presumption of money-laundering, TRACFIN then brings the facts to the attention of the public prosecutor who has jurisdiction.

Customs officers, for their part, are responsible for monitoring compliance by individuals who are required to declare, at the time of import or export, any transfers of sums, securities or assets worth €7,600 or more. The detection by customs officers of any failure to comply with that requirement can also lead to the discovery of money-laundering operations

*8. Calls upon all States:*

*(a) To promote the universal adoption and full implementation, and, where necessary, strengthening of multilateral treaties to which they are parties, whose aim is to prevent the proliferation of nuclear, biological or chemical weapons;*

France is working towards the strengthening of the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction, and is fully committed to the monitoring process. Its active involvement in the preparation and organization of meetings in 2003 (consideration of national legislation and the securing of pathogens) and 2004 (international investigation into the alleged use of biological weapons, and surveillance of epidemics) and in the one planned for 2005 (codes of conduct for scientists) reflect France's commitment to the strengthening of the Convention.

As part of its efforts to combat the proliferation of biological weapons, France is continuing to promote the strengthening of the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction.

*Further to counter that threat, calls upon all States, in accordance with their national legal authorities and legislation and consistent with international law, to take cooperative action to prevent illicit trafficking in nuclear, chemical or biological weapons, their means of delivery, and related materials;*

France supports initiatives to strengthen international cooperation to prevent trafficking in nuclear, chemical and biological weapons and their means of delivery, and related materials. It is also actively involved in the Proliferation Security Initiative, launched in May 2003. As set out in the Statement of Interdiction Principles, adopted in Paris on 4 September 2003, the participants in this Initiative undertake to cooperate in halting shipments of weapons of mass destruction and their means of delivery, and related materials, flowing to or from States or non-State actors which arouse concern with regard to proliferation. This Initiative seeks to combat such proliferation flows, consistent with national laws and regulations and international law and international bodies, including the United Nations Security Council. The Statement of Interdiction Principles proposes various kinds of political commitments, including the commitment not to contribute to such shipments, to intercept any such shipments

**25S/AC.44/2004/(02)/58**

and to cooperate to that end, particularly where the States concerned are unable to take action themselves. In theory, all countries are concerned, particularly coastal States, trans-shipment States and flag States.

The latest meeting of the Proliferation Security Initiative, held in Kraków on 31 May and 1 June 2004, showed that the Initiative is continuing to develop in a positive direction and is gaining growing support: over 60 countries took part in that meeting and expressed their support for the Statement of Interdiction Principles.

France believes that the success of this Initiative will effectively depend upon its ability to involve a great number of States in its activities, on the basis of flexible commitments, particularly those States which are able to make a significant operational contribution to the Initiative.

In practical terms, France has played an active part in the development of this Initiative in two main areas:

- Contributing to thorough and comprehensive consideration of the conditions of implementation of the Initiative at the legal and operational levels, and to the elaboration of scenarios;
- Regular planning and organization of intervention exercises to improve know-how which is specific to this type of operations, and coordination at the political, strategic and tactical levels.

France has taken part in all military exercises proposed by its partners, and is planning to organize its third exercise for 2006.

At the multilateral level, France continues to promote the fight against illicit trafficking in materials which can contribute to the proliferation of weapons of mass destruction (G-8 initiatives, review of the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation)