

**Security Council**

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**Security Council Committee established  
pursuant to resolution 1718 (2006)****Note verbale dated 8 February 2010 from the Permanent  
Mission of France to the United Nations addressed to the  
Chairman of the Committee**

The Permanent Mission of France to the United Nations presents its compliments to the United Nations Secretariat (Office of the Chairman of the Security Council Committee established pursuant to resolution 1718 (2006)) and has the honour to transmit the revised report on implementation by France (see annex).

France trusts that this additional information will be taken into full consideration; in particular, it hopes that the Committee's report on national implementation, currently in preparation, will fully reflect the exhaustive information provided.



**Annex to the note verbale dated 8 February 2010 from the Permanent Mission of France to the United Nations addressed to the Chairman of the Committee**

**Report of France to the Security Council**

In paragraph 22 of its resolution 1874 (2009) of 12 June 2009, the Security Council “calls upon all Member States to report to the Security Council within forty-five days of the adoption of this resolution and thereafter upon request by the Committee on concrete measures they have taken in order to implement effectively the provisions of paragraph 8 of resolution 1718 (2006) as well as paragraphs 9 and 10 of this resolution, as well as financial measures set out in paragraphs 18, 19 and 20 of this resolution”.

In accordance with these provisions and following the adoption by the European Union (EU) of pertinent common positions and regulations, France wishes to bring to the Security Council’s attention the following additional information on the measures taken to implement them.

These measures fall within the broader framework of strengthening European Union action in combating proliferation, formalized in the “New lines for action by the European Union in combating the proliferation of weapons of mass destruction and their delivery systems”. This document, adopted in 2008 under the French presidency of the European Union, is aimed at strengthening the implementation of the 2003 EU Strategy against Proliferation of Weapons of Mass Destruction. It contains new proposals in the areas of evaluating threats, controlling exports, combating the financing of proliferation, and monitoring access to sensitive training.

France actively supports the implementation of the new lines for action by the European Union in combating proliferation and is strengthening its anti-proliferation efforts. The measures it has taken include a draft law on combating proliferation (including specific provisions on the financing of proliferation) that has been submitted to the French Parliament.

**I. Implementation of paragraph 8 of Security Council resolution 1718 (2006) and of paragraphs 9 and 10 of Security Council resolution 1874 (2009)**

**1. Norms adopted by the European Union**

On 20 November 2006, the Council of the European Union adopted Common Position 2006/795/CFSP concerning restrictive measures against the Democratic People’s Republic of Korea.

This European Union document is based on the provisions of Security Council resolution 1718 (2006). It calls for:

- An embargo on arms and related materiel, sensitive items and related services or financing;
- A ban on importing or transporting the aforementioned items, whether or not they originate from the Democratic People’s Republic of Korea;
- A ban on the supply of luxury items;

- Measures restricting movement in the territory of States members of the European Union;
- Measures to freeze financial assets;
- Concerted action by member States in order to prevent illicit trafficking in weapons of mass destruction, their means of delivery and related materiel and technologies.

Following the adoption of resolution 1874 (2009), the Council of the European Union adopted a new Common Position (2009/573/CFSP) on 27 July 2009. It strengthens existing sanctions measures by broadening their scope. It specifically provides for:

- A total embargo on the export to the Democratic People’s Republic of Korea of dual-use items listed under Council Regulation (EC) No. 428/2009 and of other items which could contribute to its nuclear-related, ballistic missile-related or other weapons of mass destruction-related programmes;
- A ban on importing or transporting the aforementioned items, whether or not they originate from the Democratic People’s Republic of Korea;
- A ban on providing any technical or financial assistance in connection with these items;
- Strengthened monitoring with regard to
  - access to sensitive training;
  - air or sea transport of merchandise from or to the Democratic People’s Republic of Korea;
- Extended lists of individuals and entities subject to measures freezing their financial assets and restricting their movements.

For certain provisions of these common positions which fall within the competence of the European Community, the Council of the European Union adopted Council Regulation (EC) No. 329/2007<sup>1</sup> on 27 March 2007 and Council Regulation (EU) No. 1283/2009 on 22 December 2009.

Legally, European Union regulations are directly and immediately applicable in all the countries of the European Union as soon as they have been published in the *Official Journal of the European Union*, and therefore do not require any additional measures for issuance at the national level. Both Council Common Position 2009/573/CFSP and Council Regulation (EU) No. 1283/2009 have been published in the *Journal*.

## **2. Implementation at the national level**

### **Embargo on arms and related materiel**

Amended Council Regulation (EC) No. 329/2007 provides a legal basis for the systematic prohibition of the direct or indirect sale, supply, transfer or export to the Democratic People’s Republic of Korea from States members of the European

<sup>1</sup> Amended by European Commission Regulations (EC) Nos. 117/2008 (28 January 2008), 389/2009 (12 May 2009) and 689/2009 (29 July 2009).

Union of items listed in paragraph 8 (a) (i) of Security Council resolution 1718 (2006) and of such items relating to conventional weapons as may be listed by the sanctions Committee.

Amended Council Regulation (EC) No. 329/2007 sets the scope of this prohibition as covering all items included in the Common Military List of the European Union.<sup>2</sup>

The export from France of war materiel is strictly controlled on the basis, inter alia, of article L 2335-3 of the Defence Code (an instrument having the force of law) which provides that the unauthorized export, under any customs regime, of war materiel and related items is prohibited. The primary applicable regulatory text is decree No. 95-589 of 6 May 1995. The law provides for criminal penalties in cases of failure to comply with the legislative and regulatory provisions concerning the export of war materiel and related items (articles L 2339-2 et seq. of the Defence Code).

Export licences, which constitute an exception to that provision, may be issued only on completion of an inter-ministerial review procedure. Under that procedure, and on the basis of Security Council resolution 1718 (2006), Council Common Position 2006/795/CFSP and amended Council Regulation (EC) No. 329/2007, the Inter-ministerial commission to review exports of war materiel now rejects all applications for approval of negotiations for the sale of, or sale of, war materiel to the Democratic People's Republic of Korea.

A notice published in the *Official Journal* of 30 July 2009, intended for exporters of war materiel and related items to destinations including the Democratic People's Republic of Korea, specifies that exceptions to the prior approval and export licensing requirements prescribed under article 13 of the decree of 2 October 1992 on the procedure for the import, export and transfer of war materiel, arms, ammunition and related items are suspended, in view of the international commitments undertaken by France.

Amended Council Regulation (EC) No. 329/2007 also provides a legal basis for the systematic prohibition of the acquisition, import or transport of the aforementioned weapons and related items from the Democratic People's Republic of Korea, whether or not they originate from there.

**Embargo on items, materials, equipment, goods and technologies which could contribute to the nuclear-related, ballistic missile-related or other weapons of mass destruction-related programmes of the Democratic People's Republic of Korea**

Amended Council Regulation (EC) No. 329/2007 provides a legal basis for the systematic prohibition of the direct or indirect sale, supply, transfer or export from States members of the European Union of items listed in paragraph 8 (a) (ii) of

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<sup>2</sup> The latest version of the Common Military List of the European Union was adopted by the Council on 23 February 2009 and published in the *Official Journal of the European Union* on 19 March 2009.

Security Council resolution 1718 (2006) and of such items as may be listed by the Security Council or the Committee.<sup>3</sup>

Council Regulation (EU) No. 1283/2009 extends the scope of this ban to include the dual-use items listed under Council Regulation (EC) No. 1334/2000 (replaced by Council Regulation (EC) No. 428/2009 of 5 May 2009) and to other items, materials, equipment, goods and technologies which could contribute to the nuclear-related, other weapons of mass destruction-related or ballistic missile-related programmes of the Democratic People's Republic of Korea (annex I to new Commission Regulation (EC) No. 117/2008 amending Commission Regulation (EC) No. 329/2007).

Under the inter-ministerial procedure for reviewing applications for licences to export dual-use items, all applications for licences to export items listed in Council Regulation (EC) No. 1334/2000 (replaced by Council Regulation (EC) No. 428/2009 of 5 May 2009) are denied.

Amended Council Regulation (EC) No. 329/2007 also provides a legal basis for the systematic prohibition of the acquisition, import or transport of all the aforementioned dual-use items from the Democratic People's Republic of Korea, whether or not they originate from there.

#### **Embargo on luxury items**

Amended Council Regulation (EC) No. 329/2007 provides a legal basis for the systematic prohibition of all exports from States members of the European Union of the following luxury items:

1. Pure-bred horses;
2. Caviar and caviar substitutes;
3. Truffles and preparations thereof;
4. High-quality wines (including sparkling wines), spirits and spirituous beverages;
5. High-quality cigars and cigarillos;
6. Luxury perfumes, toilet waters and cosmetics, including beauty and make-up products;
7. High-quality leather, saddlery and travel goods, handbags and similar articles;
8. High-quality garments, clothing accessories and shoes (regardless of their material);
9. Hand-knotted carpets, handwoven rugs and tapestries;
10. Pearls, precious and semi-precious stones, articles of pearls, jewellery, gold or silversmith articles;
11. Coins and banknotes, not being legal tender;

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<sup>3</sup> Additional items designated by the Committee on 16 July 2009 were subsequently recorded in Commission Regulation (EC) No. 689/2009 of 29 July 2009.

12. Cutlery of precious metal or plated or clad with precious metal;
13. High-quality tableware of porcelain, china, stone- or earthenware or fine pottery;
14. High-quality lead crystal glassware;
15. High end electronic items for domestic use;
16. High end electrical/electronic or optical apparatus for recording and reproducing sound and images;
17. Luxury vehicles for the transport of persons on earth, air or sea, as well as their accessories and spare parts;
18. Luxury clocks and watches and their parts;
19. High-quality musical instruments;
20. Works of art, collectors' pieces and antiques;
21. Articles and equipment for skiing, golf, diving and water sports;
22. Articles and equipment for billiards, automated bowling, casino games and games operated by coins or banknotes.

These embargoed items are listed in annex III of amended Council Regulation (EC) No. 329/2007 and in the TARIC tariff database of the European Community. This information is duplicated in RITA, the national comprehensive listing of tariffs that is available to all French business operations.

The French customs services certify, on a case-by-case basis, that exports to the Democratic People's Republic of Korea do not include items listed in annex III of amended Council Regulation (EC) No. 329/2007. If the merchandise being exported is confirmed as appearing on the list in annex III, its export is prohibited.

**Ban on providing technical or financial assistance related to transfers to or from the Democratic People's Republic of Korea of weapons or of items, materials, equipment, goods and technologies which could contribute to nuclear-related, ballistic missile-related or other weapons of mass destruction-related programmes**

Amended Council Regulation (EC) No. 329/2007 prohibits the direct or indirect provision to the Democratic People's Republic of Korea of technical or financial assistance related to the supply, manufacture, maintenance or use of weapons or of items, materials, equipment, goods and technologies which could contribute to nuclear-related, ballistic missile-related or other weapons of mass destruction-related programmes.

This regulation also prohibits the direct or indirect acquisition from the Democratic People's Republic of Korea of technical or financial assistance related to the supply, manufacture, maintenance or use of weapons or of items, materials, equipment, goods and technologies which could contribute to nuclear-related, ballistic missile-related or other weapons of mass destruction-related programmes.

Council Common Position 2009/573/CFSP requires States members of the European Union to adopt measures for enhanced monitoring in order to prevent specialized teaching or training of nationals of the Democratic People's Republic of

Korea within their territories or by their nationals, in disciplines which could contribute to its nuclear activities.

In order to prevent the transfer of knowledge or expertise that could contribute to proliferation programmes, access to research and higher education institutions which are deemed to be sensitive is subject to an authorization procedure for which the relevant ministry is responsible.

On the basis of Security Council resolutions 1718 (2006) and 1874 (2009), common positions of the European Union and amended Council Regulation (EC) No. 329/2007, no such authorization is granted to nationals of the Democratic People's Republic of Korea.

### **Freezing of financial assets and economic resources and prohibition of funding**

Amended Council Regulation (EC) No. 329/2007 requires that the financial assets of persons and entities listed by the Security Council or the Committee established pursuant to Security Council resolution 1718 (2006) be frozen, and prohibits funds, financial assets or economic resources from being made available to such persons or entities.

The Committee placed persons and entities of the Democratic People's Republic of Korea under sanction on 24 April and 16 July 2009. These lists were subsequently included in Council Regulations (EC) Nos. 389/2009 of 12 May 2009 and 689/2009 of 29 July 2009, which are directly applicable under French law.

In accordance with the provisions of Council Common Position 2009/573/CFSP, Council Regulation (EU) No. 1283/2009 requires the freezing of the financial assets of persons, entities and agencies not listed by the Security Council or the Committee but recognized by the European Council as:

- responsible for the nuclear-related, ballistic missile-related or other weapons of mass destruction-related programmes of the Democratic People's Republic of Korea;
- providing financial services which could contribute to the nuclear-related, ballistic missile-related or other weapons of mass destruction-related programmes of the Democratic People's Republic of Korea.

On the basis of these documents, the European Union proceeded to designate an additional four entities and 13 individuals as subject to freezing of assets.

Banks and financial institutions in France are informed of these measures via, inter alia, the website of the Ministry of the Economy, Industry and Employment, and are required to implement them.

### **Denial of entry into the territory**

Since the announcement of the nuclear test carried out on 9 October 2006, France has severely restricted access to its territory by nationals of the Democratic People's Republic of Korea.

Under amended Council Regulation (EC) No. 539/2001 of 15 March 2001, nationals of the Democratic People's Republic of Korea are required to have a visa in order to enter the Schengen Area.

The aforementioned common positions forbid States members of the European Union to issue visas to persons listed in the annexes to amended Council Regulation (EC) No. 329/2007 (unless specifically excepted under United Nations Security Council resolutions).

Visa applications submitted on behalf of non-listed persons with high-level State or Party responsibilities are examined by the authorities on a case-by-case basis and, barring some exceptions, are denied.

France will continue to apply these measures until the authorities of the Democratic People's Republic of Korea take a significant step towards addressing the demands of the international community.

### **Inspection of cargo shipped to or from the Democratic People's Republic of Korea**

Special control measures applicable to commercial shipments from and to the Democratic People's Republic of Korea have been implemented by the customs authorities.

These measures apply to exports to or imports from the Democratic People's Republic of Korea of weapons and goods which could contribute to nuclear-related, ballistic missile-related or other weapons of mass destruction-related programmes. In addition to these measures, a monitoring mechanism has been set up to combat fraud in the context of banned shipments by sea to or from the Democratic People's Republic of Korea.

In implementation of these measures, the customs authorities, *inter alia*, inspected goods on a vessel of the Democratic People's Republic of Korea which docked at Mayotte on 13 November 2006.

In accordance with Council Common Position 2009/573/CFSP, Council Regulation (EU) No. 1283/2009 requires enhanced measures for monitoring air or sea shipments of merchandise to or from the Democratic People's Republic of Korea. Under these provisions, cargo aircraft and merchant vessels travelling to or from the Democratic People's Republic of Korea, as well as vessels of the Democratic People's Republic of Korea, are required to submit, prior to their arrival or departure, information on all merchandise entering or leaving the territory of the European Union.

## **II. Implementation of paragraphs 18, 19 and 20 of Security Council resolution 1874 (2009)**

### **1. Norms adopted by the European Union**

In addition to strengthening the sanctions already adopted and described above, the new Council Common Position 2009/573/CFSP specifically provides for:

- Enhanced measures to monitor financial flows;
- A requirement not to enter into new commitments and to reduce existing commitments for grants, financial assistance and loans to the Democratic People's Republic of Korea;
- A requirement not to provide the Democratic People's Republic of Korea with public financial assistance for international trade which could contribute to its

nuclear-related, ballistic missile-related or other weapons of mass destruction-related programmes.

The provisions falling within the competence of the European Community have been implemented by Council Regulation (EU) No. 1283/2009 of 22 December 2009. This Regulation is already in force in France. Council regulations are directly and immediately applicable in law as soon as they have been published in the *Official Journal of the European Union*. As a result, no re-issuance of these documents is necessary at the national level.

## 2. *Implementation at the national level*

### **Ban on providing financial services or transferring any funds, other assets or economic resources which could contribute to the nuclear-related, ballistic missile-related or other weapons of mass destruction-related programmes of the Democratic People's Republic of Korea**

Amended Council Regulation (EC) No. 329/2007 requires financial and credit institutions in the European Union to demonstrate that they are monitoring the accounts of entities domiciled in the Democratic People's Republic of Korea or of establishments not situated in its territory but controlled by such entities or by persons domiciled there.

Financial and credit institutions must, inter alia, demand that all information required in the payment instructions concerning the originator and beneficiary of a transaction is provided and, otherwise, refuse to carry out the transaction. These institutions are further required to report transactions suspected of connection with the financing of proliferation to the financial intelligence unit or other competent national authority.

### **Requirement not to enter into new commitments and to reduce existing commitments for grants, financial assistance and loans to the Democratic People's Republic of Korea**

France, including in its participation in international financial institutions, provides no financial assistance or concessional loans to the Democratic People's Republic of Korea (barring exceptions envisaged by the United Nations Security Council).

### **Requirement not to provide the Democratic People's Republic of Korea with public financial assistance for international trade which could contribute to its nuclear-related, ballistic missile-related or other weapons of mass destruction-related programmes**

Since the adoption of Security Council resolution 1737 (2006), France has implemented the same warning system as that established by the French insurance company for external trade (Compagnie française d'assurance pour le commerce extérieur, COFACE) at the request of the Ministry of the Economy, Industry and Employment.

Companies wishing to export goods to the Democratic People's Republic of Korea and applying for credit insurance from COFACE must sign a document undertaking to comply with the specific regulations governing exports of dual-use goods and technologies.

Failure to report that the goods, services or technologies in respect of which the credit insurance application is made could be intended for or contribute to the nuclear-related, ballistic missile-related or other weapons of mass destruction-related programmes of the Democratic People's Republic of Korea will entail loss of rights under the credit insurance policy.

In addition to these measures, the Foreign Trade Credit and Insurance Commission exercises vigilance and restraint with respect to credit insurance applications submitted to it and considers each application on a case-by-case basis.

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