



## Security Council

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### Security Council Committee established pursuant to resolution 1540 (2004)

#### **Letter dated 27 October 2004 from the Permanent Mission of Andorra to the United Nations addressed to the Chairman of the Committee**

At the request of my Government, I have the honour to transmit to you in your capacity as Chairman of the Committee the report to be submitted by the Principality of Andorra (see annex).

My Government will be happy to provide the Committee with additional information, as it considers necessary.

I should be grateful if you could arrange for the text of the present letter and its enclosure to be circulated as a document of the Security Council.

*(Signed)* **Julian Vila-Coma**  
Ambassador  
Permanent Representative

**Annex to the letter dated 27 October 2004 from the Permanent Mission of Andorra to the United Nations addressed to the Chairman of the Committee**

[Original: French]

**Report of Andorra on prevention of the proliferation of nuclear, chemical and biological weapons and their delivery systems**

**Introduction**

The Principality of Andorra has a long tradition of peace. It has always expressed its support at the international level for non-proliferation of nuclear, chemical and biological weapons, and has striven for international peace and security.

As a defender of peace, and consistent with a period of more than seven centuries during which weapons and war have been absent from its national life, Andorra has never permitted in its territory any activity related to non-peaceful uses of widely available nuclear, chemical or biological products. The Principality is therefore determined to participate in efforts made at the international level by numerous States to keep the world free of nuclear, chemical and biological weapons and their potential manufacture and proliferation.

On 28 April 2004, the Security Council adopted resolution 1540 (2004), for the purpose of preventing proliferation in all its aspects of all weapons of mass destruction.

Paragraph 4 of that resolution established a Security Council committee to prepare a report on its implementation.

That committee requested Andorra, and all other Member States of the United Nations, to submit initial reports on the internal measures taken, or planned to be taken, for the purpose of implementing the resolution.

Andorra therefore submits the following report, which reflects the determination of the Principality to collaborate with the United Nations in pursuing the fight against proliferation of all weapons of mass destruction. That determination has been expressed a number of times by the Head of Government, Mr. Marc Forné Molné, and the Minister for Foreign Affairs, Mr. Juli Minoves Triquell.

This report is based on close cooperation among all Government departments concerned: the Department of Transport and Energy, the Department of Industrial Security of the Ministry of Economic Affairs, the Customs Service, the Department of Health of the Ministry of Health and Social Affairs, and the Ministry of Foreign Affairs.

We remain, of course, entirely at the disposal of the Committee established pursuant to resolution 1540 (2004) for the provision of any necessary information, and we are open to recommendations of all kinds.

Andorra gives no form of support to any non-State actors who may attempt to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical or biological weapons or their means of delivery.

A decree dated 3 July 1989 regulates the possession, use and distribution of firearms. In particular, sections II and III list the prohibited weapons and imitations of prohibited weapons and those which may not be carried. Section II, article 2, of that decree prohibits the manufacture, import, circulation, possession, use, sale or purchase, and advertising of military weapons. This category comprises military weapons, arms, vehicles, devices and materials of all kinds and their main components and ammunition, which are designed for the purpose of warfare or for exclusively military purposes.

The Penal Code also penalizes the illicit possession of firearms (articles 289 and 290) and “the stockpiling, import, export, sale or transit, real or fictitious, through the Principality, as well as the manufacture of prohibited arms or imitations of such arms, covered in section II, article 2, of the decree of 3 July 1989, except those mentioned in paragraph 8” and the “illegal carrying of one or more of such arms” (articles 89 and 90).

Lastly, the Penal Code punishes “anyone who carries out international transactions in regulated arms, involving real or fictitious transit through the Principality”, and penalizes “the purchase, sale, possession or import of explosives not intended for use in an authorized activity” (articles 96 and 98 respectively).

The Government of Andorra, pursuant to an Order dated 16 June 1978 of the General Council (the Parliament of Andorra) does not permit the installation in the country of any industry or factory which might be considered harmful, unhealthy or dangerous. If it were to be believed, however, that the activities of an industrial establishment in Andorra were connected with certain operations involving chemicals, as might be the case for a private laboratory, such establishment would be subjected to constant monitoring by the Department of Industrial Security with the cooperation, if required, of the Department of Health.

As for related materials or products, Andorran legislation provides for appropriate measures to monitor the entry into the Principality of such items, to track them and to take appropriate physical protection measures.

The Sensitive Materials Control Act, the aim of which is to put a stop to all illicit activities in the area of sensitive materials, provides for appropriate monitoring so that acts which constitute misdemeanours or serious offences under customs law may at the same time receive prior verification and investigation by the Administration, and be penalized a posteriori pursuant to the appropriate rules of law.

To that end, the Act defines as “sensitive” any materials which may constitute a danger to health or public safety or may be the object of international smuggling or a clandestine market.

The same instrument also defines all the conditions and obligations to be complied with by a person wishing to engage in any activity involving goods considered as sensitive, as well as possible commercial activities which involve dealing in sensitive goods, such as manufacturing, import, distribution, retailing, transportation or storage of such goods.

Persons engaging in such activities are required to hold an official authorization to handle sensitive goods, and to record such transactions in a register of invoices issued or received and of stocks, which is essential in order to give the greatest possible transparency to all the aforementioned operations.

Lastly, the Sensitive Materials Control Act defines and regulates offences and administrative penalties, and introduces an additional provision which establishes the concept of the “economic group” in order to cover all situations which may relate to trafficking or trading in sensitive goods.

The enabling regulations for the Act develop and clarify the systems used for monitoring sensitive goods.

To enable the administration to verify transactions relating to sensitive goods, the regulations provide for the obligation to hold a licence and to record all such transactions.

The regulations provide for modalities for the issue of operating licences and define transactions relating to activities involving trading in sensitive goods subject to monitoring, detailing the information to be included in registers and providing the basis for operators wishing to use a computerized register. The Customs Department of the Ministry of Finance is responsible for the application of the rules set out in the legislation.

Lastly, the Penal Code provides for a series of criminal penalties applicable to any non-State actor who offends against the aforementioned legal provisions.

Under article 99 bis of the Penal Code, any person who illicitly imports or exports or who traffics in the sensitive goods defined in article 1 of the Sensitive Materials Control Act of 4 March 1999 in an amount equal to or greater than 1 million pesetas (6,000 euros) shall incur a prison sentence of up to two years and a fine of 5 million pesetas (€30,000), the latter being no less than the value of the goods.

The Penal Code also provides for penalties for any person found in the customs area without the necessary authorization, in possession of or in transit with sensitive goods of a value equal to or more than 1 million pesetas (€6,000).

A person is also considered to have committed a serious offence and is liable to the same penalty if, in carrying out a premeditated plan or taking advantage of such an opportunity, he commits a series of actions or omissions which, taken separately, would constitute administrative offences of contraband, and if the cumulative value of the goods, merchandise, articles or effects in question is equal to or more than 1 million pesetas (€6,000).

Lastly, persons organizing any of the aforementioned offences by means of an organized conspiracy shall be liable to a period of imprisonment of up to three years and a fine not exceeding 5 million pesetas (€30,000).

Furthermore, any person who commits the offence of smuggling, as defined in article 8 of the Act on Customs Evasion of 4 March 1999, more than three times within a period of less than two years shall be considered to have committed a serious offence.

The commission of any one of these offences shall, in addition, entail the confiscation of the goods which are the object of the illegal act, the confiscation of

the means of transport and the instruments used in committing the offence and, as a secondary penalty, disqualification from dealing in sensitive goods as defined in article 1 of the Sensitive Materials Control Act of 4 March 1999, for a period of up to four years.

It should also be noted that in practice, the customs services monitor and record all goods imported into Andorra.

According to customs files, no nuclear, chemical or biological weapon has ever been imported into the country.

As for nuclear, chemical or biological products, or devices or materials which may contain them, the Andorran customs have provided information which shows that only a few negligible quantities of certain products of this type have been imported into Andorra. (Annex 1 contains a table which summarizes all those items.)

Because of its geographical characteristics, Andorra has no air access of its own. Furthermore, the country is located in the middle of the Pyrenees, making maritime access impossible. As a result, the only access to Andorra is by land, by means of only two entry points: in the north, the Franco-Andorran frontier, and in the south, the Spanish-Andorran frontier. Consequently, goods to be imported into Andorra must first pass through the entry and exit controls of the neighbouring countries.

Under the Industrial Safety and Quality Act of 22 June 2000, the Government is empowered to authorize the installation of industrial activities, the inspection of premises, and the penalization of offences in relation to activities which have not been expressly authorized. All industrial activities are recorded in the register which is provided for that purpose, and can therefore be easily verified. Furthermore, under article 11 of the Act, the competent Ministry may at any time visit the enterprise, or send a monitoring body designated for that purpose, to ensure compliance with safety measures and provisions.

Any importer planning to buy certain industrial products which are considered dangerous to health, safety, public order or morality, or to purchase certain goods which might be the object of international fraud or illicit transactions, is subject to the prior obligation to request authorization from the Government.

One of the purposes of the Act is to enable the Principality to adapt to the standards governing industrial activity in neighbouring countries, and particularly to European harmonization standards; almost all industrial products which can be used in Andorra come from European Union countries and therefore comply with current European rules and standards. Consequently, implementation of those rules enables Andorra to comply with appropriate, effective and necessary physical protection measures.

Thus, in accordance with the Act, the Government exercises constant monitoring of products entering Andorra.

Certain types of equipment which are being shipped to health establishments or centres and which might contain nuclear components are strictly controlled and monitored as soon as they enter Andorran territory. Pursuant to the decree on health administration dated 18 December 1996, governing health and social-health centres, services and establishments, and its implementing regulations, an administrative

authorization must be obtained for the opening, enlargement, modification, closure or displacement of any health establishment, such centres must be registered, and records must be kept of any equipment which may contain nuclear materials.

Lastly, as with nuclear and chemical weapons, Andorra neither imports nor produces biological weapons. As for possible derivatives which might be used in weapons, Andorran legislation provides for their control.

There are strict controls on the creation, opening and operation of any installation or establishment producing biological substances or medical or laboratory equipment or material, or other articles for medical use, which are subject to the quality standards required by the relevant international bodies. The General Health Act of 20 March 1989 establishes a procedure for the issue of authorizations, ensuring that the aforementioned products comply with the standards of effectiveness, tolerance, purity and stability and information requirements established by international scientific best practices. The Government may require prior individual authorization or the approval of a particular product for distribution, and may conduct a health inspection, *inter alia*, of potentially dangerous chemicals or biological products. The labelling, presentation, preservation, storage, handling, marketing and transport of these health products are also regulated by the Government. Under this Act, the Government may establish a requirement for physical and legal persons to obtain prior authorization for activities related to the import, export or distribution of medicines and other health products.

Lastly, the Andorran Penal Code penalizes any person who produces or traffics in harmful substances without the necessary authorization.

It should be noted that all international conventions and treaties to which Andorra has acceded become integral parts of domestic legislation immediately upon their entry into force. Under article 3 of the Constitution, international treaties and agreements are integrated into the country's legal system as soon as they are published in the Official Gazette of the Principality of Andorra, and may not be modified or abrogated through legislation. Thus, Andorra fulfils its international obligations in respect of treaties adopted in the area of non-proliferation of nuclear and chemical weapons without having to adopt specific domestic legislative measures in this field.

On 21 November 1995, the General Council (the Andorran Parliament) approved the country's accession to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT). Since that date, the Government has been studying all treaties which relate to combating the proliferation of nuclear, chemical and biological weapons, which constitute a threat to international peace and security.

Under the provisions of that Treaty, States parties which possess nuclear weapons undertake not to transfer nuclear weapons or control over such weapons, and not to assist, encourage or induce any non-nuclear-weapon State to manufacture or acquire such weapons. Non-nuclear-weapon States such as Andorra undertake not to receive nuclear weapons or other nuclear devices from any source, and not to seek any assistance in the manufacture of such weapons or devices.

Each non-nuclear-weapon State also undertakes to accept safeguards, as set forth in an agreement to be negotiated and concluded with the International Atomic Energy Agency (hereinafter referred to as "the Agency") for the purpose of verification of the fulfilment of its obligations assumed under the Treaty and

preventing diversion of nuclear energy from peaceful uses. This agreement includes a wide range of technical measures whereby the Agency can independently verify the accuracy of declarations made by States regarding nuclear materials and activities.

On 9 January 2001 at Vienna, the Principality of Andorra signed the agreement with the Agency on the application of safeguards in the framework of the Treaty, and its Additional Protocol and Small Quantities Protocol.

On 24 September 1996, Andorra signed the Comprehensive Nuclear-Test-Ban Treaty (CTBT). In the context of the implementation of Security Council resolution 1540 (2004), the Government plans to ratify that Treaty in the near future.

On 27 February 2003, Andorra deposited its instrument of accession to the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction (CWC). The Convention entered into force for the Principality on 29 March 2003, and pursuant to its provisions, the Andorran national authority submitted a “nil declaration” to the Organization for the Prohibition of Chemical Weapons (OPCW) (see annex 2), confirming that Andorra has neither chemical weapons nor any facilities for their production. Andorra also sends annual declarations confirming that the country still has no chemical weapons or production facilities (see the latest “nil declaration”, annex 3).

Pursuant to General Assembly resolution 58/28, Andorra reiterates each year that it has no army and no military spending, and confirms that it has never exported or imported any material falling within the seven categories defined in the United Nations Register of Conventional Arms (see annex 4 for the two latest “nil declarations” sent to the Department for Disarmament Affairs of the United Nations).

The intentions of the Principality in terms of the ratification and implementation of international disarmament conventions and protocols are to honour the commitments entered into through the signature of those instruments. Andorra is currently preparing the necessary studies in order to carry out the corresponding ratifications as soon as possible. Since 1993, when the Andorran Constitution was adopted, some 80 conventions have been signed and ratified and about 50 are still being studied.

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