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Translated from French

Permanent Mission of France to the United Nations

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The Permanent Mission of France to the United Nations presents its compliments to the Codification Division of the United Nations Office of Legal Affairs and, in reference to General Assembly resolution 65/29 and Note Verbale LA/COD/2 (February 2011), has the honour to transmit the report of France on the "Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts".

The Permanent Mission of France to the United Nations takes this opportunity to extend to the Codification Division of the United Nations Office of Legal Affairs the renewed assurances of its highest consideration.

United Nations Secretariat  
Office of Legal Affairs  
Codification Division  
New York

Attachment: Report

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Report of France to the Secretary-General of the United Nations "Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts"

I. Existing instruments of international humanitarian law (Geneva Conventions of 1949 and their Additional Protocols)

A. Signature, ratification and accession

The four Geneva Conventions of 12 August 1949 came into force in France on 28 June 1951.

Additional Protocol I to the Geneva Conventions, adopted on 8 June 1977, was ratified by France on 11 April 2001.

Additional Protocol II to the Geneva Conventions, adopted on 8 June 1977, was ratified by France on 24 February 1984.

Additional Protocol III to the Geneva Conventions, adopted on 8 December 2005, relating to the adoption of an additional distinctive emblem, was ratified by France on 17 July 2009.

B. Implementation

As part of its implementation of international humanitarian law, the Government of France regularly makes pledges, individually or in conjunction with the national Red Cross society, at the International Conference of the Red Cross and Red Crescent Movement held every four years. At the 30th Conference, which was held in Geneva from 26 to 30 November 2007, the French Government, together with the French Red Cross, pledged to ratify Additional Protocol III to the Geneva Conventions, adopted on December 2005, relating to the adoption of an additional distinctive emblem, and to enhance the protection under domestic law for the emblems recognized by the Geneva Conventions and the Additional Protocols thereto.

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With respect to the enhancement of protection for emblems, article 433-14, paragraph 2, of the Criminal Code criminalizes the use of "a document establishing an official capacity or of an insignia regulated by public authority". The term "insignia" may be considered to refer to the emblems of the health services of the armed forces and the national societies officially authorized to assist them. The stipulation of "regula[tion] by public authority" is satisfied when the use of the emblems defined in duly ratified international instruments have been incorporated into the domestic legal system. Nevertheless, the constituent elements of article 433-14, paragraph 2, of the Criminal Code are not sufficient to fully meet the objectives of protection for the emblems of the International Red Cross and Red Crescent Movement (i.e., the red cross, the red crescent and the red crystal). French legislation is therefore currently being amended with a view to better protecting the emblems of the International Red Cross and Red Crescent Movement.

A bill that includes various provisions relating to criminal matters and criminal procedure aimed at implementing France's international commitments was passed by the Council of Ministers on 11 January 2012 and submitted to the Parliament. The bill is currently being reviewed by the Senate.<sup>1</sup>

Pursuant to article 122 of the Third Geneva Convention of 1949, France pledged, also at the 30th Conference, to create a National Information Bureau. The article stipulates that, upon the outbreak of a conflict and in all cases of occupation, each of the parties to the conflict shall in



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the fact that the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO) has a clear mandate in that regard and benefits people through its work on the ground. The intervention of the North Atlantic Treaty Organization (NATO) in Libya, which was based on the mandate established by the Security Council in its resolution 1973 (2011), also saved many civilian lives. Further, France supports the activities of the African Union-United Nations Hybrid Operation in Darfur (UNAMID) and the United Nations Mission in the Republic of South Sudan (UNMISS).

France actively participates in the United Nations Security Council informal expert group on the protection of civilians. France supports the role of the Office for the Coordination of Humanitarian Affairs in respect of the protection of civilians, in particular the establishment of a dedicated report on the issue which is annexed to the annual report of the United Nations Secretary-General.

France undertook, in cooperation with civil society, the development of a national strategy on the protection of civilians in armed conflict; implementation of the strategy is currently under way.

E. Dissemination of the provisions of international humanitarian law among the French armed forces

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Translator's note: It appears the author is referring to the annex entitled "Constraints on humanitarian access", which has been included in every Report of the Secretary-General on the protection of civilians in armed conflict since 2008 (see, for example, S/2012/376, S/2010/579, etc.).

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Under articles 82 and 83 of Additional Protocol I to the Geneva Conventions, States parties are obliged to implement<sup>2</sup> and disseminate international human

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general and specialized modules on the law of armed conflict, several of which are led by ICRC representatives. The advisers are also involved in disseminating the law of armed conflict within the services of the Ministry of Defence in times of peace. Furthermore, every introductory military training course includes instruction on the law of armed conflict. Training courses at the

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the public authorities in the humanitarian field", as well as the resolution on the "reaffirmation and implementation of international humanitarian law". At the 31st International Conference of the Red Cross and Red Crescent, France and the French Red Cross made a joint pledge in which they recognized the importance of establishing targeted cooperation based on dialogue and trust and, in line with the pledges made at the 30th Conference, committed to assessing together the role played by the French Red Cross as auxiliary to the public authority in humanitarian affairs, while taking into account and strengthening existing partnerships. This task will be carried out in line with the Fundamental Principles of the International Red Cross and Red Crescent Movement, in particular the principles of neutrality and independence. Meetings to exchange views and follow up on the pledges made at the 31st Conference will be organized.

The National Consultative Commission on Human Rights (NCCHR) is a French national institution for the promotion of human rights and international humanitarian law which provides the Government of France with advice and proposals on these issues. Pursuant to Act No. 2007-292 of 5 March 2007 relating to NCCHR and decree No. 2007-1137 of 26 July 2007 on the composition and operation of NCCHR, the Commission plays the role of a "national agency responsible for advising the authorities on the implementation, dissemination and development of international humanitarian law". The Commission has established a working group on instruction in international humanitarian law with a view to incorporating the topic into school curriculums.

## II. Protection of cultural property during armed conflict (Convention of 14 May 1954 and Protocols thereto)

### A. Signature and ratification

The Convention for the Protection of Cultural Property in the Event of Armed Conflict of 14 May 1954 was ratified by France on 7 June 1957.





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property in the event of armed conflict, centres containing monuments and other immovable cultural property of very great importance. The request for special protection must be submitted to the Director General of the United Nations Educational, Scientific and Cultural Organization (UNESCO) by the authorities of the State where the property is located. All sites and refuges under special protection are listed in the International Register of Cultural Property under Special Protection maintained by UNESCO.<sup>7</sup> To date, France has not entered any sites in this Register. France is considering compiling an individual inventory for the implementation of the Convention, since the current national inventory appears to be too large.

France does not presently use the distinctive emblems proposed by the Convention to protect cultural property.

With regard to criminal penalties under French criminal law, article L.322-1 of the Criminal Code establishes that "the destruction, degradation or deterioration of another person's property shall be punished by two years of imprisonment and a fine of 30,000 euros, unless only minor damage was inflicted". Article L.322-2 provides that "If the offence defined in the first paragraph of article 322-1 is committed on account of the property owner or user's actual or alleged affiliation or non-affiliation with a particular ethnicity, country, race or religion, the penalties incurred shall increase to three years of imprisonment and a fine of 45,000 euros". Article L.322-1 of the Code of Military Justice provides that "any person, whether military or non-military, who in time of war, in the area of operations of a force or formation, in violation of the laws and customs of war, unduly uses the distinctive markings and emblems established by international conventions to ensure respect for the persons, property and locations protected by these conventions, shall be punished by five years of imprisonment".

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<sup>7</sup> Article 12 of the Regulations for the Execution of the Convention.

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Article 7 of Act No. 2010-930 of 9 August 2010, on harmonizing criminal law with the establishment of the International Criminal Court, introduces into Book IV of the Criminal Code a Book IV bis entitled "On war crimes and offences". Article 461-1 of Book IV bis provides that: "Offences defined in the present Book that are committed against the persons or property referred to in articles 461-2 to 461-31, during an international or non-international armed conflict and in connection with that conflict, in violation of the laws and customs of war or of international conventions on armed conflict, shall be considered war crimes or offences".

Article 461-13 stipulates: "Deliberately directing attacks against buildings dedicated to the purposes of religion, education, art, science or charitable purposes, historic monuments, hospitals and places where the sick or wounded are collected, shall be punished with 20 years of imprisonment, provided such buildings are not used for military purposes".

With regard to dissemination, the Ministry of Defence has developed educational materials on the protection of cultural property by the military during field operations.

Regarding the first Protocol to the Convention for the Protection of Cultural Property in the Event of Armed Conflict of 1954, the protection of cultural property from exportation has long been under special protection in France, owing to its potential value in preserving and enriching the cultural, artistic, historic or archaeological heritage of France. In particular, France complies with **Council of the European Union Regulation (EEC) No. 116/2009 of 18 December 2008**, which harmonizes the rules for all member States for monitoring the export of cultural property to third countries. The Central Office for Combating Trafficking in Cultural Property (OCBC), attached to the Ministry of the Interior and acting as a central authority, is responsible for implementing claims and restitution procedures as well as protective measures which apply to national treasures that have illegally left the territory of one member State for the territory of another member State. The

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obligation of restitution provided for by the 1954 Convention is implemented by taking legal action to claim full ownership before the French courts.

### III. The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict of 25 May 2000

#### A. Signature and ratification

France has been a party to the Convention on the Rights of the Child of 20 November 1989 since 7 August 1990 and to its Optional Protocol of 25 May 2000 since 5 February 2003.

#### B. Implementation

The Convention on the Rights of the Child prohibits the recruitment of any person under the age of 15 years (see article 38, paragraph 3), while the Protocol thereto of 2000 requires States parties to raise the minimum age for voluntary recruitment and to ensure children under the age of 18 years do not take a direct part in hostilities. The ratification of the Optional Protocol by France and the amendments made to its legislation demonstrate its strong commitment to promoting and protecting the rights of the child.

With respect to compulsory recruitment (article 2 of the Protocol), France ended

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Furthermore, article 461-17 of the French Criminal Code criminalizes as war crimes the violations of the rights of minors during armed conflicts: "The act of conscripting or enlisting minors under 18 years of age in the armed forces or armed groups, or of obligating them to take active part in hostilities shall be punished with 20 years of imprisonment. These provisions do not preclude the voluntary enlistment of minors over the age of 15 years".

The ratification of the Optional Protocol by France demonstrates its strong commitment to promoting and protecting the rights of the child. France has also ratified the Rome Statute of the International Criminal Court, which establishes as a war crime the act of conscripting or enlisting children under the age of 15 years into the armed forces or armed groups or of using them to participate in hostilities.

### C. Other initiatives

At the United Nations, France led the initiative to establish the Security Council Working Group on Children and Armed Conflict in 2005 (through Security Council resolution 1612 (2005)) and chaired the Group through 2009. The Working Group examines reports on the situation in countries of concern and issues recommendations concerning the Governments or rebel groups involved. Its work has led to the demobilization of several thousand child soldiers throughout the world. France supported Security Council resolution 1882 (2009), which was unanimously adopted on 4 August 2009, which expanded the monitoring mechanism established in resolution 1612 (2005) to include acts of sexual violence against children and the maiming and killing of children. France also supported the efforts made by Germany as chair of the Working Group on Children and Armed Conflict that led to the adoption of Security Council resolution 1998 (2011) on 12 July 2011; the resolution added attacks against schools and hospitals and related personnel as one of the criteria by which parties are listed in the annex to the Secretary-General's annual report on children in armed conflict ("the list of shame").

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France proposed the organization of the conference entitled "Free Children from War",



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2. The Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines and on Their Destruction (the Ottawa Convention), adopted on 18 September 1997

A. Signature, ratification and accession

Having ratified the Ottawa Convention on 23 July 1998, France supports its universal ratification. The Ottawa Convention spans the fields of disarmament, international humanitarian law and development assistance and is strictly applied only to mines designed for anti-personnel use. Based on a rationale for total prohibition, its first set of measures cover the prohibition of the use, stockpiling, production and transfer of anti-personnel mines, while a second set cover international cooperation and assistance in different areas of humanitarian mine clearance. France was the first of the five permanent members of the Security Council to ratify the Ottawa Convention, in July 1998.

B. Implementation

France has fulfilled its commitments under the Ottawa Convention in an exemplary manner, including by adopting the Act of 8 July 1998, establishing a National Commission for the Elimination of Anti-Personnel Mines, and by completing operations for the destruction of stockpiles by December 1999. The First Review Conference of the Ottawa Convention, held in Nairobi in December 2004, saw the adoption of an action plan — a political document designed to guide the implementation of the Convention by the States Parties until 2009 (the date of the next Review Conference) with respect to universalization, the destruction of stockpiles, mine clearance, assistance to victims and international cooperation and assistance. This was followed by a second action plan, adopted during the Second Review Conference, held in Cartagena in 2009, by which States parties to the Convention agreed to undertake specific and operational activities in the 2010-2014 period to facilitate the implementation and promotion of the Convention.



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France is also implementing a national mine action strategy. The Liaison Committee on Mine Action (CLAM) comprises 25 participants (agencies, non-governmental organizations and businesses) and is aimed at strengthening France's contribution to post-conflict demining efforts.

### 3. Convention on Cluster Munitions, adopted on 3 December 2008

#### A. Signature, ratification and accession

France was actively involved in the drafting of the Convention on Cluster Munitions (also known as the Oslo Convention on Cluster Munitions), which concerns weapons that still claim far too many victims. France submitted its instruments of ratification to the United Nations Secretariat on 25 September 2009, becoming the twentieth of 71 States party to the Convention; an additional 43 States are signatories. The National Assembly and the Senate voted unanimously to pass the law ratifying the Convention. The two bodies were also unanimous in their vote on the bill on national implementation, which was adopted definitively on 6 July 2010 and promulgated on 20 July 2010. France promotes this Convention, as well as the Ottawa Convention, by encouraging non-States parties to undertake ratification, thus strengthening the impact of the treaty.

The Convention on Cluster Munitions, which entered into force on 1 August 2010, offers States parties the possibility of engaging in joint operations with non-States parties.

#### B. Implementation

Prior to the entry into force of the treaty, France took unilateral measures that placed it



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arrest and transfer of persons wanted by the International Criminal Court, as well as for the enforcement of prison sentences or compensation measures pronounced by the Court. More specifically, the International Criminal Court has submitted several requests for assistance to the French authorities in recent years, including requests for logistical support (the provision of experts and support from our armed forces on the ground in the conduct of certain investigations), requests for the reporting of information and ad hoc requests for protected witnesses to be admitted to French territory. On this last point, a review has also been initiated to consider whether France might sign a general agreement on the relocation of protected witnesses.

Act No. 2003-1367 of 31 December 2003 authorized the approval of the Agreement on Privileges and Immunities of the International Criminal Court, signed in New York on 9 September 2002. France was the fourth State to sign this Agreement.

Act No. 2010-930 of 9 August 2010, on harmonizing criminal law with the establishment of the International Criminal Court, incorporated into French legislation the criminalization of all offences within the jurisdiction of the International Criminal Court, sanctioning all of the acts prohibited under the Rome Statute by denoting them as appropriate as crimes against humanity or war crimes.

Although the Rome Statute does not require States parties to amend their criminal legislation to include those offences under the jurisdiction of the International Criminal Court, the Government decided to enhance and amend its criminal legislation by submitting a bill to the Parliament that would thoroughly incorporate into French law all of the crimes and offences relevant to the Court.

Furthermore, Act No. 2011-1862 of 13 December 2011, on the distribution of cases and the simplification of certain jurisdictional procedures, established at the High Court of Paris a

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specialized division on crimes against humanity, war crimes and crimes of torture in order to strengthen the investigative capacity for such crimes.

## VI. The ad hoc international criminal tribunals

### 1. The International Criminal Tribunal for Rwanda (ICTR)

Act No. 96-432 of 22 May 1996, adapting French legislation to the provisions of United Nations Security Council resolution 955 (1994) of 8 November 1994 establishing ICTR, allows French courts to judge persons suspected of having committed one of the crimes identified in the Statute of the Tribunal, when these persons are in French territory. On that basis, ICTR contacted the French authorities in order to refer the cases of two accused persons to the French courts. France agreed to the prosecution of Father Wenceslas Munyeshyaka and former prefect Laurent Bucyibaruta. Sub-prefect Dominique Ntawukuriryayo, who had been the subject of an arrest warrant, was also extradited to ICTR by France at in early June 2008. On 14 March 2003, France concluded an agreement with the United Nations on the enforcement of prison sentences imposed by ICTR within French territory.

Since the establishment of the Tribunal, France has consistently cooperated with ICTR not only for the identification and tracing of witnesses in French territory, the collection of testimonies and evidence and the shipment of documents, but also for the arrest and transfer of indictees. In early June 2012, 22 were being investigated by the High Court (Tribunal de grande instance) of Paris.

### 2. The International Criminal Tribunal for the Former Yugoslavia (ICTY)

France has a general obligation of cooperation with ICTY under the terms of the provisions of the Statute annexed to Security Council resolutions 808 (1993) of 22 February 1993 and 827 (1993) of 25 May 1993, in line with Chapter VII of the United Nations Charter. French officials have given testimony on numerous occasions since the establishment of the Tribunal. An agreement

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was signed with ICTY on 5 February 1999 to allow

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lawyer in the Victims Support Section, Mr. Simonneau. The co-investigating judge, Mr. Lemonde, left the Tribunal in December 2010. His first successor, a German judge, was replaced by a Swiss judge; both of them resigned. The United Nations is expediting the nomination of a new co-investigating judge (French candidatures).

#### 4. The Special Court for Sierra Leone

The Special Court for Sierra Leone, which was established by Security Council resolution 1315 (2000), recently issued its verdict against former Liberian President, Charles Taylor, who was sentenced to 50 years in prison for crimes against humanity and war crimes committed during the armed conflict in Sierra Leone.

The Court is funded by voluntary contributions and has benefited from contributions from France which total \$2,581,500 since the Court's inception.

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Translator's note: This figure is unclear in the original French text and may not be accurate. For comparison, note that the Permanent Mission of France reports a contribution of 2 million euros between 2005 and 2008. See here: <http://www.franceonu.org/france-at-the-united-nations/geographic-files/africa/sierra-leone-358/france-at-the-united-nations/geographic-files/africa/sierra-leone-358/article/sierra-leone>