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**ANNEX**

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**NOTE**

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from : General Secretariat of the Council  
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Subject : Evaluation of national counter-terrorism arrangements  
Evaluation report on France

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Delegations will find the evaluation report on France annexed hereto.

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# **Evaluation of national counter-terrorism arrangements**

## **Report**

### **Evaluation of France**

**24 to 27 June 2003**

**8 September 2003**

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## PART I

### INTRODUCTION

1. As part of the action plan approved following the terrorist attacks in the United States on 11 September 2001, on 20 September 2001 the JHA Council instructed the Article 36 Committee (CATS) to work out "an easier and swifter form of the evaluation mechanism defined in the Joint Action of 5 December 1997 establishing a mechanism for evaluating the application and implementation at national level of international undertakings in the fight against organised crime, in order to define a procedure for the peer assessment of national anti-terrorist arrangements (...)" <sup>1</sup>.
2. On 28 November 2002 the JHA Council adopted a Decision, Article 1(1) of which provides that "a mechanism for peer evaluation of the national arrangements in the fight against terrorism within the framework of international cooperation between Member States shall be established (...)" <sup>2</sup>.
3. On 5 February 2003 CATS defined the subject of the first evaluation exercise in the following terms: "To assess the exchange of information in all domains relating to terrorist activities between law enforcement and intelligence services and all other bodies dealing with various aspects of terrorism, including the coordination among those services and between these services and their counterparts in the other Member States on how best to exploit this information. The evaluation should mainly focus on information and coordination concerning Islamic extremist terrorist groups and their activities." <sup>3</sup>

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<sup>1</sup> 12156/01 JAI 99.

<sup>2</sup> Decision of 28 November 2002 (2002/996/JHA), published in OJ L 349, 24.12.2002, p. 1.

<sup>3</sup> 5838/03 LIMITE ENFOPOL 8.

4. That definition of the subject of the evaluation was consistent with the conclusions of the JHA Council on 20 September 2001, which emphasised "the important role of the security and intelligence services in the fight against terrorism" and called on Member States to intensify cooperation and information exchange and to strengthen "cooperation between the police services, including Europol, and the intelligence services" <sup>1</sup>.
5. Anxious to confine itself to the subject-matter of the evaluation as defined and approved by CATS (i.e. information sharing and coordination between police and intelligence services and all other relevant bodies), the evaluation team focused on the coordination structures and, through these, on the various players and, hence, ministries involved in the fight against terrorism with a view not only to making any appropriate recommendations at national level but also to identifying good practices and guidelines which could be implemented at European level.

The evaluation team also considered the more specific question of combating the financing of terrorism in order to shed light on the coordination mechanisms in that area as well.

The issue of the fight against Islamic extremist terrorism was dealt with at the interview stage and, in particular, during interviews with the DST [French counter-intelligence agency] and UCLAT [Counter-terrorism coordination unit].

6. The list of people to be interviewed was drawn up on the basis of the foregoing criteria.
7. France <sup>2</sup> is the first Member State to be evaluated.

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<sup>1</sup> 12156/01 JAI 99.

<sup>2</sup> Letter dated 19 June 2003 from the General Secretariat of the Council; letter dated 19 June 2003 from the Permanent Representation.



8. The evaluation team <sup>1</sup> comprised two experts from Member States (Portugal and Belgium), an expert from the European Commission (DG JHA) <sup>2</sup>, an expert from Europol in an observer capacity <sup>3</sup> and experts from the General Secretariat of the Council.
9. A list of authorities to be interviewed was proposed to the French authorities <sup>4</sup>. The French authorities accepted the proposed list with a few additions <sup>5</sup> and then arranged the relevant programme of visits <sup>6</sup>.
10. The ministries involved in the evaluation were:
  - the departments under the authority of the Prime Minister (interministerial coordination on matters relating to intelligence, alert plans and citizen protection);
  - the Ministry of the Interior <sup>7</sup> and the Ministry of Defence (law enforcement agencies, intelligence agencies, coordination);
  - the Ministry of Finance <sup>8</sup> (combating the financing of terrorism and coordination of the fight against the financing of terrorism);
  - the Ministry of Justice.
11. The experts had cognisance of all the available information before their mission.
12. All the interviews took place at the headquarters of the relevant ministries in Paris.

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<sup>1</sup> See Annex 1.

<sup>2</sup> Letter dated 5 June 2003.

<sup>3</sup> Letter dated 6 June 2003.

<sup>4</sup> On the basis of France's replies to the questionnaire in 11722/1/02 ENFOPOL 113 and the experts' knowledge of the organisation of counter-terrorism activity in France.

<sup>5</sup> Article 6 of the Decision of 28 November 2002.

<sup>6</sup> See Annex 2, list of ministries and people interviewed.

<sup>7</sup> Ministry of the Interior, Internal Security and Local Freedoms (hereinafter "Ministry of the Interior" for the sake of simplicity).

<sup>8</sup> Ministry of Economic Affairs, Finance and Industry (hereinafter "Ministry of Finance" for the sake of simplicity).

13. Following the evaluation, the experts from the Member States drew up this report, with assistance from the General Secretariat of the Council of the European Union, on the basis of the interviews, their conclusions and the available documents, which included the following:
  - the questionnaire in 11722/1/02 ENFOPOL 113 and France's reply, as well as a summary of the replies from Member States (5359/03 REV 1 LIMITE ENFOPOL 2);
  - the questionnaire in 6737/2/03 RESTREINT ENFOPOL 11 REV 1 and France's reply;
  - the documentation provided to the members of the evaluation team at the interviews.
14. The report describes the structure of the French counter-terrorism arrangements in the areas evaluated.
15. The experts and the General Secretariat of the Council wish to thank the French authorities and the Permanent Representation of France to the European Union for taking the steps required to enable the evaluation to take place on time, particularly in view of the need to organise the visit at particularly short notice.
16. They also wish to thank all the people involved.

## PART II

### ORGANISATION OF THE COUNTER-TERRORIST EFFORT IN FRANCE: OVERVIEW

This overview represents the anti-terrorist experts' understanding of the organisation of the counter-terrorist effort in France, as it was presented to them during the interviews. It also takes into account France's answers to questionnaires 11722/1/02 ENFOPOL 113 and 6337/2/03 RESTREINT ENFOPOL 11 REV 2 and the documentation received by the experts during those interviews.

#### 1. Ministries and bodies covered by the evaluation.

In order to cover the full scope of the evaluation and comply with the terms of reference defined by the Article 36 Committee, a distinction was made between:

- Ministries responsible for counter-terrorism on the operational level:
  - Ministry of the Interior
  - Ministry of Defence
  - Ministry of Finance
  - Ministry of Justice
  
- Permanent bodies coordinating the counter-terrorism effort:
  - coordination of intelligence: *Secrétariat général de la défense nationale* (SGDN) [General Secretariat for National Defence] and *Comité interministériel du renseignement* (CIR) [Interministerial Intelligence Committee];
  - law enforcement agencies and civil intelligence departments: UCLAT - *Unité de Coordination de la Lutte Anti-Terroriste* [Counter-terrorism Coordination Unit].

## 2. Ministry and agency responsibilities <sup>1</sup>.

### 2.1. Ministry of the Interior <sup>2</sup>.

	Law enforcement agencies <sup>3</sup>	Intelligence agencies	Coordination
Interior	<p><b>DCPJ [Central Directorate of the Criminal Police]</b>            - DNAT [National Counter-terrorism Division]: has national jurisdiction for criminal and operational investigations into            - domestic terrorism;            - Islamic extremist terrorism, powers exercised in liaison with the DST.            - OCRGDF [Central Office for combating serious fraud]: combats terrorist financing, has national jurisdiction.</p> <p>NB. The Criminal Police Department of the Paris Prefecture comprises an anti-terrorist section covering the jurisdiction of the Paris Prefecture (Paris and its immediate suburbs, departments 92, 93 and 94).</p> <p><b>SCTIP [Technical International Police Cooperation Department]</b>            - Network of internal security attachés</p>	<p><b>DST [Counter-intelligence agency]</b>            - intelligence gathering (national jurisdiction)            - criminal and operational investigations (national jurisdiction)            - Islamic extremist terrorism and, more generally, imported and international terrorism;            - liaison officers' network</p> <p><b>RG [General Intelligence Department]</b>            - intelligence gathering (national and local jurisdiction)            - operational investigations            - domestic terrorism            - groups and activities linked to Islamic terrorism (recruitment, fund raising, links between organised crime and Islamic movements, etc.)</p>	<p><b>UCLAT [Counter-Terrorism Coordination Unit]</b>            - Interministerial operational coordination of the police (all directorates of the French national police), gendarmerie and intelligence agencies.            - Operational threat assessment.            - Liaison officers' network abroad            - International action</p>

<sup>1</sup> This section provides a concise summary. For a more detailed description, see Annexes.

<sup>2</sup> Ministry of the Interior, Internal Security and Local Freedoms (hereinafter abbreviated to "Ministry of the Interior" for the sake of simplicity).

<sup>3</sup> Other directorates, departments and units contribute to the counter-terrorism effort in the course of their routine duties and, on that basis, take part in the work of UCLAT and indirectly in that of the SGDN, an example being the Central Directorate responsible for policing the borders.

The Ministry of the Interior <sup>1</sup> has a key role in preventing and combating terrorism: it groups together, under the authority of the Director-General of the national police, both police departments such as the *Direction Centrale de la Police Judiciaire* [**Central Directorate of the Criminal Police**] and civil intelligence agencies like the *Renseignements Généraux* [General Intelligence Department] and the *Direction de la Surveillance du territoire* [Counter-intelligence Agency]. These Directorates have the powers, on national territory, to prevent <sup>2</sup> and combat terrorism in its domestic, international and, more especially, its Islamic extremist forms <sup>3</sup>.

It should also be mentioned that under Article 3 of Decree No 2002-889 of 15 May 2002 the Ministry of the Interior's powers include responsibility for "the deployment of national gendarmerie units for internal security purposes" and for "defining those units' tasks which lie outside their police duties". The Ministry of the Interior "shall lay down the conditions for the performance of those tasks and the organisational arrangements resulting therefrom." <sup>4</sup>.

Each Directorate General has its own programme for bilateral cooperation with EU Member States and third countries.

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<sup>1</sup> The Ministry of the Interior is responsible for counter-terrorism on national territory (see France's reply to questionnaire 11722/1/02 ENFOPOL 113).

<sup>2</sup> Prevention covers several aspects: fund raising, proselytising and recruitment in the poorer suburbs and in mosques, certain individuals' journeys abroad, visits to France by foreign imams, and so on.

<sup>3</sup> See general table in Annex 3.

<sup>4</sup> Clearly these provisions make for better coordination of the police, intelligence and gendarmerie services involved in combating domestic terrorism.

### 2.1.1. *La Direction centrale de la police judiciaire (DCPJ)* [Central Directorate of the Criminal Police] <sup>1</sup>

The DCPJ brings together all central and local crime prevention and law enforcement departments engaged in tackling organised and specialist crime. DCPJ officers, who have criminal police officer rank and have been duly empowered by the judicial authority, act either on their own initiative or under instruction from an examining magistrate or member of the public prosecutor's office.

Within the DCPJ the *Division nationale anti-terroriste* (DNAT) [National Counter Terrorism Division], whose powers cover the entire national territory, has the specific task of "detecting and preventing subversive and terrorist activities and of prosecuting offences against the security of the State" <sup>2</sup>. When DNAT is in need of support, the DCPJ calls on its central and regional police resources <sup>3</sup> and may use the expertise of other departments <sup>4</sup>.

The *Office central pour la répression de la grande délinquance financière* (OCRGDF) [Central Office for combating serious fraud] has the task of combating economic, commercial and financial offences connected with professional or organised crime, in particular with large-scale organised crime, drug trafficking and terrorism. In the area of terrorism, the OCRGDF works closely with counterpart bodies in the Ministry of Finance <sup>5</sup>.

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<sup>1</sup> For a more detailed description and a summary of the meeting with the DCPJ see Annex 4.

<sup>2</sup> Within the jurisdiction of the Police Prefecture of Paris the SAT (Counter-terrorism Section) of the Paris Criminal Police Department also has counter-terrorism powers.

<sup>3</sup> Some inter-regional criminal police departments have dedicated counter-terrorist resources e.g. the Inter-regional criminal police departments of Bordeaux (dealing with Basque terrorism) and Marseille (dealing with Corsican terrorism).

<sup>4</sup> For example the *Office central pour la répression du trafic des armes, des munitions, des produits explosifs et des matières nucléaires, biologiques et chimiques* (OCRTAEMS) [Central Office for combating trafficking in firearms, ammunition and explosives and nuclear, biological and chemical materials] or the *Office central de lutte contre la criminalité liée aux technologies de l'information et de la communication* (OCLCTIC) [Central Office for combating information and communication technology crime], which was established by decree on 15 May 2000.

<sup>5</sup> A special unit on terrorist financing was set up within the OCRGDF in September 2001, to liaise with the relevant departments in the Ministry of Finance.

**2.1.2. *La direction de la surveillance du territoire (DST)* [National counter-intelligence agency] <sup>1</sup>**

The DST, whose jurisdiction covers the whole of national territory, is an intelligence agency with police powers <sup>2</sup>. It has three traditional tasks: counter-espionage, counter-terrorism and the protection of economic and scientific assets. It covers the new strategic threats, including the proliferation of nuclear, bacteriological, chemical and ballistic weapons. International Islamic terrorism, and more generally terrorism originating outside national territory fall fully within its scope. It has its own network of liaison officers abroad.

**2.1.3. *La Direction centrale des renseignements généraux (DCRG)* [Central General Intelligence Directorate] <sup>3</sup>**

A key feature of the DCRG is that its officers do not have police powers <sup>4</sup>. This means that the General Intelligence Directorate is an intelligence agency and does not carry out criminal investigations.

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<sup>1</sup> See Annex 4 for a more detailed presentation and a summary of the interview with the DST.

<sup>2</sup> This dual role enables the DST to take a more global approach to terrorist activities, "both those supported directly or indirectly by certain foreign States and those originating in foreign organisations" (note from the French delegation). It also ensures that the DST can keep its documentation abreast of developments.

<sup>3</sup> See Annex 4 for a more detailed presentation and a summary of the interview with the DCRG.

<sup>4</sup> Except for the officers assigned to the racing and gambling unit.

The DCRG's tasks include counter-terrorism, in which area it fulfils a dual role: a traditional role of analysing intelligence, and an operational role involving the investigation and prevention of terrorist acts. Indeed, it should be stressed that "its activities, particularly as regards domestic terrorism, the monitoring of foreign communities and "high-risk groups", are mainly preventive" <sup>1</sup>.

#### **2.1.4. *Le Service de coopération technique internationale de police* [Technical International Police Cooperation Department] (SCTIP) <sup>2</sup>**

The SCTIP is entirely dedicated to police cooperation with States that have signed cooperation agreements with France. For the purposes of European cooperation it has significantly expanded its network of internal security attachés <sup>3</sup> in Europe.

Counter-terrorism: the internal security attachés, who are not to be confused with the specialist networks of the DST <sup>4</sup> and UCLAT, deal with all terrorist acts <sup>5</sup> committed abroad, and with the host countries' policies on terrorism. Through their contacts with host countries' police and intelligence agencies and through their analysis and reports they contribute to the analysis carried out by the French counter-terrorism agencies and to the assessment of the terrorist threat.

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<sup>1</sup> From France's reply to the questionnaire in 11722/1/02. On the subject of recruitment : "(...) The threat has now become global and the "jihad fighters" are living inconspicuously in target countries: they recruit new members among the populations – some of whom are illegal immigrants – living on the fringes of our big cities. These "grey areas" provide particularly fertile soil for the growth of networks." (From an interview with Jean-Louis Bruguière on 12 December 2002). See also the arrests in Italy in November 2003. French intelligence agencies are also looking into the vectors of terrorism, for example, foreign imams entering France (since September 2001, as many as ten imams from Saudi Arabia have been refused entry).

<sup>2</sup> See Annex 4 for a more detailed presentation and a summary of the interview with the SCTIP.

<sup>3</sup> Internal security attachés have a broader remit and, in particular, broader powers than liaison officers. For the sake of simplicity, reference will be made only to liaison officers, except in specific cases.

<sup>4</sup> The SCTIP is thus neither a branch of the police with operational tasks nor an intelligence agency.

<sup>5</sup> And the financing of terrorism.



## 2.2. Ministry of Defence.

Defence	<p><b>National gendarmerie</b></p> <ul style="list-style-type: none"> <li>- local jurisdiction for criminal investigations and operational investigations</li> <li>- domestic terrorism</li> <li>- member of the network of internal security attachés</li> </ul>	<p><b>DGSE</b></p> <p><b>[Directorate-General for External Security ]<sup>1</sup></b></p>	
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The Ministry of Defence<sup>2</sup> makes a major contribution to the counter-terrorism effort at national level (domestic terrorism in Corsica and in the Basque country) through the input of the national gendarmerie<sup>3</sup>, which has seen a substantial increase in its forces<sup>4</sup> and a steady growth in expertise. The intelligence collected by the gendarmerie's territorial network (3600 brigades)<sup>5</sup>, its investigation units and specialist branches (e.g. the *Gendarmerie des transports aériens* [Air traffic gendarmerie] and the *Gendarmerie de la sûreté des transports nucléaires*) [Nuclear weapon safety gendarmerie] is centralised and processed at the counter-terrorism section of the Directorate-General of the gendarmerie before being forwarded to the judicial authorities or to UCLAT. The gendarmerie's activities in combating domestic terrorism complements that of other specialist branches in other Government Ministries.

<sup>1</sup> Like the military intelligence agencies, the *Direction Générale pour la Sécurité Extérieure* (DGSE) [Directorate-General for External Security] lies outside the scope of the evaluation. The DGSE is a member of UCLAT. With the military intelligence agencies the DGSE contributes to the strategic definition of the terrorist threat prepared by the SGDN [Secretary-General for National Defence].

<sup>2</sup> There was no meeting with the DGSE, the intelligence agency which answers to the Ministry of Defence and is responsible for security question outside national territory, since the Article 36 Committee confined the evaluation to civil/civilian status intelligence services with national jurisdiction (except through international letters rogatory). Several attempts were nevertheless made to obtain an appointment with the DGSE. There were clear reasons then why the work schedule did not include interviews with the military intelligence agencies (also contributors to the SGDN's strategic definition of the terrorist threat).

<sup>3</sup> See Annex 4 for a more detailed presentation and summary of the interview with the national gendarmerie.

<sup>4</sup> With the addition, in particular, of the investigation sections in Pau (Basque terrorism) and Ajaccio (Corsican terrorism).

<sup>5</sup> Examples were cited of the important role of operational intelligence gathering by gendarmerie brigades before matters are referred to other specialist agencies and the judicial authorities (for instance, the use of the resources of the GIGN (national gendarmerie intervention group) for surveillance. The gendarmerie's role in the Overseas Countries and Territories was also highlighted. It is on these grounds that the gendarmerie is described as acting "as a full member of the intelligence community" (see France's reply to the questionnaire in 11722//1/02 ENFOPOL 113).

Two decrees dated 8 August 2003 have modified the organisation of the Directorate-General of the National Gendarmerie. Article 3(5) of the decree reorganising the Directorate-General into Bureaus specifies that the criminal police Sub-directorate will henceforward comprise a counter-terrorism bureau, (*Bureau de lutte anti-terroriste*), a mark of the gendarmerie's significant investment in the counter-terrorism effort and the role it intends to play in the sector.

The gendarmerie has its own bilateral cooperation programme with Member States and third countries and has recently joined the SCTIP network of security attachés.

### 2.3. Ministry of Finance <sup>1</sup>

Finance	<p><b>DGDDI</b>  <b>[Directorate-General for Customs and Indirect Taxes]</b>          DNRED - <i>Direction nationale du renseignement et des enquêtes douanières</i>          [National Directorate for Customs Intelligence and Investigations]: has national jurisdiction.          - Network of customs attachés: international cooperation.</p>	<p><b>GOLT [Operational anti-terrorism group ]</b> <sup>2</sup>  <b>(DGDDI – DNRED)</b>          Collects, centralises and analyses terrorism-related intelligence: has national jurisdiction</p> <p><b>TRACFIN [French Financial Intelligence Unit]</b> <sup>3</sup>          - combating money-laundering and the financing of terrorism: has national jurisdiction,          - international cooperation</p>	<p><b>FINATER</b>          - Coordinates action against terrorist financing          - freezing of assets</p>
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<sup>1</sup> Ministry of Economic Affairs, Finance and Industry (hereinafter abbreviated to "Ministry of Finance" for the sake of simplicity).

<sup>2</sup> This is not a conventional intelligence agency; the GOLT collects information, which it channels to the competent bodies.

<sup>3</sup> Not a conventional intelligence agency; TRACFIN describes itself as a financial intelligence unit, which refers matters to the judicial authorities as and when necessary.

**2.3.1. *Direction générale des douanes et des droits indirects (DGDDI)***  
**[Directorate-General for customs and Indirect Taxes]/ *Direction nationale du renseignement et des enquêtes douanières (DNRED)*** [National Directorate for Customs Intelligence and Investigations] /***Groupe opérationnel de lutte contre le terrorisme (GOLT)*** [operational anti-terrorism group]<sup>1</sup>

In addition to its traditional powers and responsibilities in ensuring public security, Customs plays a role in combating large-scale trafficking and organised crime. In that capacity, Customs, whose task it is to monitor whether international traders comply with rules governing implements of war, arms and ammunition, explosive powders and substances and non-conventional nuclear, ballistic and chemical weapons, contributes to preventing arms proliferation.

Moreover, because of their physical location – in airports, ports, freight facilities and at key border stretches like the Channel tunnel – the customs authorities plays a role in preventing the risk of terrorism<sup>2</sup>. Customs also exercises powers to combat the laundering of the proceeds of trafficking.

As a result, Customs, which inspects physical cross-border movements of means of payment, contributes to tackling the financing of terrorism.

The routine work of Customs, moreover, serves to combat the laundering of the proceeds of customs crime (counterfeiting, narcotics).

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<sup>1</sup> For a more detailed presentation and a summary of the interview with the customs authorities, see Annex 4.

<sup>2</sup> Customs are members of the Vigipirate scheme.

Lastly, the customs authorities are responsible for monitoring international trading transactions. In that capacity, they check that the payment of such transactions is above board and they are particularly well-placed to detect any money-laundering operations disguised as lawful transactions.

In the wake of 11 September 2001, the DGDDI set up an operational anti-terrorism group (GOLT) within the DNRED; using customs resources, GOLT centralises and analyses terrorism-related intelligence collected on people and organisations.

Customs also takes part in international counter-terrorism programmes (including the United States container security initiative) and constantly shares information with many countries on both a bilateral and a multilateral basis.

Customs is also involved in combating the financing of terrorism, which it does by checking that assets have effectively been frozen, and monitoring the physical movement of money, and securities across borders, by requiring a declaration of means of payment where sums exceeding EUR 7 600 are involved. Moreover, the Director-General of Customs, who is also the Secretary-General of TRACFIN, attends FINATER meetings.

### 2.3.2. FINATER<sup>1</sup>

FINATER, established after the attacks of 11 September 2001, is an ad hoc ministerial body responsible for coordinating and pooling information specifically to combat the financing of terrorism. The task of FINATER, which operates in the Ministry of Finance, is to ensure closer cooperation between the various agencies dealing with large-scale trafficking, accounting transparency, money-laundering and the links between them. For this purpose FINATER draws together six Ministry Directorates (Treasury, Customs and Indirect Taxes, Taxation, Tax legislation, External Economic Relations, and Legal Affairs) and TRACFIN, the dedicated financial intelligence unit; where necessary it calls on the services of external experts.

In the area of the freezing of assets FINATER acts under and in accordance with United Nations decisions<sup>2</sup> and applies the relevant Community legislation<sup>3</sup>. It tightens the coordination and improves the consistency of the work of the economic and financial departments implementing asset-freezing measures<sup>4</sup>.

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<sup>1</sup> For a more detailed presentation and a summary of the interview with FINATER, see Annex 4.

NB: FINATER is not an independent body with a specific remit but a strategic coordination unit within the Ministry of Finance, which has no direct operational engagement but relies on the expertise and powers of its member administrations.

<sup>2</sup> Security Council Resolutions 1267(1999), 1333(2000), 1390(2001) and 1445(2003).

<sup>3</sup> In particular, Council Common Position 2002/402/CFSP and Council Regulation (EC) No 881/2002 of 27 May 2002 imposing certain specific restrictive measures directed against certain persons and entities associated with Osama bin Laden, the Al Qaida network and the Taliban (see UN Security Council Resolution 1267(1999)).

<sup>4</sup> FINATER has established links (for the moment informal) with the DST [Counter-Intelligence Directorate], a step prompted by the difficulties inherent in freezing the assets of persons whose identity is uncertain. This is a recurrent problem for many countries.

### 2.3.3. TRACFIN <sup>1</sup>

TRACFIN is a permanent administrative department at the Ministry of Finance. It describes itself as an intelligence unit with the remit of tracking illegal financial flows and as a unit of anti money-laundering expertise. It collects, processes and disseminates information obtained within the Ministry of Finance and coordinates the activities of that Ministry's relevant departments in combating money-laundering. TRACFIN is France's FIU.

NB. TRACFIN contributes extensively to international cooperation mechanisms (bilateral and multilateral).

### 2.4. Ministry of Justice <sup>2</sup>

France has specific anti-terrorist laws, which are enforced by the police and the judiciary <sup>3</sup>; this is reflected in the internal organisation of the Ministry of Justice – which has a bureau for combating organised crime, terrorism and money-laundering –, in the organisation of the justice system – the *Tribunal de Grande Instance* [court of first instance] of Paris has a special public prosecutor's office (anti-terrorism section with six magistrates) and specialist examining magistrates –, and in the role played by specialist departments such as the DCPJ, the DST and the national gendarmerie <sup>4</sup>, each within its powers.

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<sup>1</sup> For a more detailed presentation and a summary of the interview with TRACFIN, see Annex 4.

<sup>2</sup> For a more detailed presentation and a summary of the interview with the Ministry of Justice, see Annex 4.

<sup>3</sup> In the combat against terrorism the rule of law admits nothing less than strict and due legal process, particularly as regards respect of fundamental rights.

<sup>4</sup> The investigators are criminal police officers; the powers of officers of the DCPJ/DNAT and DST cover national territory, and those of the SIPJ and the gendarmerie's investigation sections are local.

The powers and expertise vested in France's anti-terrorist judiciary (whether at the public prosecution or the examining stage) are without parallel in Europe <sup>1</sup>. They not only receive from the police and gendarmerie all information on terrorist acts and those who perpetrate them <sup>2</sup>, but also occasional material in the form of reports from the intelligence agencies, including analyses and background information from the RG [General Intelligence Department].

### 3. Coordinating bodies

France's armoury of counter-terrorism responses includes a permanent coordinating and regulatory body (UCLAT) and a body which produces strategic assessments of the terrorist threat (SGDN).

#### 3.1. *L'Unité de coordination de la lutte anti-terroriste* (UCLAT) [Counter-Terrorism Coordination Unit] <sup>3</sup>

UCLAT answers to the Director-General of the National Police at the Ministry of the Interior; it is the only permanent body coordinating <sup>4</sup> and regulating the operational branches <sup>5</sup> in the law enforcement (police and gendarmerie) and intelligence sectors. The DGSE, answering to the Ministry of Defence, is a member of UCLAT.

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<sup>1</sup> In addition, they have acquired specialist knowledge on the job, of either international or domestic terrorism.

<sup>2</sup> In the course of preliminary investigations, expedited (*flagrante delicto*) investigations or investigations under letters rogatory.

<sup>3</sup> For a more detailed presentation and a summary of the interview with UCLAT (and the DCI – Inter-ministerial central body for technical intervention), see Annex 4.

<sup>4</sup> Coordination, by definition, implies two complementary activities: orchestrating action but also circulating and sharing information.

<sup>5</sup> UCLAT is not, strictly speaking, an inter-ministerial body: the unit was established by an order (*arrêté*) of the Ministry of the Interior acting alone and not by (inter-ministerial) *décret*.

UCLAT plays a full role in European and international cooperation measures, both bilateral and multilateral <sup>1</sup>, and has its own liaison officer network abroad. The specialist foreign liaison officers [working in France] are attached to UCLAT.

UCLAT provides the opportunity for all anti-terrorism agencies to meet once a week, as well as on an ad hoc basis where necessary to discuss specific topics; it is a forum not only for sharing information but also for the different specialists and their professional cultures to mix, the occasion for agencies to take account of each others' interests and to refine the criteria of what is useful intelligence (judicial or security) by reference to the powers, tasks and goals of each. Working collectively, UCLAT has always succeeded in defining criteria of efficiency acceptable to all its member police and intelligence agencies, while respecting the specific nature of each.

### **3.2. *Le Secrétariat Général de la Défense Nationale (SGDN)* [General Secretariat for National Defence] <sup>2</sup>**

The SGDN is a permanent body reporting directly to the Prime Minister; it has the specific task of interministerial coordination in matters of defence and security <sup>3</sup>.

Its remit also includes "acting as the secretariat for the Interministerial Intelligence Committee".

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<sup>1</sup> UCLAT heads the French delegation in the third pillar Working Party on Terrorism and represents France in many international bilateral and multilateral fora. See interview with UCLAT in the Annex.

<sup>2</sup> For a more detailed presentation and a summary of the interview with the SGDN see Annex 4.

<sup>3</sup> "In liaison with the ministerial departments concerned, (the Secretary-General for National Defence) shall monitor crises and international conflicts that may affect France's interests in terms of security and shall study possible positions to be adopted in this field".



Because it is at the apex at which defence and security-related questions converge, the SGDN is responsible for summarising intelligence <sup>1</sup> for use by State authorities for decision-making and strategic purposes. As the basis for its analysis the SGDN:

- coordinates part of the process of interministerial intelligence exchange, in particular in specialised working groups;
- conducts its own exchanges with foreign counterparts <sup>2</sup>.

The SGDN working groups draw primarily on those ministries which, in terms of prevention, law enforcement and threat analysis, are at the forefront of the fight against terrorism: Ministries of the Interior, Defence, Foreign Affairs and Finance; the operational branches of some of these (the Ministries of the Interior, Defence, etc.) are members of UCLAT.

The SGDN also makes a decisive contribution to terrorist response plans (e.g. the Vigipirate plan and other specific plans to counter CBRN threats) <sup>3</sup> by defining plans for emergency relief and protection of the population, recommending the appropriate alert status and proposing the resources to be deployed, etc. to the political authorities.

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<sup>1</sup> As a rule, the contributions of military agencies (or agencies with military status) is only taken into account for the SGDN's definition of the terrorist threat. The military intelligence agencies do not have counter-terrorism responsibilities on national territory. See also the role of the DGSE.

<sup>2</sup> For example with the United Kingdom.

<sup>3</sup> The Vigipirate plan was introduced in 1981 in response to terrorist threats.

### 3.3. Other types of coordination

Although not devolved to dedicated administrative structures, the coordinating role of the judicial authorities should also be mentioned. That role is manifest during the frequent meetings arranged by the public prosecutors' offices of the Paris *Tribunal de Grande Instance* and of the *Cour d'Appel* with the intelligence agencies and criminal police departments. Such meetings are crucial to the public prosecution of terrorism.

The public prosecutors' offices dealing with terrorism play a similar coordinating role under the authority of the *Direction des Affaires Criminelles et des Grâces* [Directorate for Criminal Matters and Pardons] of the Ministry of Justice. The following meetings are held under the aegis of the judicial authorities:

- coordination meetings held at the *Direction des Affaires Criminelles et des Grâces* between, on the one hand, the principal public prosecutor of Paris and the anti-terrorist section of the Paris public prosecutor's office and, on the other hand, the principal public prosecutors and public prosecutors of the regions specifically affected by terrorism (Pau and Bastia) and public prosecutors' offices having occasionally to deal with the problem;
- meetings arranged by the principal public prosecutor at the Paris Court of Appeal for the main protagonists in the fight against terrorism (criminal police, gendarmerie and intelligence agencies) in order to take stock of the terrorist threat.

#### 4. The guiding principles of the overall counter-terrorist effort

The measures involved are in all respects specific, comprehensive and integrated, aiming to combat terrorism itself (both domestic and international), and following permanent principles which provide great consistency <sup>1</sup>.

Nationally, the fight against terrorism:

- is a constant national priority <sup>2</sup>;
- is centralised;
- rests on specific criminal legislation;
- is mainly carried out by members of the judiciary (prosecutors examining magistrates and judges) and the Criminal Police <sup>3</sup> specialising in and dedicated to the fight against terrorism;
- is reliant on the involvement of civil intelligence services <sup>4</sup>;

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<sup>1</sup> See article in Time magazine dated 24 September 2001: "The French have a long and intimate acquaintance with terror, earned in years of attacks by Algerian independence fighters. Although currently plagued by an Islamist terror threat, French authorities have made their country so inhospitable to terrorist networks that many have relocated to Germany. (...) The French approach terrorism much like doctors approach the common cold: Rather than wiping it out completely, they look for ways to manage it. This is done through a combination of years of patient intelligence gathering and police work to ascertain the terrorists' modus operandi, and a set of laws (...). **NOT DECLASSIFIED**

<sup>2</sup> "France has been the victim of international terrorism in its own territory and abroad and, for many years, has shown its determination to combat terrorism in all its forms (...). The country's fight (..) is guided by (...) firstly, unequivocal condemnation of terrorism in all its forms, regardless of the identity and motives of those involved." (Report submitted by France to the Counter-Terrorism Committee pursuant to paragraph 6 of Security Council resolution 1373 (2001) of 28 September 2001).

<sup>3</sup> The local judiciary and criminal police remain competent, but the nature of the offences and the significance of the investigation under way (particularly its links with other past or current cases) may lead to matters being referred to the central judiciary and departments.

<sup>4</sup> "Contemporary threats have emerged from the shadows: terrorism, nuclear proliferation (...). The intelligence services have probably never been so close to the heart of the State. They are the key to action" (draft finance law for 2004, Annex 36, Prime Minister, SGDN [Secretary-General for National Defence] and defence).

- is coordinated at two levels (interministerial and ministerial) and in two complementary areas (intelligence <sup>1</sup> and coordination of specialised and/or operational services);
- pays constant special attention to Islamic extremist terrorism and to the financing of terrorism, whether in the framework of the fight against terrorism at national level or to apply international law <sup>2</sup> and combat terrorism internationally.

Internationally, the fight against terrorism:

- increasingly incorporates issues of defence and security, both external and internal;
- is heavily reliant on European and international cooperation, both bilateral and multilateral, with ad hoc international cooperation (regional and/or thematic/specific);
- is considered as a necessity, and as a factor which increases effectiveness and contributes to the fight against terrorism within national borders, while also contributing to the fight against terrorism outside the borders to the benefit of the international community.

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<sup>1</sup> Report 1110 drawn up on behalf of the *commission des finances, de l'économie générale et du plan* [Finance, Economy and Planning Commission] on the draft finance law for 2004 (Annex 36, Prime Minister, SGDN and defence), suggests the creation of a body for political guidance or a national intelligence council chaired by the Head of State, linked to his responsibilities as head of the *Conseil de Sécurité Intérieure* [Internal Security Council].

<sup>2</sup> International conventions, Community legislation, United Nations resolutions, etc.

#### 4.1. The fight against terrorism is a constant national priority <sup>1</sup>

There are three dimensions to the need for the fight against terrorism, a need which arises in particular from the fact that France has suffered and continues to suffer several types of domestic terrorism of various origins <sup>2</sup>, and that on a number of occasions it has been the victim, both on its own territory and abroad, of murderous terrorist acts committed by Islamic extremist terrorist groups <sup>3</sup>. Of all the members of the European Union, it remains one of the States which is most exposed to the latter type of terrorism, particularly because of its uncompromising commitment to the fight against Islamic extremist terrorism in the past <sup>4</sup> and its commitment to the international fight against terrorism.

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<sup>1</sup> The fight against terrorism "is guided by.. firstly, unequivocal condemnation of terrorism in all its forms, regardless of the identity and motives of those involved" (report submitted by France to the Counter-Terrorism Committee pursuant to paragraph 6 of Security Council resolution 1373 (2001) of 28 September 2001).

<sup>2</sup> Corsican and Basque separatist terrorism.

<sup>3</sup> Notably in Lebanon with the Drakkar attack in 1983, the 15 attacks committed between December 1985 and September 1986, by the *Comité de Solidarité aux Prisonniers Politiques Arabes* (CSPPA) [Committee of Solidarity with Arab and Middle East Political Prisoners], the nine attacks committed between July 1995 and October 1996, by the GIA [Armed Islamic Group], the attacks in 1986, the attacks in 1995 and 1996 etc. The hijacking of the Algiers-Paris Airbus on 24 December 1994 is, in every respect, retrospectively symbolic, since it perfectly prefigured the attacks in the United States on 11 September 2001. The Minister for the Interior at the time, Charles Pasqua, subsequently declared: "The terrorists' plan was to hit Paris, in exactly the same way as they chose New York as a target". Interview with Judge Bruguière (12 December 2002): "Since 1993, Islamist networks have been based (in national territory) to provide logistical support to the guerrillas in Algeria".

<sup>4</sup> E.g. 6 October 2002, the attack on the French tanker *Limburg*. "Terrorism is a persistent threat to our country at what I would describe as a fairly high level, particularly because of international events", the Director of the DST [counter-intelligence agency] said on 11 September 2003, explaining that "France is not in the front line; it is not being specifically targeted by Islamic terrorism. It is being targeted as a Western country". It should also be remembered that France is one of the countries mentioned in recent statements attributed to Osama bin Laden, and that French police have arrested a number of individuals linked to the radical Islamic movement. The Director of the DST analysed the threat to France in November 2003: "the rise in Salafism" was leading to "a community-wide intransigence", and it was feared that this "radicalisation, which is pronounced among the younger generations, will be a breeding ground for terrorists"; the rise to power in Algeria of a new emir who had "achieved leadership of the GSPC [Salafist Group for Preaching and Combat]" and who was more attuned to the export of Islamic violence than his predecessor and "who has sworn allegiance to Al Qaida"; Iraq had "become a land of jihad" with the eventual risk "of being confronted with the emergence and return to Europe of a third generation trained on the battlefields, following the Bosnian and Afghan/Pakistani generations". By way of illustration, mention might be made of the 8 people arrested in Marseille on 30 September 2003 on suspicion of providing logistical support (false documents) to the GSPC. As regards Salafism, consider the situation in Italy where GSPC support networks were discovered in 2001 and 2002.

#### 4.1.1. Political impetus

**The fight against terrorism involves all levels of the State, and all those with ministerial responsibilities<sup>1</sup>. The head of State chairs the Internal Security Council<sup>2</sup>, and the Prime Minister has appropriate interministerial mechanisms, particularly the SGDN and the CIR [Interministerial Intelligence Committee] available to him to draw together the strategic terrorist threat assessment and emergency and civil protection plans.**

Several ministries participate directly in the fight against terrorism, but some do have a predominant<sup>3</sup> or leading role. This applies particularly to the Ministry of the Interior as regards the operational fight and the Ministry of Finance as regards the fight against the financing of terrorism<sup>4</sup>.

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<sup>1</sup> This comment also applies to the fight against the financing of terrorism, with for example the involvement of the financial and banking system (see the Monetary and Financial Code) since prevention of the financing of terrorism relies on misuse of the financial system.

<sup>2</sup> The role of the Internal Security Council was emphasised both by the National Commissioner of Police and by the Minister's technical adviser during the interviews. See (in the Annex) the interview with the SGDN, and its relation to the Internal Security Council.

<sup>3</sup> This comment obviously applies to the Ministry of Foreign Affairs for diplomatic aspects of the fight against terrorism and the Ministry of Justice in its area of competence.

<sup>4</sup> This is naturally the case for the Minister for Justice and the Minister for Foreign Affairs in their areas of competence.

#### 4.1.2. The Ministry of the Interior

- is the main player and driving force in the fight against terrorism, in the areas of preventing, anticipating and combating terrorist activities, with police and intelligence services permanently dedicated to the fight against terrorism **NOT DECLASSIFIED**, including the financial dimension;
- coordinates all the law enforcement agencies and the intelligence departments <sup>1</sup> which participate in prevention and enforcement. It has an appropriate tool for this task in the shape of UCLAT [the Counter-Terrorism Coordination Unit];
- has wide experience of European and international cooperation, both bilateral and multilateral. It has a specialised department <sup>2</sup> for this purpose, and has deployed various networks of liaison officers <sup>3</sup> directly involved in the fight against international terrorism. It should be noted that as regards European and international cooperation, Annex 1 to the report on the internal security policy guidelines of law No 2002-1094 of 29 August 2002 on internal security guidance and planning states that "in the context of political guidelines decided by the Government, and particularly the Minister for Foreign Affairs, and subject to the specific competences of the Minister for Economic Affairs, Finance and Industry, the Minister in charge of internal security coordinates European and international cooperation activities as regards internal security".

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<sup>1</sup> Except for military intelligence services or those with military status.

<sup>2</sup> SCTIP [the Technical International Police Cooperation Department]

<sup>3</sup> UCLAT and DST liaison officers, and internal security attachés from SCTIP.

**4.1.3. Since 11 September 2001 the Ministry of Finance has created new structures (FINATER (coordination unit for action against terrorist financing) GOLT [operational anti-terrorism group]) for the purposes of combating the financing of terrorism. The role of FINATER in particular is to facilitate the application of decisions taken by the European Community and internationally (freezing of assets, etc).**

#### **4.1.4. Solidarity and shared responsibility**

Fighting terrorism is a collective undertaking. This is stated in the report presented by France to the Counter-Terrorism Committee pursuant to paragraph 6 of Security Council resolution 1373 (2001) of 28 September 2001: "France does not have a government department with sole responsibility for combating terrorism. The fight against terrorism involves the mobilisation of all departments able to contribute to the prevention and suppression of terrorist acts". In other words, the fight against terrorism in France rests on a principle of shared responsibility for security <sup>1</sup>.

Because of the many agencies involved, a result of this principle is that all ministries and services participate

- in one way or another, in the fight against terrorism in their area of competence (in exercising their powers)
- and/or in a certain number of permanent bodies/ad hoc coordination structures in the framework of the structured permanent organisation of the coordination of the agencies in the fight against terrorism.

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<sup>1</sup> This principle naturally gives structure to the contingency and assistance plans, in particular the Vigipirate plan, but also all the specific plans. See record of meeting with the SGDN.



## 4.2. An ad hoc legal basis

### 4.2.1. The law of 9 September 1986 on the fight against terrorism

France has gradually developed anti-terrorist legislation, the cornerstone being the law of 9 September 1986 on the fight against terrorism<sup>1</sup>, which emerged from the need to give an appropriate response to terrorist acts<sup>2</sup>. At procedural level, the general principle is that acts categorised as terrorist offences should be criminalised, prosecuted, investigated and judged as such in accordance with rules derogating from ordinary law. This gives the French system originality, and great coherence<sup>3</sup>, since the law establishes the centralisation of criminal proceedings (at the level of both the judicial authorities and public authorities) which at the same time constitutes an integrated system to fight terrorism: police and intelligence services, specialised prosecuting and examining magistrates, and ad hoc courts are links in the same penal chain. Considered as a whole, and as an ordered structure, this system would appear to be unique within the European Union in its logic and comprehensiveness.

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<sup>1</sup> The law of 9 September 1986 does not directly define terrorist offences, but sees criminal terrorist activity as a combination of two criteria: the existence of a crime or of an ordinary law offence criminalised by the Penal Code, and the connection between that act and an individual or collective undertaking whose aim is to cause serious disturbance to public order by intimidation or terror, which characterises the "circumstance" of terrorism. Only certain crimes and offences, exhaustively listed in the Penal Code, are concerned. This list includes, amongst others: wilful attacks upon the life and physical integrity of persons; kidnapping and imprisonment; hijacking aircraft, ships or any other means of transport; theft, extortion, destruction, defacement and deterioration, and certain computer-related offences; offences relating to combat groups and disbanded movements; the manufacture or possession of deadly or explosive devices or machines (definition extended to biological or toxin-based weapons); and receiving the proceeds of any of the above offences. The new Penal Code has made acts of terrorism into autonomous offences, i.e. into a separate category of offence punishable with aggravated penalties.

<sup>2</sup> Adopted following a series of attacks.

<sup>3</sup> "The long French experience with terrorism provides some perspective and demonstrates why judicial institutions that can handle terrorist cases are a critical piece of a nation's counterterrorism arsenal" (Jeremy Shapiro, Associate Director and Research Associate, Centre on the United States and France).

Almost everyone interviewed during the evaluation referred to the law of 9 September 1986 and to this centralisation, which was felt to be both necessary and beneficial, in particular by the intelligence services, including the RG [General Intelligence Department] whose investigations are however purely operational (as opposed to judicial investigations).

#### 4.2.2. Recent adjustments

This legislation has been refined <sup>1</sup> and added to on several occasions since 1986, to adapt it to new forms of terrorism and their new scale (new criminal acts, the competences of Criminal Police officers, use of new investigation tools and special techniques, etc.) <sup>2</sup>, and to reinforce the original arrangements stemming from the law of 9 September 1986. More recently the desire to adapt legislation <sup>3</sup> and the attacks of 11 September 2001 and their consequences have led the legislator to adopt new provisions, particularly as regards the financing of terrorism and measures which may be implemented by services responsible for law enforcement. These are the laws of 15 November 2001 <sup>4</sup>, 9 September 2002 and 18 March 2003.

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<sup>1</sup> In particular: law No 95-125 of 8 February 1995 extended and harmonised periods of limitation for criminal proceedings and sentencing for crimes (increased to 30 years) and offences increased (to twenty years); law No 96-647 of 22 July 1996 essentially added to the list of offences which could be categorised as terrorist acts, and created the specific offence of criminal conspiracy of a terrorist nature; and law No 96-1235 of 30 December 1996 which, under certain conditions, allowed searches at night.

<sup>2</sup> For example in 1987 (law No 87-542 of 16 July 1987 authorising the ratification of the Council of Europe's 1977 European Convention on the Suppression of Terrorism); in 1992 (law No 92-686 of 22 July 1992, reforming the provisions of the Penal Code relating to the suppression of crimes and offences against the nation, the State and the peace); in 1994 when the new Penal Code made terrorist acts into specific offences; in 1995 (law of 8 February 1995, extending and harmonising the periods of limitation for criminal proceedings and sentencing for crimes and offences); in 1996 (law of 22 July 1996 which added to the list of terrorist offences and created the specific offence of criminal conspiracy of a terrorist nature, and law No 96-1235 of 30 December 1996 which added provisions relating to night searches in terrorism cases). See also the "Perben" law, passed on 9 March 2004.

<sup>3</sup> To bring about greater effectiveness at both national and international level (United Nations resolutions).

<sup>4</sup> Besides other matters, now integrated into the Codes: creation of the specific offence of financing a terrorist undertaking (Article 421-2-2 CP); inclusion of the offence of insider trading (Article 465-1 of the Monetary and Financial Code) and the offence of money-laundering (Article 421-1-1-6 CP) in the list of terrorist acts; creation of a supplementary penalty of confiscation of the terrorist's assets (Articles 422-6 and 422-7 CP) and a mechanism for the seizure of assets (Article 706-24-2 CPP); and the joint appointment of anti-terrorist magistrates and magistrates specialising in financial matters (Article 706-17 CPP), etc.

The "Perben" law, adjusting the judicial system to developments in crime, passed on 9 March 2004, fine-tunes this mechanism. In particular, it will enable specialised services to use new tools, for example in the area of special investigation techniques <sup>1</sup>, and joint investigation teams. It will complete existing provisions <sup>2</sup>, particularly as regards cooperation and mutual assistance in criminal matters <sup>3</sup>.

#### 4.2.3. Current legislation

Anti-terrorist legislation currently in force, as regards criminal offences, is contained in Articles 421-1 to 422-5 of the Penal Code.

The rules relating to the prosecution and investigation of terrorist offences contained in Articles 706-16 to 706-25-1 of the Code of Criminal Procedure lay down a range of provisions which depart from the general rule in many areas, such as the centralisation of prosecution, investigation and judgment, the extension of periods of limitation, custody deadlines, searches, home searches and seizures, the role of the lawyer, the provisions concerning former terrorists now collaborating with the police, the use of certain technical resources and the use of State technical resources subject to national defence secrecy, for example in the area of encrypted messages, hearings of anonymous witnesses, the expanded power to freeze and confiscate financial assets and property <sup>4</sup>, etc.

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<sup>1</sup> This is currently the case in other Member States where, in the light of the events of 11 September 2001, consideration is being given to adjusting anti-terrorist measures, both in legal terms and as regards investigation techniques.

<sup>2</sup> Thus, to make national provisions comply with the Framework Decision on the fight against terrorism of 13 June 2002, the law specifically criminalises the leadership or organisation of a criminal conspiracy with a view to planning terrorist acts. Amongst other provisions, the law creates a new offence, punishable by five years imprisonment, of the passing on by a person participating or assisting in criminal proceedings (particularly a magistrate, lawyer or investigator) to a third party of any information liable to hinder the conduct of investigations, e.g. by warning an accomplice that he is being sought by the police, enabling him to flee or to conceal evidence; this is likely to strengthen the effectiveness of previous provisions benefiting those assisting the judicial process.

<sup>3</sup> The European arrest warrant procedure (Framework Decision of 13 June 2003) is currently being transposed into French law (entry into force expected in the first half of 2004).

<sup>4</sup> This involves judicial decisions to freeze and confiscate assets, not administrative decisions (e.g. FINATER in the implementation of sanctions decided by the EU and United Nations).

#### 4.2.4. Other legal texts

Use is also made of other legislation dealing more broadly with organised crime. Other provisions contained in various Codes <sup>1</sup> are also applicable, for example the Monetary and Financial Code, the Customs Code, etc <sup>2</sup>.

#### 4.3. The specific treatment of terrorism

The above legal base, dedicated to the fight against terrorism and the financing of terrorism, means that the best response to terrorism involves the police and judiciary <sup>3</sup> in the framework of specific treatment for terrorism: the suppression of terrorism is distinct from the suppression of organised crime <sup>4</sup>, even if some legal provisions are equally applicable to the prosecution and suppression of terrorism and organised crime, for example as regards special investigation techniques <sup>5</sup>. The police and judicial dimensions of the fight against terrorism also covers the coordinated relationship between the judicial system, the law enforcement agencies, and the intelligence departments. This coordination, which is also essential, does take place, as participants in meetings with us have confirmed <sup>6</sup>.

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<sup>1</sup> All this legislation should in due course make up an "Internal Security Code".

<sup>2</sup> Use is also made of Community legislation for example as regards the freezing of assets.

<sup>3</sup> All those we met unanimously emphasised this aspect, which is imposed *de facto* on the civil intelligence services with jurisdiction on national territory.

<sup>4</sup> Naturally the question of links between terrorism and various types, sizes and forms of organised crime is taken into account, particularly as regards the financing of terrorism, e.g. the November 2003 arrests in the Takfir movement carried out in cooperation with Italian forces.

<sup>5</sup> Some Criminal Police departments (such as the OCRB) [Central office for combating crime] of the DCPJ [Central Directorate of the Criminal Police]) and specialist intervention groups (such as the National Police's RAID [Search, Assistance, Intervention and Deterrence Unit] and the National Gendarmerie's GIGN [National Gendarmerie Intervention Group]) are used against both crime and terrorism as required.

<sup>6</sup> In particular the meeting with specialised magistrates, who also stressed the importance of the intermingling of professional cultures while respecting one another's professional values and skills.

The evaluation of the terrorist threat is also a collective, coordinated undertaking, performed by the coordinating bodies. Strategic analysis, carried out continuously by the SGDN, incorporates defence and security questions (external and internal dimensions of national security) <sup>1</sup> and, to categorise the situation at internal level, uses risk factors noted outside national territory on the basis of a pragmatic approach. The police services and intelligence services involved in internal security, as well as UCLAT's operational analysis of the threat <sup>2</sup>, all contribute actively and regularly to this strategic threat evaluation.

This definition of the threat, and more generally this approach, should be seen in a context of taking better account of non-military crisis situations <sup>3</sup>. This evaluation also rests on exchanges (which are either included or mentioned if need be) with other States (Member States of the European Union and States with which France has signed bilateral agreements, or allied States for the SGDN) <sup>4</sup>.

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<sup>1</sup> Defence and security issues are no longer seen as strictly distinct and the borderline between them has become less dogmatic or academic.

<sup>2</sup> General evaluation of the operational threat and specific evaluation of the Islamic extremist terrorist threat.

<sup>3</sup> The draft military planning law for 2003 to 2008 mentions that "the strategic context is undergoing a series of profound changes. There has been a long-term deterioration in the international situation, which has become unpredictable. There has also been a significant increase in risks arising out of the continuing proliferation of weapons of mass destruction, and the recent materialisation of terrorist-related threats and their change in scale". See mainly the interview with the SGDN and with the National Gendarmerie (actions in Kosovo). The European Union makes a similar assessment (creation of SitCen).

<sup>4</sup> Allied states outside the formal NATO framework.

#### 4.4. The dual centralisation of the counter-terrorism measures

##### 4.4.1. Political and administrative centralisation

This reflects the political impetus, and since 2002 has culminated in the new structure of the Internal Security Council, which is now chaired by the Head of State and has links with the SGDN and with UCLAT <sup>1</sup>.

The interministerial threat assessment carried out by the SGDN on the basis of contributions by the competent civil and military intelligence services, both on national territory and abroad, provides an overall view which incorporates defence and security questions, and which could otherwise only be a juxtaposition of sectoral analyses, lacking in synthesis. The significance and danger represented by Islamic extremist terrorism, and its complexity, make this approach essential <sup>2</sup>.

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<sup>1</sup> "Already begun in the period 1997 to 2002, and even more since the attacks of 11 September 2001, the declared priority (of the Government) is to link the various services and promote their cooperation, so as more effectively to counter the new forms of crime appearing at national and transnational level".

<sup>2</sup> This reasoning applies to the definition and implementation of emergency and civil protection plans.

Centralisation is also reflected in the commitment of the Ministry of the Interior, which has set up a large number of specialised Criminal Police departments and civil intelligence services, and drives and coordinates the fight against terrorism <sup>1</sup>.

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#### **4.4.2. Judicial centralisation**

Judicial centralisation stems from the law of 9 September 1986. The specific criminalisation of offences categorised as terrorist acts is logically extended into the centralisation of prosecutions <sup>2</sup>, investigations and judgments in the Paris Court of First Instance (central counter-terrorism department (section C1) of the Paris Public Prosecutor's Office and specialised examining magistrates). The law of 9 September 1986 is intended to facilitate the identification and arrest of terrorists, terrorist networks and their ramification. It gives the procedure legal certainty, dispelling any risk of invalidity (particularly as regards examination of the legitimacy of judicial investigations).

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<sup>1</sup> This centralisation has increased since 2002, when the National Gendarmerie became operationally available to the Minister for the Interior.

<sup>2</sup> "This centralisation rule is applied in the framework of the principle of concurrent competence between the Paris court and the local court. This is a supplementary and optional competence which is exercised by agreement between the courts concerned. The application of this rule takes account in particular of the nature of the regional, national or international organisation of the individual or collective terrorist undertaking concerned" (reply by France to the Council of Europe questionnaire on special investigation techniques, PC-TI (2003)8).

#### 4.5. Effectiveness of the overall counter-terrorism effort

This dual centralisation is considered necessary and effective by all the agencies active in the field of counter-terrorism <sup>1</sup>, from specialist magistrates to police and intelligence services and other competent authorities.

- It enables intelligence to be circulated and shared more effectively between all those involved in counter-terrorism, between Ministries and other agencies <sup>2</sup>, whether that intelligence is tactical or strategic, operational, judicial or security intelligence shared among operational services <sup>3</sup>.
- The centralisation of counter-terrorism efforts allows terrorism to be viewed from a common perspective and enables collective or shared strategies to be defined on the basis of intelligence and analyses provided by the police and intelligence services.
- It encourages the sharing, transfer and exchange of experience.
- It undoubtedly contributes to knowledge – both general and specific – of terrorism

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<sup>1</sup> Centralisation does not in itself ensure effectiveness, and its significance and logic must be seen in the light of the essential role played by the coordination bodies.

<sup>2</sup> It also makes it easier to verify (cross-check) certain types of intelligence and/or to take account of other contexts.

<sup>3</sup> Two of the consequences of the Law of 9 September 1986 have been to place magistrates in contact with the intelligence services and to create the conditions for transparent cooperation. The Law has also de facto encouraged a closer relationship between the police and the intelligence services.



- It allows decisions to be taken quickly in a global context and enables appropriate resources – well beyond specialist services – to be used as necessary.
- It creates close links and a fruitful dialogue between the operational, police and intelligence services and the specialist magistrates <sup>1</sup> (as regards the background and handling of cases, and in order to avoid overlaps in the activities of the various services – something which can cause confusion and conflict).
- It allows more account to be taken of the requirements of international cooperation.

In other words, centralisation encourages a common culture of terrorism and a common culture <sup>2</sup> of counter-terrorism efforts to which the coordinating mechanisms and bodies clearly contribute.

Combined with the specialisation of the services and the clear division of powers and responsibilities, supported by the regulatory work carried out by the coordination bodies, to which the specialist magistrates contribute to a certain extent via referrals to the investigation services, this dual centralisation is regarded by the operational services and judicial authorities as a proven and appropriate framework <sup>3</sup>. Terrorist cases, and in particular those relating to Islamic extremist terrorism, are of such increasing complexity – heightened in most instances by international dimensions – that the authorities and magistrates to whom they are referred are obliged to have at their fingertips a mass of all manner of information and ad hoc documentary tools which only centralisation can provide.

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<sup>1</sup> "The creation of a national Counter-Terrorism Division and a Counter-Terrorism Section within the Crime Squad of the Police Prefecture of Paris also forms part of this quest for efficiency, as does the increasingly decisive involvement of the DST [French counter-intelligence agency] in the conduct of judicial investigations. Such combined action is a major guarantee of effectiveness" (interview with Judge Bruguière, 12 December 2002).

<sup>2</sup> With due regard for each party's professional skills. See the interview with the specialist magistrates and the interview with UCLAT [Counter-Terrorism Coordination Unit].

<sup>3</sup> The USA has taken a similar step with the creation of the Homeland Security Department (a centralised, single body to coordinate the law enforcement agencies and intelligence services).

Centralisation also enables police and intelligence services and specialist magistrates to participate actively (in terms of intelligence sharing) in European and international cooperation, to satisfy the expectations of partner countries to which France is bound by agreements and to meet its obligations at European and international level.

#### **4.6. Combating Islamic extremist terrorism**

For historical and sociological reasons, but also and above all because it has been the victim of several murderous attacks, France has been monitoring Islamic extremist terrorism very closely for a number of years now at both national and international level

**NOT DECLASSIFIED**. In that regard, it is committed to raising awareness of this specific threat in other Member States and competent multilateral fora, both formal and informal, like the Club of Berne.

The intelligence services in particular are constantly perfecting their analytical and evidential knowledge while developing recognised operational expertise <sup>1</sup>. For some considerable time now, the DST [Counter-intelligence agency], the RGs [General Intelligence Departments] and UCLAT, have been fully aware of the threat of this type of terrorism, which is specific in terms of both its complexity and required approach, and have been devoting a significant proportion of their resources to it both in France and abroad **NOT DECLASSIFIED**.

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<sup>1</sup> See, for example, the interview with the DST. See the analysis provided by Paul Wilkinson (St Andrew's University): *"The major European countries (...) have a long experience of terrorism being conducted within their borders, which is different, of course, from the United States, where it's a relatively recent problem that has underlined a vulnerability that Americans didn't previously think they had"*. (...) *"there are well-established domestic intelligence services that specialize in countering terrorism"*. (...) *"These agencies, because they have experience in counterterrorism intelligence, and quite a lot of experience of European cooperation across borders because of the European Union and close bilateral ties, they are well-equipped to do this kind of thing"*. Wilkinson goes on to emphasise the quality of intelligence, and more particularly the quality of human intelligence, in contrast to the USA, which favours technical intelligence: *"Human intelligence is priceless in this field because it gives you an understanding of the intentions and plans of a group, while technical intelligence may only occasionally give you clues and leaves huge blanks in your knowledge"*. Wilkinson makes the following comments in response to the Motassadeq judgment: *"That is a particularly interesting example of the ability of a European intelligence police effort to collect the evidence, to produce overwhelming evidence for the court, despite a quite sophisticated effort on the part of his defence lawyers"*. *"This shows that "quiet, unglamorous, unspectacular" intelligence and criminal-justice work are extremely important weapons against terrorism"*.

The specialist services (of the Ministry of the Interior/National Police Force and other Ministries) make a specific contribution to UCLAT's definition of the threat of Islamic extremist terrorism **NOT DECLASSIFIED**. France plays a part in assessing that threat at European level <sup>1</sup>.

#### **4.7. International cooperation <sup>2</sup>**

International cooperation is considered to be an essential tool in combating international terrorism <sup>3</sup>. If, as has been said, the attacks of 11 September 2001 have brought the issue of combating terrorism back into the spotlight, they have also refocused attention on the problems associated with international cooperation (whether bilateral or multilateral, or a combination of the two) in various areas (prevention, aid and assistance, deterrence, "internationalisation" of investigations, etc.).

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<sup>1</sup> See the assessments carried out by Europol.

<sup>2</sup> This section of the report does not address the issue of multilateral cooperation as a whole (United Nations and Counter-Terrorism Committee, ICPO-Interpol, European Union, G8 incorporating the new Counter-Terrorism Action Group, or the older Lyon and Rome Groups, etc.), not to mention the informal bodies specific to the intelligence services, such as the Club of Berne, etc. No account is taken of forms of cooperation entered into by other Ministries (Justice, Finance, etc.).

<sup>3</sup> This point forms the basis, for example, of the comments made by the DST and specialist magistrates (see the interview of 8 September 2003). See also France's report to the CTC of 28 September 2001: "since the 1980s, the terrorist threat (has led France) to introduce legislation, establish a consistent operational plan of campaign and seek enhanced international cooperation".

International cooperation between specialist services takes place on various levels and in various ways. It is considered to be good or very satisfactory where it takes place within the framework of bilateral cooperation <sup>1</sup>. The most favoured criterion for assessing the effectiveness of bilateral and multilateral cooperation is the operational criterion, i.e. its actual contribution to the dismantling of terrorist networks and the supply of specialist intelligence. This criterion of operational effectiveness underlies Franco-Spanish bilateral cooperation, for example, which reached a new level with the agreement signed in November 2003, whereby the two Ministers for Justice resolved to set up joint investigation teams, enabling police officers from one country to take part in investigations within the territory of the other country, under the supervision of judicial authorities <sup>2</sup>. Those teams will be able to operate from 2004 onwards, and their priority objectives will be to combat terrorism (ETA and Islamic extremist terrorism) and organised crime (drug trafficking). It constitutes an absolute first within the EU in all respects, authorising magistrates, prosecutors and police officers from the two countries to work together on the same investigation.

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<sup>1</sup> For example, bilateral operational cooperation has recently been stepped up through joint operations with the United Kingdom, Germany, the Netherlands, Spain, Italy and Belgium, *inter alia* as regards Islamic extremist terrorism. See also the meetings of the "five", in particular in La Baule in October 2003.

<sup>2</sup> This measure goes well beyond the "right of cross-border hot pursuit", where police officers are regarded as observers.

Of course, the attacks of 11 September have resulted in much stronger bilateral cooperation with the USA <sup>1</sup>, both on the initiative of the competent US and French authorities and within the framework of the decisions adopted by the JHA Council on 20 September 2001 <sup>2</sup>.

#### 4.7.1. Bilateral cooperation

4.7.1.1. In the area of exchanges of operational intelligence **NOT DECLASSIFIED**, numerous cooperation agreements have been concluded <sup>3</sup> with other EU Member States <sup>4</sup>, future Member States, candidate Member States and third countries. They lay down the conditions for cooperation of a specific and precise nature, which is assessed at regular intervals <sup>5</sup>.

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<sup>1</sup> In an interview given to a daily newspaper on 7 December 2002, the director of DST said that, following the attacks of 11 September 2001, Franco-American cooperation had taken "a giant leap forward", and that "true cooperation" had been established. Among other examples: "French investigators cooperated in a joint investigation with the FBI of Richard Reid, the would-be "shoe bomber". "In the 30-day period after Reid's arrest in December 2001, the FBI and the Paris Criminal Brigade maintained often twice-daily contact with US authorities and provided information that proved critical to building the criminal case against Reid. French authorities have continued aggressively to pursue leads related to the Reid case" (US Department of State). A further example of such strengthened cooperation can be found in the comments made by a researcher, Brigitte L. Nacos: "While anti-French sentiments remain strong in the United States because of France's opposition to the Iraqi war, the fact is nevertheless that there has been extraordinary cooperation between American and French law enforcement since 9/11 (...)".

<sup>2</sup> Conclusions (12156/01 JAI 99 of 25 September 2001, part III: "Measures designed to improve cooperation with the United States").

<sup>3</sup> At the time of the attacks of 11 September 2001, France had signed agreements with 42 countries and was negotiating agreements with 13 more.

<sup>4</sup> In the field of terrorism and in terms of specific agreements, with Germany, Italy and Spain, for example.

<sup>5</sup> The key words are "operational intelligence". In this context, "intelligence of too general a nature or provided by sources of dubious origin concerning threats of imminent attacks is considered to be useless and ineffective as it paralyses the exchange system and gives rise to fruitless investigations which prevent the services from concentrating on investigations worthy of interest" (note from the French delegation). See also the interview with UCLAT.

Moreover, police and intelligence services routinely cooperate with their foreign counterparts <sup>1</sup>. **NOT DECLASSIFIED**

There are no particular difficulties associated with bilateral cooperation, provided of course that the same rules are observed and complied with by both sides **NOT DECLASSIFIED**. That much is moreover stated clearly in Article 24 of the Law of 18 March 2003 on the communication of personal data to foreign police services. While this is true of cooperation in general, it applies to an even greater extent to counter-terrorism and cooperation between intelligence services.

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<sup>1</sup> At the level of the Prime Minister's office, the SGDN [Secretary-General for National Defence] also exchanges intelligence and analyses with its counterparts.

**4.7.1.2.** In the area of threat assessment, the bilateral relationship is also a normal method of cooperation, considered to be more productive than the multilateral relationship, and France compares its analyses with those of its partner countries at the level of the SGDN and UCLAT. At present, it is considered that multilateral threat assessment (at European level, e.g. with Europol) does not provide any satisfactory added value (in particular of an operational nature) likely to illuminate the threat assessment in France. However, France still contributes to that approach and to the drafting of joint documents.

#### **4.7.2. Multilateral cooperation**

Besides the fact that multilateral cooperation suffers from being specific, operational, useful and perfectly transparent, it also suffers from its sheer volume <sup>1</sup>. Since 11 September, a number of bodies and organisations have been involved in the field of counter-terrorism <sup>2</sup>. **NOT DECLASSIFIED**

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<sup>1</sup> It also suffers from the difficulty of being followed up and evaluated. This is the view expressed *inter alia* by the G8/CTAG French Presidency.

<sup>2</sup> In other words, the globalisation of terrorism is mirrored by a globalisation/internationalisation of defence and security issues. In this connection, mention should also be made of the various regional bodies (e.g. APEC, ASEAN, ASEM, Foromed, etc.) and specialist bodies such as the ICAO (regulations concerning civil aviation security, work relating to the incorporation of biometrics in identity and travel documents, etc.).



#### 4.7.2.1. The specific issue of Europol

The issue of cooperation with Europol was a recurring theme in the interviews around which a consensus ultimately emerged <sup>1</sup>.

The intelligence services view Europol as a police cooperation body <sup>2</sup> rather than a member of the international intelligence community **NOT DECLASSIFIED**. As a result, legal obstacles aside, this places quantitative and qualitative limits on exchanges of security intelligence, or indeed rules them out entirely.

Furthermore, there is little improvement in the dealings with Europol when it comes to exchanges of information on criminal investigations, with legal considerations being a major – but by no means the only – stumbling block or difficulty.

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<sup>1</sup> The French services contribute to the work of Europol (through UCLAT daily briefing notes, UCLAT input into threat definition by Europol, DST involvement in setting up Europol's Anti-Terrorism Task Force after 11 September 2001, etc.). That said, information transfers to Europol are in need of significant improvement.

<sup>2</sup> Cf. in particular the interviews with the technical adviser at the interior ministry and the DST. The issue of relations with Europol is irrelevant to the general intelligence services and the finance ministry's specialised bodies alike.

The constraints on cooperation are manifold and one basic principle holds true here, namely that no information can be forwarded without the approval of the judicial authority <sup>1</sup>. "Cultural" or "psychological" factors feature as well. In addition to the need to apply the traditional "givers gain" rule or quid pro quo to exchanges, mutual trust must underpin the quality of exchanges and the principles governing them. It follows that supplying information to an organisation that is perceived as "anonymous" and "remote" poses greater problems than conducting an exchange with a longstanding partner from whom one knows what one will be receiving in return. This highly subjective yet routine approach to cooperation is already important in terms of police exchanges in the fight against organised crime, and takes on even greater significance where exchanges relating to counter-terrorism are concerned, primarily because of the vital issue of protecting sources <sup>2</sup>.

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<sup>1</sup> Cf. the interviews with the Central Directorate of the Criminal Police, national gendarmerie and magistrates.

<sup>2</sup> Above all the protection of human and technical sources is paramount and a sensitive issue for the intelligence services, all of which follow the same rules in this regard. This factor was taken into account when the US Department of Homeland Security was set up after September 2001, as evidenced by the following reference to the issue of raw intelligence: "information that would identify a specific individual is normally retained within a very small circle of intelligence officials so as to reduce the risk of unauthorised disclosure and harm to the source" (CRS report for the US Congress entitled *Homeland Security: Intelligence Support*). One aspect of this problem stems from fact that the quality of the intelligence depends in large measure on the source, and that the dissemination of information from an unreliable source can lead to responses and possibly even investigations that divert the services from their other duties. Hence the comment in the same document that " there is a need to ensure that DHS would not be inundated with vast quantities of data and that highly sensitive information is not given wider dissemination than absolutely necessary".

Police departments and intelligence services agree that the weakness in relations with Europol stems from the lack of value added that the latter brings, when the whole point of cooperation lies in benefiting from exchanges. Turning to technical and institutional matters some services have pointed to their not being direct partners of Europol in describing the extent – or absence – of relations <sup>1</sup> in the field of information exchange <sup>2</sup>.

The groundwork for developing cooperation is already in place, for instance with the setting up of joint investigation teams <sup>3</sup> for exchanges of criminal police information, while recent and future legislative provisions <sup>4</sup>, together with the work of the Central Administration of the Ministry of Justice <sup>5</sup>, ought to result in significant improvements in cooperation with Europol.

#### 4.7.2.2. Europol and intelligence services

In the more specific area of the intelligence services, Europol is not considered a natural partner or appropriate forum **NOT DECLASSIFIED**, and cannot be compared to other ad hoc bodies **NOT DECLASSIFIED**.

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<sup>1</sup> They have not, however, requested direct ties.

<sup>2</sup> Cf. also Europol's internal structure and the role of national units.

<sup>3</sup> See in particular 10913/4/03 REV 4 LIMITE ENFOPOL, Operational project entitled "Multinational ad hoc teams for exchanging Information on terrorists", and the Perben Law.

<sup>4</sup> For example, Article 24 of the International Security Framework and Planning Act No 2003-239 of 18 March 2003, providing a legal basis for exchanges of personal data contained in a police file at international level.

<sup>5</sup> A Franco-Spanish working party looking into how police departments as well as magistrates can better exchange and share information. Its findings could be used as a guide and applied more widely. See the chapter on recommendations.

#### **4.7.2.3. Europol and the justice system**

Setting up joint investigation teams is the most reliable means of significantly strengthening relations between the Ministry of Justice and Europol. The Perben law adapting the justice system to cope with changes in organised crime contains provisions to that effect.

Furthermore, until recently there was no provision in law enabling intelligence to be exchanged with international bodies. In addition, the law does not recognise the right of investigators to disseminate or share judicial intelligence; if they do so they are in breach of the secrecy of the investigation and as such have committed a criminal offence. Two recent initiatives have shed new light on this problem, whilst nonetheless falling short of solving it entirely:

- Under a Franco-Spanish agreement, each quarter a working group<sup>1</sup> looks into ways of improving intelligence exchanges between investigative services as well as magistrates. The members of the group assess the state of play as regards Franco-Spanish cooperation and adherence to the rules of good conduct (such as ensuring that intelligence flows smoothly), and also deal with the setting up of joint investigation teams (a committee to monitor these teams has been established).
  
- Very recently, Article 24 of Chapter V of the law of 28 March 2003, which relates to automatic information processing, has established that:

"The data contained in automatic personal data processing operations managed by national police and gendarmerie departments may be forwarded to bodies engaged in international criminal police cooperation or foreign police departments which afford guarantees in respect of personal data protection equivalent to those in domestic law, under international commitments properly incorporated into domestic law. Departments of the national police and gendarmerie may receive data included in processing operations managed by bodies engaged in international criminal police cooperation or foreign police departments, under the commitments provided for by this Article."

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<sup>1</sup> The members of the working group are: from France, antiterrorism magistrates, the Paris Public Prosecutor's Office, the Chief Prosecutor's Office, the Central Administration of the Ministry of Justice – the Division for Criminal Affairs and Pardons (DACG) and the Department of European and International Affairs (SAEI) – and the relevant police departments and intelligence services (DST, DCPJ/DNAT and DCRG); and from Spain, the National High Court, the National High Court Prosecutor, the Guardia Civil, specialised police departments and the intelligence services.

#### 4.7.2.4. Europol and bodies combating the financing of terrorism

Links between the finance ministry and Europol have yet to be forged. TRACFIN has no direct relations <sup>1</sup> with EUROPOL, which is trying to develop an anti-money-laundering system (AWF) called SUSTRANS for dealing with suspicious transactions. From France's point of view that project has run into the problem of the definition of relevant criteria for the inputting of data into the file (a recurrent problem with Member States' contributions), partly for reasons relating to the absence of any legal basis for inputting data into the EUROPOL file <sup>2</sup>. For the customs services working with Europol is more of a potential option than a reality, although they have begun providing data for SUSTRANS and are drawing up relevant criteria for that purpose <sup>3</sup>.

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<sup>1</sup> As a result of the discussions currently being wound up between the ministries concerned, data for the SUSTRANS file would have to be provided by the OCRGDF, under the supervision of the judicial authority, using information from files forwarded by TRACFIN to the courts.

<sup>2</sup> The Netherlands, Belgium and Austria provide data for Europol chiefly from ongoing investigations. As for France, the DNRED has forwarded information on thirty or so cases, whereas the police only supply summary data from files established by TRACFIN. The courts have barred the police from providing data on ongoing investigations.

<sup>3</sup> In this regard an implementing circular drawn up jointly by the ministries of the interior, justice, finance and industry will provide a solution to this problem by authorising the forwarding of information from files from TRACFIN, subject to prior consent by the judicial authority, in accordance with the provisions of Article 4(5) of the Europol Convention.

### 4.7.3. Other forms of multilateral cooperation

- 4.7.3.1. The meeting at Jerez de la Frontera on 18 May 2003 <sup>1</sup>, bringing together the interior ministers of the United Kingdom, Germany, Italy, Spain and France to discuss combating terrorism and illegal immigration, constitutes another means of cooperation between several parties that lies halfway between bilateral cooperation and multilateral cooperation, since this was not an EU meeting. This initial meeting was followed in October 2003 by a second, in La Baule <sup>2</sup>. Although these meetings form part of an enhanced cooperation process which aims to step up operational cooperation <sup>3</sup> and involves police departments and intelligence services in looking at clearly identified and shared problems, they are also partly designed to further ministerial coordination on matters that do not directly concern the EU as a whole.
- 4.7.3.2. France also takes part in specialised bodies such as the Conference of Interior Ministers of the Western Mediterranean, set up in 1995, alongside Italy, Spain, Portugal, Algeria, Libya, Morocco and Tunisia. The working group's deliberations have resulted, inter alia, in the adoption of a formal declaration on terrorism (the 1999 Algiers Declaration) <sup>4</sup>.

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<sup>1</sup> This meeting took place a few days after the terrorist attacks in Saudi Arabia and Morocco. The interior ministers decided to set up a permanent group of European terrorism experts, composed of one expert per country. The ministers further decided to meet every three months to assess the development of the terrorism problem in their respective countries and the EU as a whole.

<sup>2</sup> The next meeting will be held in February in Berlin. The French minister stated that this group of five EU countries is seeking to speed up moves towards achieving operational objectives. He pointed out further that, from France's point of view, the meeting in La Baule had also enabled France to sort out some bilateral issues with four of its neighbours, i.e. the aftermath of the closure of Sangatte with the UK, anti-ETA operations with Spain, combating Islamic terrorism with Germany and Spain, and maritime border controls with Italy.

<sup>3</sup> For example, in October 2003 lists of persons having attended training camps, notably in Chechnya, were exchanged.

<sup>4</sup> This group met in restricted format at the end of 2003 to discuss the issue of terrorism in the light of the attacks in Morocco and other events.

## PART III

### RECOMMENDATIONS

1. All – or almost all <sup>1</sup> – the officials encountered confirmed that after 11 September 2001 there were no substantial developments, still less substantive change, to the French arrangements as a whole, in connection with the new situation. The September 11 attacks did not prompt France to reconsider, either immediately or in the medium or longer term, all or part of its arrangements, whether in terms of their structure, their internal architecture, their logic or, more broadly, their philosophy.

The moderate impact in France of the September 11 attacks in terms of the general organisation of the fight against terrorism can be explained by the fact that current arrangements, particularly the operational plan of campaign, are appropriate <sup>2</sup>.

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<sup>1</sup> The DNRED [National Directorate for Customs Intelligence and Investigations] has set up its GOLT unit [Operational Anti-Terrorism Group].

<sup>2</sup> This is the French authorities' point of view. It is shared by the experts. Figures have been supplied, which the note from France states are "conclusive results (which were) obtained in 2003: 52 persons detained in connection with radical Islamic terrorism, 20 persons detained in the context of the fight against ETA in France, 38 persons detained in connection with the fight against Corsican terrorism". More recently (interview on 28 November 2003), the director of the DST [French counter-intelligence agency] revealed that since September 2001, the DST has arrested 120 activists" of whom "around 60 are under lock and key". He stressed that in 2002, at La Courneuve and Romainville a group was dismantled "which was preparing to commit an attack, probably of a chemical nature, against the Russian representation in Paris. This network was in contact with another group in the United Kingdom, which was planning to deposit ricin, which can be lethal if touched, on door-handles in public places".



2. However, new arrangements should be made in the long term on the basis of a simple assumption: only increased international cooperation will help tackle international terrorism more effectively. This is revealed in Annex 1 to the report on the internal security policy guidelines in Law No 2002-1094 of 29 August 2002: "Terrorism, organised crime and money laundering, criminal networks and procurement networks which exploit potential illegal immigrants are by nature transnational phenomena which can only be combated effectively through cooperation between States. The fight against such phenomena is a priority which involves reinforcing European and international cooperation as regards internal security. The network of internal security attachés abroad, composed of police officers and gendarmes, will be developed". (...) "At national level, the efforts of the different channels of operational police cooperation (Interpol, Schengen, Europol, bilateral liaison officers, police and customs cooperation centres) will be combined for the benefit of all the internal security services".

Annex 2 mentions further, under point 4 referring to the fight against terrorism:

"At international level, the new threats demand that institutional cooperation with our partners be developed". Provision is also made for increasing the resources available to the departments, especially the "Air Traffic Gendarmerie (which) will be reinforced". Finally, "the increase in staff in the context of the fight against terrorism and organised crime will represent around 300 posts in the National Police Force and 300 posts in the National Gendarmerie".

3. As regards assessment, the experts noted that – with the exception of relations with Europol – the guidelines <sup>1</sup> which give structure to the overall French counter-terrorism arrangements comply on the whole with the wishes expressed by the Council of Ministers on 20 September 2001 with regard to the sharing of information and coordination by all ministries and departments involved in the fight against terrorism. During the interviews, the persons consulted did not deny that, as regards information exchange and coordination, difficulties had been encountered in the past, but they stressed that these shortcomings had been due to human conduct and had not been generated by the structure of the fight against terrorism.

4. Three points are worth enlarging upon.

4.1. Since the Law of 9 September 1986, the legal basis has been constantly adapted, either to increase the general effectiveness of the arrangements both nationally and internationally, or to allow for the legal application of texts/decisions taken multilaterally <sup>2</sup>. Not infrequently, the French Penal Code is more severe or more precise in a particular case. Thus, the Law of 18 March 2003 on internal security criminalises "illegal earnings deriving from terrorism", i.e. inability to provide proof of resources corresponding to one's lifestyle, whilst being in regular contact with one or more persons engaging in one or more acts referred to in Articles 421-1 to 421-2-2 (concerning the financing of terrorism). Furthermore, the Perben law reinforces the overall arrangements.

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<sup>1</sup> As a brief reminder, these guidelines are as follows: specific criminal legislation; the centralisation of the investigations (conducted by specialised departments), the proceedings, the taking of evidence and the trial; the role of the intelligence services; coordination (in the field of intelligence services and that of specialised and/or operational services); the special attention paid to Islamic extremist terrorism; the broad spectrum of international cooperation.

<sup>2</sup> This was the case, for example, with the Law of 15 November 2001 making the financing of a terrorist undertaking a criminal offence, which directly reproduces the text of the United Nations Convention of 10 January 2000 (Article 421-2-2 of the Penal Code).

In this respect, the framework decision of 13 June 2002 did not constitute a revolution, as its provisions were already included in the French Penal Code, except for one point. One of the provisions of the Perben law accordingly makes it a specific criminal offence to lead or organise an association of criminals with a view to preparing terrorist acts.

- 4.2. Exchange of information and coordination are a constant priority, as the existence of two permanent coordinating and regulatory bodies emphasises. However, it is possible to say that this "exchange of information and coordination" aspect explicitly forms part of a broader system if account is taken of other factors which promote synergies and complementarities and, ultimately, a collective attitude.
- 4.3. The administrative texts delineating duties and powers provide for the linking of bodies with each other and, more often than not and symmetrically, the means of exchanging information. Thus, for example, with regard to international cooperation, the decree of 9 May 1990 establishing the OCRGDF [Central office for combating serious fraud] and the decree <sup>1</sup> of 9 May 1990 establishing the TRACFIN [Financial Intelligence Unit] organise the sharing of information with foreign States in similar terms.

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<sup>1</sup> Although the two basic decrees do provide for the possibility of exchanging information at international level, the corresponding foreign agencies for the two services are not the same.

More generally, the composition of these bodies illustrates their interministerial character – either at the level of permanent staff (composed largely of officials seconded by their administrations of origin such as the Ministry of Defence or of the Interior <sup>1</sup>) or at the level of the Ministries and ministerial departments which belong to the bodies. This observation is true of the SGDN [Secretary-General for National Defence] and, to a lesser degree, of UCLAT [Counter-Terrorism Coordination Unit] <sup>2</sup>. These seconded officials form a natural interface between their department of origin and the department to which they are assigned.

Over and above the existence of these bodies, the evaluation highlights another aspect of the French arrangements which facilitates exchanges of information. These are interfaces which link up various administrations through "crossover institutional participation and interfaces" provided for in the texts (decrees, etc.) which lay down the duties and powers of the different agencies.

- With regard to intelligence, the Secretary-General for National Defence provides the secretariat for the CIR [Interministerial Intelligence Committee]. He is also a member of the CSI [Internal Security Council]. One of his tasks is, in conjunction with the Secretary-General of the CSI, to investigate and present "internal security issues concerning defence, intelligence and national security planning".
- UCLAT also contributes to the work of the CSI.
- As regards combating the financing of terrorism, the Director-General for Customs provides the secretariat for the FINATER [coordination unit for action against terrorist financing] and is also secretary-general of TRACFIN.
- Officials of the Ministries of Defence and the Interior are seconded to the SGDN.
- Military staff of the Gendarmerie are seconded to the Ministry of the Interior (UCLAT and DNAT [National Counter-Terrorism Division]), and to the Ministry of Finance (TRACFIN). Likewise, officials of the Ministry of the Interior have been posted within the Ministry of Foreign Affairs (security directorate) and are to be posted to the Ministry of Finance (TRACFIN).

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<sup>1</sup> For example, an official at the DST [French counter-intelligence agency] is part of the permanent SGDN staff.

<sup>2</sup> The thinking behind UCLAT has spread to some of the Member States with, for example, the recent establishment in Portugal of the "Unidade de Coordenação Anti-Terrorismo" and in Italy of the "Technical Group for the exchange of information on the prevention and the suppression of terrorism".

5. As regards coordination of the players involved in combating terrorism and exchanging information, the experts cannot report any major or obvious shortcoming likely to jeopardise the fight against terrorism and none of the persons interviewed reported any substantial malfunction, structural or otherwise, in the police or intelligence services. On the contrary, all stressed the relevance of the coordination mechanisms, placing even greater emphasis on the need for such mechanisms at both the operational and strategic levels. They are an integral part of the overall counter-terrorism arrangements and their added value is unquestionable. Any malfunctions occurring have not been and could not be due to the coordination structure in itself <sup>1</sup>.

The experts' comments or recommendations do not, therefore, refer to the general structure of the fight against terrorism or to its structural organisation.

6. The experts' proposals at national level

- 6.1. The aim of the Franco-Spanish working party, which brings together magistrates, police force and intelligence service, is to identify ways of enabling the two sides to exchange information, particularly of an operational nature, more effectively. This cooperation could be modelled in terms of best practice on which joint investigation teams throughout the EU could draw <sup>2</sup>.

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<sup>1</sup> Two issues were raised during the experts' visit in connection with this aspect of the fight against terrorism: the possible merger of the RG [General Intelligence Department] and the DST and the systematic participation of a representative from the Ministry of Justice in the institutional coordination carried out by UCLAT. The experts are aware of the sensitive nature of these two issues but consider nevertheless that they should be given serious thought.

<sup>2</sup> See the specialised conference of European public prosecutors "EUROJUSTICE 2003" which took place in October 2003 in Weimar (Germany) to discuss various problems such as the fight against human trafficking and child pornography and the fight against terrorism. One of the objectives of this meeting was also to learn lessons from the Franco-Spanish joint investigation teams in the fields of counter-terrorism and the fight against organised crime, in order to gain possible inspiration for other areas.

6.2. The relations between the Ministries of Finance and the Interior could be formalised in terms of exchange of information and coordination between the police and intelligence services concerned and TRACFIN. Greater consistency of the joint dimension "operational fight against terrorism" could be achieved within UCLAT at specific meetings and on the basis of ad hoc coordination. It would give a new dimension to the fight against the financing of terrorism by bringing together the intelligence services (RG and DST), the police and the competent bodies of the Ministry of Finance (customs, FINATER, TRACFIN). This development of UCLAT is based on the existence of partial links which need to be developed, put into perspective and finalised. Furthermore, both the RG and DST and the Ministry of Finance take an obvious interest in the financing of terrorism, with the RG and TRACFIN <sup>1</sup> being interested, for example, in the collections of funds in mosques and/or by charitable organisations or associations. The DCPJ [Central Directorate of the Criminal Police] itself may contribute towards better awareness of such phenomena during its criminal investigations. Such a joint approach coordinated by UCLAT could create the conditions for the necessary increase in knowledge, prevention and repression of criminal activities supplying funds for terrorism <sup>2</sup>. Finally, developing UCLAT in this way would help to put into better perspective the extent of international cooperation involving UCLAT, TRACFIN and FINATER in combating the financing of terrorism.

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<sup>1</sup> It should be noted that TRACFIN takes part in the SGDN's proceedings but not in those of UCLAT.

<sup>2</sup> Arrest in June 2003 of 14 members of a pro-Palestinian association, the "Muslim Association", suspected of providing financial support to Islamic fundamentalists imprisoned in France by engaging in swindles. The RGs were "satisfied" that the association was providing financial assistance to alleged Islamic fundamentalists imprisoned in France by anti-terrorism judges. They established that this association had set up several estate agencies and companies dealing in hi-fi and video equipment as well as repairs of all kinds, and was thus engaging in swindles, over-invoicing or money laundering. Arrest in November 2003 by the counter-terrorist section (SAT) of the Paris Criminal Police crime squad of several persons alleged to be members of or linked to the radical Islamic organisation Takfir, in connection with proceedings involving an association to commit offences in connection with a terrorist undertaking (trafficking in counterfeit clothing, alleged to be destined to supply and finance a radical Islamic network operating between France and Italy). This investigation was conducted in close cooperation with the Italian services which had themselves conducted a similar operation in the same circles a few months previously in Italy.

6.3. UCLAT works as an interministerial unit, but its legal basis – a ministerial order – does not confer upon it a clear interministerial dimension<sup>1</sup>. Such a dimension, which would be consistent with the interministerial concept which prevails in the fight against terrorism on both a national and international level, would give it greater formal legitimacy and real authority but would not change its operation or basic expertise<sup>2</sup>. UCLAT flexibly allows departments freedom of action in their particular field without interfering with the way departments are linked, whilst respecting the experience and culture of each of its partners. An interministerial decree could both give UCLAT an indisputable legal basis and incorporate its growing responsibilities, especially with regard to international and European cooperation.

In this field, it makes sense to propose that the BDL [liaison office] be administered directly by UCLAT<sup>3</sup>.

Although the departments which are members of UCLAT contribute to the SGDN's activities, UCLAT as such was not mentioned as a fully effective player at this level, despite the fact that it is in a position to provide the SGDN with added value deriving in particular from its role in the fields of European and international cooperation. This would enable the strategic and operational analysis of the threat to be put into clearer perspective, and the issues of external and internal security, defence and security to be linked more effectively. It should be noted that UCLAT already takes part occasionally in the SGDN's proceedings.

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<sup>1</sup> Whereas it is already the case for the central offices of the Criminal Police.

<sup>2</sup> Which is functional coordination and not hierarchical coordination.

<sup>3</sup> Subject to allocation of the necessary resources.

As regards threat assessment, it was stated that the SGDN compared its view with those of partner countries and exchanged information for that purpose. The SGDN could go further by emulating the approach of the agreement between the United States and the United Kingdom<sup>1</sup>. It could, for example, carry out joint threat assessments (particularly of Islamic extremist terrorism) with other Member States, whether applicable to two countries (for example, France/United Kingdom or France/Spain based on current criminal investigations or available information relating to terrorist networks) or to a larger number of countries (group of Mediterranean countries, for example)<sup>2</sup>. This kind of approach could also be adopted by certain specialised departments, such as the DST in France.

6.4. Internationally, the situation is in contrast with solid bilateral cooperation and multilateral cooperation which suffers, according to the persons interviewed, from its sheer volume and, particularly in the case of Europol, from a lack of added value<sup>3</sup>. There are various reasons for the under-utilisation of Europol, acknowledged by all the departments<sup>4</sup>, and more broadly, for the weak relationship between the police and intelligence services and Europol. To some extent, attitudes also derive from the idea these services have of the nature and function of Europol. In the light of the mandate given by ministers to Europol with regard to counter-terrorism, it is important to create the legal and functional conditions for better cooperation with Europol which must be provided with data, failing which it will never really be able to perform its task.

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<sup>1</sup> The United States and the United Kingdom undertook in April 2003 to cooperate at a level never before attained in various fields: designation of a permanent high-level contact group in the field of intelligence, joint threat assessment in both countries, joint work on biometrics, exchange of information on visas and air passenger information, joint exercise on CBRN (chemical, biological, radiological and nuclear materials), etc.

<sup>2</sup> In this area, the Group of Five exchange information but do not produce a co-authored document on terrorist threat assessment or operational or strategic assessment.

<sup>3</sup> The question is twofold: how can Europol help identify and effectively dismantle terrorist networks, and how can Europol increase "criminal" analysis and enhance the quality of the threat assessment?

<sup>4</sup> Nevertheless, UCLAT sends many documents to Europol.



- The experts' proposal is that a working party be set up, involving police authorities, magistrates and Europol, to identify and evaluate the legal, structural and *de facto* obstacles to cooperation, to determine the type of intelligence to be forwarded to Europol and how this should be done, and to propose solutions, including of a legislative nature <sup>1</sup>. As regards the forwarding of information to Europol, it was clear that each department had a great deal of latitude in the absence of any "specifications" common to the departments or common "guidelines", the content of which could be discussed between the parties <sup>2</sup>.

At the same time, the following measures could be adopted.

Appropriate training is needed to improve the view and understanding of Europol's role and its contribution in terms of added value to the specialised departments <sup>3</sup>:

- Europol should develop a direct "personal and targeted" relationship, at the very least with UCLAT, and preferably with each of the major anti-terrorism players, in order to clarify its resources, its working methods, its objectives and the nature of its "offer" and the added value it is likely to give to analysis and operational action <sup>4</sup>. In symmetrical fashion, "Europol correspondents" could be designated within the departments making a contribution to the fight against terrorism. The specialised departments could thus make clear what their needs were <sup>5</sup>.

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<sup>1</sup> Subject to a more effective case-by-case appraisal, this recommendation will probably be made for a number of Member States.

<sup>2</sup> This situation prevails at European level. The supply of data to the SUSTRAN analysis work file illustrates this situation.

<sup>3</sup> Long-term action could be based on an appropriate programme involving the European Police College (CEPOL).

<sup>4</sup> Recent French legislation on the communication of information and the setting up of joint investigation teams make training essential.

<sup>5</sup> In 2001, France was far behind the United Kingdom and Germany in terms of countries using Europol.

- Such training could involve magistrates under similar terms as for Eurojust and Europol.
- A possible development could be for Europol to extend work more specifically towards a particular geographical area (comprising, for example, one or more States, but without moving systematically towards an integral European approach, which would result in a dumbing-down of the issues in order to make them acceptable to all). This could be the case in the field of threat assessment or assessment of certain of its components or aspects, on the initiative of Europol or at the request of one or more States.
- The time elapsing between consultation of Europol and Europol's response must be shortened to fit the investigators' time as far as possible.
- The use of Europol (with regard to exchange of information, analysis work files and operational cooperation) should however be increased in the long term with the new provisions <sup>1</sup>. The planned developments include:
  - The setting up and operational implementation of Europol's computerised information system supplied with data directly by the Member States and by Europol itself.
  - The adoption in November 2002 of a protocol amending the Europol Convention which allows for Europol's participation in the joint investigation teams, and the incorporation of this provision into French legislation.

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<sup>1</sup> See also the prospects opened up under the European Convention (see Section V, Articles III-176 to III-178 of the draft Constitution). In the course of the work on the European Convention, France and Germany had even proposed that Europol become a European enforcement authority, with the right to conduct investigations.

- The relaxation of the monopoly held by the Europol national units (within SCCOPOL [Central Operational Police Cooperation section] for France) should be one way of more effectively using Europol upstream and downstream but without undermining the consistency of the system as a whole. This development must be put into perspective with the proposal to identify Europol correspondents within large bodies, for example the SIPJs [inter-regional departments of the criminal police] and the central offices for the SCPJ [Central Directorate of the Criminal Police].
- The plan to set up, on the initiative of France and Spain, a Committee on Internal Security (COSI) <sup>1</sup>.
- The setting up of international ad hoc teams on exchanging information on terrorists (10913/4/03 LIMITE ENFOPOL 62) should significantly strengthen Europol's operational role and thus ultimately cooperation with Europol <sup>2</sup>.
- The implementation of the conclusions of the meeting of chiefs of police which was held in Rome (6 and 7 October 2003) will create the conditions for a permanent operational relationship with Europol <sup>3</sup>.
- Access by Europol to the BDL [liaison office] <sup>4</sup>.

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<sup>1</sup> See the draft Treaty establishing a Constitution for Europe, Chapter IV "Area of freedom, security and justice", Section 1 "General provisions", Article III-162, which mentions that: "A standing committee shall be set up within the Council in order to ensure that operational cooperation on internal security is promoted and strengthened within the Union. Without prejudice to Article III-247, it shall facilitate coordination of the action of Member States' competent authorities. Representatives of the Union bodies, offices and agencies concerned may be involved in the proceedings of this committee. The European Parliament and Member States' national parliaments shall be kept informed of the proceedings". Article III-247 relates to the Permanent Representatives Committee of the Member States which will prepare the work of the Council of Ministers. See also Articles III-163 (responsibilities incumbent upon Member States with regard to the maintenance of law and order and the safeguarding of internal security) and III-164 (adoption of European regulations and role of the Commission).

<sup>2</sup> At the meeting of the Working Party on Terrorism on 3 October 2003, a number of Member States were clearly in favour of Europol's participation in the joint teams.

<sup>3</sup> 13395/03 CATS 59 ENFOPOL 90 of 15 October 2003, Section C. See, for example, the implementation of Council Decision 2003/170/JAI of 27 February 2003 (OJ L 67 of 12 March 2003).

<sup>4</sup> With respect for the responsibilities of the national units, all the Member States agree that Europol should have access to the BDL (meeting of the Working Party on Terrorism IIIrd pillar on 21 November 2003).

7. At European level, the proposals likely to be expanded upon on the scale of the European Union are as follows:

7.1. Like other Member States, France may deploy, in the context of the fight against terrorism, and more broadly in situations of extreme violence, specialised intervention forces: the RAID (national police) [Search, Assistance, Intervention and Deterrence Unit] <sup>1</sup> and the GIGN [National Gendarmerie Intervention Group].

Although there was no contact with the RAID during the evaluation mission, the GIGN for its part explained in detail its contribution to the fight against terrorism in terms of operational investigations (surveillance, shadowing of suspects, interventions, etc.) **NOT**

**DECLASSIFIED**. It reported informal contacts with other units of the same kind in Europe but also expressed preference for such contacts to become more formal for reasons in connection with

- the networking of this kind of group, which would allow for better mutual knowledge and greater awareness of the different groups' intervention methods,
- the development of research programmes, particularly in the costly area of special equipment, and the search for technical interoperability of equipment and a joint approach, especially regarding training,
- ensuring synergy between these kinds of unit in Europe with, possibly, an intelligence unit or a system for pooling resources, of particular benefit to those Member States not having such resources <sup>2</sup>.

This proposal could be funded from Community finances.

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<sup>1</sup> No provision was made for any contact with the RAID in the evaluation programme.

<sup>2</sup> This kind of pooling (intervention abroad, for example) is currently possible only on the basis of bilateral cooperation agreements.

7.2. The SGDN described the philosophy, the logic and characteristics of the Vigipirate plan, covering government planning for vigilance, prevention of, protection and intervention against threats of terrorist action. The new Vigipirate plan is part of an approach which takes account of changes in the nature of the terrorist threat, the attacks of 11 September and the consequences of the terrorist threat in terms of mass destruction and disruption of society, by incorporating what may be called "vulnerability studies", relating for example to the electricity supply system <sup>1</sup>.

The plan involves the definition of five levels of alert, based on a threat analysis, corresponding to security objectives to be attained and the corresponding mobilisation of resources to be deployed; it has the advantage of flexibility, especially in terms of reversibility. The top level of alert (scarlet) thus aims to warn of the risk of major attacks, possibly occurring simultaneously, which could use different modus operandi, triggering the implementation of appropriate and mandatory operational measures.

The main characteristics of this plan are:

- it is a permanent security stance, aiming inter alia to develop a security culture involving all stake-holders, including the general public, the local authorities and the private sector, the latter two being involved according to the level of alert,

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<sup>1</sup> The power cut which hit the United States and Canada on 14 August 2003 was "the first real crisis which the Department of Homeland Security (had to) cope with after the attacks of 11 September 2001" (Associated Press, 15 August 2003). Refer too to the situation which occurred in Italy on 28 September in terms of vulnerability and consequence management. In the field of cybercrime, see "fighting cybercrime" by John C. Coale: "These disruptions may be subtle or stark, quick or slow, direct or indirect, or annoying or destructive. We must examine offensive (Information Warfare) used against the United States that may influence our military in times of crisis or conflict with a foreign power. To improve US defensive IW doctrine, awareness is the first step in identifying deficiencies and developing corrections".

- it includes not only general measures of order and security, but also specialised measures specific to certain fields such as the CBRN risk, the security of transport, natural resources and food chains, means of communication, including new technologies, sensitive installations and French people abroad,
- it incorporates the expertise of the armed forces in accordance with precise procedures, on the basis of a new doctrine for deploying them to support the general security forces: the armed forces would intervene as a matter of priority and independently in their areas of responsibility, in constituted units, under the orders of their superiors and with due regard for their specific knowhow,
- according to the nature of the threat, the plan may be deployed throughout the entire national territory or only concern a specific area, using all its components or only some of them.

At European level, government measures relating to the terrorist threat could be discussed and studied. The aim would be to lay the foundations for a joint European approach on the basis of some simple principles: nature and content of existing plans, possible complementary nature of national plans, determination of synergies, survey of the means which could be deployed in a requesting country <sup>1</sup>, etc.

The final objective could be the establishment at European level of a Vigipirate-type plan with its flexibility of deployment, which would enable it to be activated in all or in part of the European Union and/or using all or some of its components, depending on the nature of the threat.

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<sup>1</sup> Reflecting the existing situation regarding fire-fighting, where resources belonging to several States may be deployed on a large scale to combat particularly serious fires.

7.3. On the basis of the report by the DCI (Defence Capabilities Initiative) concerning the CBRN threat and its intervention to ensure the security of the G8 summit in Evian, lessons from which might contribute to discussions on the security of the Olympic Games in Athens <sup>1</sup>, a coordinated approach to the CBRN threat on a European scale could be proposed. It could include increased cooperation between specialised units in Europe, with its corollaries in terms of a specific assessment of the CBRN threat and an appropriate "civil protection" programme <sup>2</sup>.

In this specific area, France (police and gendarmerie) <sup>3</sup> is developing very targeted potential regarding police intervention, in order to apprehend individuals, and regarding criminal investigations in a contaminated or hostile environment. This aspect of the fight against terrorism too could be examined from a European point of view, in terms of resources and expertise available in the other Member States, appropriate intervention and investigation techniques, training and equipment, which are inevitably expensive.

7.4. The DCPJ [Central Directorate of the Criminal Police] has implemented an innovative structure dedicated to communication and data transfer: the *Section centrale de coopération opérationnelle de police* (SCCOPOL) [Central Operational Police Cooperation Section] which brings together in one place the Interpol, Europol and Schengen interfaces with specialised personnel from several ministries (Interior/police, Defence/gendarmerie, Finance/customs, Justice/magistrates). SCCOPOL is a single point of transit and the necessary intermediary between the French authorities in the three areas mentioned above and their counterparts or the headquarters of the agencies.

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<sup>1</sup> The Greek authorities have set up a permanent security committee including Member States (France, United Kingdom) and third countries (Israel, United States). Europol has just joined this group.

<sup>2</sup> The Director General of MI5 recently warned against this kind of threat, especially in terms of the bioterrorism risk in the food sector (the same concern exists in the United States and in Russia). She added that it was only a question of time before a bacteriological chemical attack was launched in an urban area in the West.

<sup>3</sup> National CBRN unit. Not all the Member States are equipped with the same resources for determining this kind of threat, responding to it in police terms or more broadly by measures applicable to the general public.

The French investigators and magistrates thus have the possibility of recourse to a single contact body which, on the basis of the type of request submitted and the best possible treatment of its legal nature, will propose the most appropriate technical solution and ensure that the request is dealt with.

The establishment of such "interministerial" structures for dealing with national requests and forwarding them to the most relevant agency when processing the file could be studied in the other Member States <sup>1</sup>.

- 7.5. France is not the only Member State to deploy specialised units, but it is one of the few countries which has been able to establish, in UCLAT, an ad hoc permanent structure and the conditions for permanent and specific coordination between police and intelligence services and between those services and those competent in various areas of the fight against terrorism <sup>2</sup>. Its operating method is very flexible, since the freedom of departments to act in their areas of responsibility is respected, and it guarantees a coordinated and shared approach to the fight against terrorism.

UCLAT's experience in coordination and regulation and in the exchange of information is an issue in itself, likely to be of interest to the other Member States deploying several specialised departments with differing "skills" and tasks.

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<sup>1</sup> These arrangements do not of course preclude other types of international relations.

<sup>2</sup> On the basis of the French model, Portugal has very recently acquired a similar structure, the Counter-Terrorism Coordination Unit (UCAT).



The existence of similar bodies <sup>1</sup> in the other Member States would mean that they could ultimately be linked together to form a network of specific interfaces <sup>2</sup>.

The operational assessment of the threat is an example of the type of work that could be done by a European network of agencies along the lines of UCLAT <sup>3</sup>.

- 7.6. The coordination of the intelligence services, and that of the various other services involved in the fight against terrorism, is essential.

This issue arises at European level, but with a specific difficulty: there is at present no fully appropriate institutional tool despite the increasing prominence of various levels. These include, in particular, NATO and its Intelligence Board, the General Secretariat of the Council with the SITCEN concerning the European Union's foreign policy, etc.

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<sup>1</sup> These would by definition be specialised permanent and inter-departmental agencies with appropriate methodology.

<sup>2</sup> Many questions linked to the fight against terrorism now cover several aspects or dimensions, the processing of which involves several services or even ministerial departments. UCLAT is able to ensure synergy and coordination between the departments concerned in order to guarantee the investigation and processing of requests which, by definition, go beyond the functional or technical expertise of a single department.

<sup>3</sup> This issue should be viewed in terms of the importance of such an assessment for the implementation of what could be a "European Vigipirate plan", and also for the deployment at European level, of specialised intervention forces, specialised response and investigation teams in contaminated environments, etc.

While it is true that the fight against terrorism increasingly requires that the distinction between a defence issue and a security issue be transcended in order to combat international terrorism more effectively, it nevertheless remains the case that this fight, which requires special powers and specific expertise, is first and foremost the work of the "civilian intelligence community" <sup>1</sup> at international level, because it is necessary for the handling of terrorism by the police and courts, whether or not the departments involved have judicial powers. The war against terrorism, in all the senses of the word "war", as conducted by the United States also has a "coordination" of intelligence services direction and a judicial dimension. The prime concern of the United States after 11 September was to review the activities and coordination of its intelligence services but also to bring the perpetrators of terrorist acts to court.

In other words, while the fight against international terrorism may or must involve the military intelligence services, it must first be a matter for the civilian intelligence community, which has duly undertaken that task <sup>2</sup>.

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<sup>1</sup> See interview with Javier Solana published by European Voice of April 2003 concerning the distinction between the US wording - war against terrorism - and the EU wording - fight against terrorism: "I have noted the difference in terminology. It is a difference that is important and revealing. I, like many Europeans, would hesitate before describing this as a "war", and not because I doubt for one second the seriousness of the threat posed by terrorism - I have attended too many funerals of victims of terrorism for that to be the case. But for me the word "war" suggests that the means will be military and the outcome clear. In preferring to talk about a "fight" against terror I hope we better convey the fact that our most successful instruments are likely to be non-military ones - police, intelligence and judicial cooperation - and that we must address the causes of terror as energetically as we address its manifestations".

<sup>2</sup> "(...) military action cannot be sufficient. It is necessary to organise and strengthen "civilian methods" of response, i.e. intelligence activities and judicial and police action. The democratic States must give priority to this kind of response with due regard for fundamental rights" (interview with Judge Bruguière, 12 December 2002).

At European Union level, in terms of threat assessment or definition of an appropriate global strategy – applicable, for example, to Islamic extremist terrorism – coordination or some degree of regulation of intelligence services in this area is vital. The French civilian services in particular take this view and, far from rejecting or minimising this aspect, endorse it by using the resources and advantages of bilateral cooperation and ad hoc multilateral cooperation.

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- 7.7. One of the essential aspects of the French law enforcement arrangements to counter Islamic terrorism, clearly distinguishing them from other types of organisation, stems from the following three factors:
- strict centralisation of proceedings and investigations and involvement of specialised magistrates, systematic instigation of investigations and automatic referral to specialised magistrates <sup>1</sup>,
  - significant role played by the DST which has a virtual monopoly, and the special peculiarity that its members also have the status of criminal police officer <sup>2</sup>,

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<sup>1</sup> Which implies constantly increasing operational and analytical awareness of the terrorist threat and activities or of terrorist groups/networks, knowledge of terrorism and of counter-terrorism, a specific approach to terrorism, etc.

<sup>2</sup> The comments made about specialised magistrates (above footnote) evidently apply first of all to the DST.

- operational and analytical interface between counter-terrorism magistrates and the DST <sup>1</sup>,
- immediate mobilisation of all the DCPJ's resources (including those of the Criminal Police headquarters), should any major events occur.

This aspect of the French arrangements – the operational nature and effectiveness of which have been stressed by all the parties involved – is according to the experts a particularly coherent type of organisation which could inspire other Member States. The experts' proposal relates to all three aspects mentioned above: in certain States there is some form of centralisation of proceedings and investigations, but the intelligence services are not in contact with the magistrates, or if they are, only on the basis of available intelligence, without the possibility of it being used in the criminal proceedings and subsequently in the verdict. In the French system, on account of its dual nature, the intelligence service holding information always has the possibility of either conserving it as it is or transforming it into evidence to present to the courts.

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<sup>1</sup> This interface allows for shared knowledge of terrorism and counter-terrorism.

## ANNEXE 1

### Composition de l'équipe d'évaluation

#### 1. Experts des Etats membres

- M. Ferreira Leite (Portugal), sous directeur de la police judiciaire,
- M. André d'Hoogh (Belgique), commissaire divisionnaire de la Sûreté de l'Etat,

#### 2. Expert de la Commission européenne

- Eduardo Cano Romera, administrateur principal, DG JAI,<sup>1</sup>

#### 3. Secrétariat Général du Conseil

- Gilles de Kerchove, directeur JAI,
- Michel Ipas, expert national détaché,

#### 4. Europol

- Peter Gridling, Europol, chef de l'unité contre-terrorisme, observateur <sup>2</sup>.

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<sup>1</sup> Lettre en date du 5 juin 2003.

<sup>2</sup> Lettre en date du 6 juin 2003.

ANNEX 2

**Pages 77 to 82: NOT DECLASSIFIED**

### ANNEXE 3

	Services chargés de l'application de la loi	Services de renseignement	Coordination
Intérieur	<p><b>DCPJ</b></p> <ul style="list-style-type: none"> <li>- DNAT, investigations judiciaires et opérationnelles, compétence nationale.</li> <li>- terrorisme domestique</li> <li>- terrorisme islamiste extrémiste en relation avec la DST</li> <li>- OCRGDF, lutte contre le financement du terrorisme, compétence nationale.</li> </ul> <p>NB. La Police Judiciaire de la Préfecture de Police comprend une Section Anti-Terroriste compétente dans le ressort de la la Préfecture de Police (Paris et les départements de la petite couronne).</p> <p><b>SCTIP</b></p> <ul style="list-style-type: none"> <li>- Réseau des Attachés de Sécurité Intérieure</li> </ul>	<p><b>DST</b></p> <ul style="list-style-type: none"> <li>- activité de renseignement, compétence nationale</li> <li>- investigations judiciaires et opérationnelles, compétence nationale</li> <li>- terrorisme islamiste extrémiste et plus largement terrorisme importé ou international</li> <li>- réseau des officiers de liaison</li> </ul> <p><b>RG</b></p> <ul style="list-style-type: none"> <li>- activité de renseignement, compétences nationales et locales</li> <li>- investigations opérationnelles</li> <li>- terrorisme domestique</li> <li>- activités et groupes en relation avec le terrorisme islamiste</li> </ul>	<p><b>UCLAT</b></p> <ul style="list-style-type: none"> <li>- Coordination opérationnelle "interministérielle" des services de police (toutes les directions de la police nationale) et de gendarmerie et des services de renseignement.</li> <li>- Evaluation opérationnelle de la menace</li> <li>- Réseau d'officiers de liaison à l'étranger</li> <li>- Action internationale</li> </ul>
Défense	<p><b>gendarmerie nationale</b></p> <ul style="list-style-type: none"> <li>- investigations judiciaires et opérationnelles, compétence locale</li> <li>- terrorisme domestique</li> <li>- participation au réseau des Attachés de Sécurité Intérieure</li> </ul>	<p><b>DGSE<sup>1</sup></b></p>	
Finances	<p><b>DNRED</b></p>	<p><b>GOLT<sup>2</sup></b></p> <p>recueil du renseignement ayant trait au terrorisme, compétence nationale</p> <p><b>TRACFIN<sup>3</sup></b> (FIU's France)</p> <ul style="list-style-type: none"> <li>- lutte contre le blanchiment et le financement du terrorisme, compétence nationale</li> <li>- coopération internationale</li> </ul>	<p><b>FINATER</b></p> <ul style="list-style-type: none"> <li>- Coordination de la lutte contre le financement du terrorisme</li> <li>- gel des avoirs</li> </ul>

<sup>1</sup> Hors champ d'évaluation ainsi que les services militaires de renseignement. La DGSE est membre de l'UCLAT ~~(et du SGDN)~~. Les services de renseignement militaire sont membres du SGDN et contribuent à la définition stratégique de la menace effectuée par le SGDN.

<sup>2</sup> Il ne s'agit pas d'un service de renseignement au sens habituel du terme mais cet organisme collecte des informations qui seront transmises aux services compétents.

<sup>3</sup> Il ne s'agit pas d'un service de renseignement au sens habituel du terme mais cet organisme se définit lui-même comme une structure dédiée au renseignement financier et saisit éventuellement l'autorité judiciaire.

## ANNEX 4

### 1. Ministry of the Interior

#### 1.1. The Director-General of the National Police

The *Directeur général de la police nationale* (Director-General of the National Police) occupies an important position in France's anti-terrorism arrangements. He has authority over all national police services and specialised operational services in this field<sup>1</sup>. These include the criminal police services (DCPJ), the intelligence and counter-intelligence police (DCRG and DST) and the Technical International Police Cooperation Department (SCTIP), which specifically implements the international policy of the Directorate-General for the National Police. UCLAT [Counter-Terrorism Coordination Unit] also comes under his authority.

The Director-General is in contact, personally and/or via his services,

- with counter-terrorism bodies which come under other ministries, either via UCLAT, or via liaison officers seconded to those services
- with other coordination authorities and bodies (SGDN) [Secretary-General for National Defence] etc).
- with the international and European cooperation structures.

By virtue of his own responsibilities and the tasks entrusted to his specialised services, he stands at the point of convergence of national and international terrorism, prevention and enforcement measures, the judiciary and the intelligence services, emergency and assistance matters.

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<sup>1</sup> The other directorates and services placed under the authority of the Director-General of the National Police, such as the *Direction centrale de la police aux frontières* (DCPAF) [Central Border Police Directorate], also contribute to the fight against terrorism and thus are members of UCLAT. For obvious reasons of scheduling, but also because fighting terrorism is not their main task, and given the specific nature of the area of evaluation, it was not possible to meet all persons in charge of these police directorates and services.



Finally, the functional and institutional merging of the national police with the national gendarmerie, which means that the Ministry of the Interior is the only authority entitled to deploy all law-enforcement and intelligence services competent on national territory, fosters and optimises interministerial operational cooperation.

Another important aspect: the daily contact with the Minister or his/her Cabinet plays a key role in counter-terrorism, enforcement and the organisation of civil protection measures, for example in triggering and implementing the Vigipirate plan or other special plans.

In the field of police cooperation within the Union, the Director-General of the National Police is Head of the French delegation to the Police Chiefs Task Force.

In the course of the interview, the Director-General of the National Police emphasised four main points.

The *Conseil de Sécurité Intérieure* (CSI) [Internal Security Council] <sup>1</sup>, chaired by the President of the Republic, is not a counter-terrorism authority in the strict sense, but it defines internal security policy, sets priorities and ensures that measures implemented by the ministries are consistent. Article 4 of the Decree of 15 May 2002 on the Internal Security Council stipulates in particular that: "Acting in liaison with the Secretary-General of the Internal Security Council, the Secretary-General for National Defence shall carry out a preliminary investigation of, and submit to the CSI, any internal security matters relating to defence, intelligence and national security planning"; the Secretary-General of the Council is appointed by the President and "reports to him directly" <sup>1</sup>. So, the fight against terrorism is one of its major concerns and proof of the impetus given to counter-terrorism at the highest level of the State.

As regards the consistency of France's counter-terrorism arrangements, it should be noted that all ministers directly involved in combating terrorism (Interior, Justice, Defence, Finance) are automatically members of the CSI. At its most recent meetings, the CSI discussed a number of items relating to the fight against terrorism. <sup>1</sup>

The importance of Europol in the field of European police cooperation is neither overlooked nor played down, but the vision and, to an even greater extent, the expectations are pragmatic in terms of action and operational results, in other words, in terms of the added-value return. Where Europol is concerned, the identification of added-value by and for the French counter-terrorism services can only encourage further operational cooperation.

European cooperation must be concrete and operational. The fight against organised crime and terrorism within the European Union could probably be made more effective if operational structures akin to the *Groupements d'Intervention Régionaux* (GIR) [Regional Task Forces] could be put in place. <sup>2</sup>

Established by interministerial decision of 22 May 2002 the task of the GIR is to combat, within a given geographical area, and by combining and supplementing the competences of several administrations/ministries, the trafficking sustaining the underground economy and the forms of criminality contributing to and derived from it. The GIR is an action force which draws on the resources of the police, the gendarmerie, the tax authorities, customs, the Directorate for Fair Trading and Consumer Affairs, fraud control, the directorates for labour and employment in the *départements* etc.

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<sup>1</sup> The CSI's proceedings are classified *Secret défense*.

<sup>2</sup> This concept could be compared to other initiatives such as the joint investigation teams, or the Italian Presidency's project concerning "ad hoc multinational teams for exchanging information on terrorists" (10913/4/03 limite ENFOPOL 62) etc.

It is vital that European cooperation should produce concrete results and, to that end, it must implement effective and appropriate policies in order to encourage operational cooperation. <sup>1</sup>

In the area of bilateral cooperation, the *Centres de Coopération Policière et Douanière* (PCCC) [Police and Customs Cooperation Centres] provide an example of integrated cooperation. PCCC are set up under ad hoc bilateral agreements. In France, they principally comprise personnel from the national police, the national gendarmerie and customs. These structures, which are by definition competent on both sides of the same border, encourage operational exchanges of intelligence and make it possible to take concerted action on either side of that border, by means of mixed patrols, alert plans, control operations etc. PCCC have been established with Belgium (5 May 2001, Tournai), Germany (3 October 1997, Offenburg), Italy (agreement signed 3 October 1997, 2 PCCC – Ventimiglia and Modena), Switzerland (11 May 1998, Geneva Cointrain) and Spain (agreement of 7 July 1998, signed in Blois). <sup>2</sup>

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<sup>1</sup> See for example the meeting at Jerez de la Frontera (Spain) on 18 May 2003, in which France, Spain, the United Kingdom, Italy and Germany took part to discuss some "common problems (...), urgent problems and concerns" shared by the "group of five", which also set up a working party of five members to monitor implementation of the decisions taken.

<sup>2</sup> With regard to the Blois agreement, the report to the Senate states that "although not made explicit in the text, the fight against terrorism will benefit from the new arrangement", i.e. the subject of the cooperation agreement between France and Spain. The agreement between France and Spain on joint investigation teams had not been signed at the time of the interview with the Director-General of the National Police.

## 1.2. The Technical adviser to the minister

General and institutional presentation of the fight against terrorism in France (legal basis <sup>1</sup>, organisation of the operational services and their powers and competences, in particular in the light of the creation of the Ministry of Internal Security, including the national gendarmerie being made available "for deployment" by the Minister for the Interior; outline of the development of terrorism over the years and the new characteristics of international terrorism: Al Qaida etc.)

The main points of emphasis in the fight against terrorism are:

- Threat assessment

Regular CSI meetings with contributions by the ministries concerned, such as the (Interior, Defence, Foreign Affairs etc,) the strategic threat assessment carried out by the SGDN, which influences the alert ratings (5 levels) of the Vigipirate plan and the security objectives relating to each of these <sup>2</sup>.

- Defence measures

In particular in the context of "megaterrorism" but relating to all areas and all potential targets; also in terms of mobilising of resources in the various ministries in the light of their various areas of competence.

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<sup>1</sup> And its adaptations ("Perben" law).

<sup>2</sup> See interview with the SGDN.

- Investigations in France and abroad wherever necessary <sup>1</sup> and possible.
- Civil protection.

In the field of CBRN terrorism <sup>2</sup>, with the intervention of the civil protection authorities; training of personnel; the importance of the problem of civil protection facilities; the mobilisation of the hospital sector (broad outline of the Vigipirate plan).

Other points:

- Strong political impetus and direction are needed to combat terrorism.
- Europol is perceived as a European criminal police office and as a result the intelligence services do not supply information. <sup>3</sup>
- A Europe-wide threat assessment is only meaningful if the JHA Council tackles the issue and, more generally, <sup>4</sup> the problems associated with non-military crises.

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<sup>1</sup> France routinely sends experts abroad with the agreement of the country concerned (e.g. Pakistan).

<sup>2</sup> France has set up a "Civil Security Institute" in Cambrai, which is to become a European centre of excellence. One of its tasks will be to combat CBRN terrorism. The first class graduated in 2003.

<sup>3</sup> "Europol lacks the political dimension which the fight against terrorism has" (Philippe de Lagune).

<sup>4</sup> See SGDN and CIR [Interministerial Intelligence Committee].

### 1.3. The Central Directorate of the Criminal Police

Within the General Directorate of the National Police, which covers all these services, the criminal police has ongoing contact with all police and intelligence services which come under the Ministry of the Interior. Its activities fall within the framework of the coordination carried out by UCLAT and the bilateral relations with the other directorates and services involved in counter-terrorism.

The DCPJ brings together all central and local services of the national police responsible for the prevention and control of organised and specialised crime. Acting on their own initiative or delegated by public prosecutors or examining magistrates, most criminal police officials have officer status and are authorised by the judicial authority.

Within the DCPJ, the *Division National Anti-Terroriste* (DNAT) [National Counter-Terrorism Division] has the specific task of "detecting and preventing subversive and terrorist activities and of prosecuting offences against the security of the State". It coordinates the central and regional criminal police services within its field of competence <sup>1</sup>, and in particular can draw on the expertise of other offices, such as the *Office central pour la répression du trafic des armes, munitions, des produits explosifs et des matières nucléaires, biologiques et toxiques* (OCRTAEMS) [Central office for combating trafficking in firearms, ammunition and explosives and nuclear, biological and chemical materials].

The *Office Central pour la Répression de la Grande Délinquance Financière* (OCRGDF) [Central office for combating serious financial fraud] was established by Decree No 90-382 of 9 May 1990. Its task is to combat economic, commercial and financial offences related to professional or organised crime, particularly to large-scale organised crime, drug trafficking and terrorism. <sup>2</sup>

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<sup>1</sup> Some interregional criminal police services have resources which are more specifically dedicated to counter-terrorism, such as the *Services Inter-régionaux de Police Judiciaire* (SIPJ) [Criminal Police Interregional Services] in Bordeaux (Basque terrorism) and Marseilles (Corsican terrorism).

<sup>2</sup> Article 2 of the Decree of 9 May 1990.

Interview.

The counter-terrorism police services under the authority of the Central Director of the Criminal Police are

- the National Counter-Terrorism Division, whose members have national competence <sup>1</sup>
- the *Police Judiciaire de la Préfecture de Police* (PJPP) [Criminal Investigation Division at Police Headquarters], which is competent for Paris and the departments within the Paris region (*Section Anti-Terroriste*, SAT) [Counter-terrorism Section]
- the criminal police services in the provinces (organised on an interregional basis since April 2003).
- the Central office for combating serious financial fraud, for aspects concerning the fight against the financing of terrorism.

Emphasis was put on the importance of counter-terrorism legislation which defines the nature of counter-terrorism in France, and on the consequences for the criminal police services responsible for conducting criminal investigations.

Criminal police and intelligence work

The essential consequence of this legislative framework is that the criminal police's primary aim is to prevent and suppress terrorist acts by gathering information which allows to it to establish the criminal responsibility of suspects, so that they can be brought before a competent magistrate.

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<sup>1</sup> Within the DNAT, a special unit monitors "Islamic terrorism" in particular.

## Security intelligence and criminal intelligence

There is no conflict (of interests or objectives) between "intelligence" or "security intelligence" <sup>1</sup> on the one hand, and "criminal intelligence" on the other, assuming the expression means information relating to a fact or circumstance leading to a criminal charge and the initiation of a judicial procedure, necessarily involving a magistrate. As part of its general duties, the criminal police gives priority to gathering information which, by its nature, will become part of the evidence for a criminal case.

While the criminal police does not play down the importance of "security intelligence" as such, gathering intelligence which is not, or is not likely to become "criminal intelligence" is not strictly speaking part of its job.

### The role of UCLAT

In practice, any security intelligence gathered is forwarded to UCLAT, of which the criminal police is a permanent member, and which is responsible for referring intelligence to the appropriate intelligence service for processing. Likewise, UCLAT only passes on to the criminal police information received from an intelligence service, such as the General Intelligence Department <sup>2</sup>, if it is of relevance to the criminal police/a criminal procedure.

In other words, the criminal police has a binary approach: it receives any intelligence which is criminal intelligence, or serves the purposes of criminal intelligence, but does not gather any other types of intelligence.

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<sup>1</sup> "Renseignement de sécurité" in French.

<sup>2</sup> The General Intelligence Department also sends a report to the judicial authorities.



Furthermore, it is not the role of the criminal police to replace specialised services such as the *Direction de la Surveillance du Territoire* (counter-intelligence agency) or the General Intelligence Department, nor is it inclined to do so, given that UCLAT acts as the link between them and ensures complementarity.

#### Criminal police and intelligence service

The police and intelligence services have developed the practice of cooperating to combat terrorism. This has been made easier by the fact that there are no conflicts of responsibilities (functional or territorial) and by the de facto and de jure complementarity of the services involved, by UCLAT's regulatory function, and by the functional role played by the judicial authorities.

There is no conflict of responsibilities between the criminal police and the counter-intelligence agency<sup>1</sup>, with the latter concentrating its entire efforts on "imported" terrorism and terrorism inspired by Islamic extremism. The criminal police is fully competent to combat domestic terrorism, in particular via DNAT, whose officers have national jurisdiction.

As far as international terrorism is concerned, this division according to the type of terrorism has a physical limit imposed by the size of the case being dealt with. Because of its limited personnel, the DST cannot handle a case which would exceed its own resources and capacities and has to draw on the resources of the criminal police, in some cases by means of a joint referral by the magistrate in charge. That happened in June 2003 when members of the People's Mojahedin Organisation of Iran (PMOI) were arrested. The examining magistrate responsible for counter-terrorism made a joint referral of the case to the criminal police for it to handle the aspects related to the financing of terrorism.

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<sup>1</sup> The criminal police officers of the DST are authorised by the judicial authorities and also have national jurisdiction.

However, such cases are the exception, and by definition, the "negotiations" or ongoing dialogue, involving the law enforcement services, the intelligence services, UCLAT and the magistrates provides an element of regulation which prevents conflicts and confusion.

#### Criminal police and gendarmerie

There was no mention either of any conflict between the criminal police and the national gendarmerie with regard to referral in the fight against domestic terrorism. Magistrates are free to choose the criminal investigation authority and may therefore instruct either the DNAT (and/or the interregional criminal police services), or the gendarmerie (specialised sections for Basque and Corsican terrorism with local jurisdiction) <sup>1</sup>, or refer a case jointly to both parties, which are then responsible for conducting investigations which will in principle be different.

In practice, functional or practical criteria apply. Where a terrorist act targets the national gendarmerie, or is purely local in character, the case is referred to the gendarmerie. Where a terrorist act is such that it has to be dealt with in Paris by specialised magistrates, the case is referred to the DNAT. <sup>2</sup> Where the offence takes place within the jurisdiction of the Paris Prefecture, the matter is of course referred to the latter (SAT).

Structural contacts with the national gendarmerie are twofold: one gendarmerie officer has been seconded to the National Counter-Terrorism Division and a second to UCLAT. <sup>3</sup>

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<sup>1</sup> Unlike DNAT officials, the members of these two investigation services have no national jurisdiction.

<sup>2</sup> The question of which service a case should be referred to is part of the "ongoing dialogue" between the criminal police and the magistrates.

<sup>3</sup> Virtually all central criminal police offices have a gendarmerie officer.

The criminal police and other partners

Relations with the DGSE [Directorate–General for External Security] are conducted via UCLAT.

The criminal police's relations with other ministerial departments also go through UCLAT, apart from some specific aspects of counter–terrorism, such as the fight against the financing of terrorism. Links between the Central office for combating serious financial fraud and TRACFIN are also direct. In autumn 2001, the OCRGDF set up a unit to combat the financing of terrorism, which acts as the interface between the financial administrations involved in the combating this kind of terrorism, particularly TRACFIN.

As far as international cooperation is concerned, the OCRGDF is empowered to exchange intelligence with the central services of other States which have the same competences, without prejudice to the application of mutual assistance agreements in the area of taxation or customs <sup>1</sup>. Its partners are Interpol (in particular the "funds derived from criminal activities" working group), Europol, FATF [Financial Action Task Force on Money Laundering] and the G7/G8 working parties.

The criminal police's relations with Europol

The criminal police does not regard its relations with Europol as satisfactory because of differences of "culture". Furthermore, sending information to Europol involves a clear conflict with the rules in force, in particular the rules on investigative secrecy (Article 1 of the Code of Criminal Procedure). <sup>2</sup>

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<sup>1</sup> Article 7 of the Decree of 9 May 1990.

<sup>2</sup> One example, taken from France's reply to the United Nations Sanctions Committee (Resolution 1267) : "Among the steps taken by France to prevent activities by members of Al Qaida, are several judicial proceedings that are taking place in French courts and relate to the dismantling of terrorist conspiracies having links to Al Qaida. The principle of secrecy in prosecution and investigation precludes any detail being provided on these proceedings".

Other reasons for the poor cooperation were put forward.

With respect to international cooperation, the approach and the interaction with Europol are pragmatic: the criminal police prefers bilateral cooperation, a more direct working method which is seen as more effective, and also more rapid in terms of the anticipated results.

Bilateral cooperation is thought to be the most straightforward form of cooperation. This contrasts with Europol's activities, especially in the view of the provincial authorities, and the same is true of the Europol "product", either the raw material or in terms of added-value. The underlying principle of the bilateral agreement, "giving is also receiving", is applied to relations with Europol.

It was also said that supplying Europol with intelligence constituted work in itself<sup>1</sup>. It involved selecting intelligence which could be passed on, in particular in the light of the rules and laws which applied to passing on intelligence, but also depending on the attitude of the judicial authorities.

Multilateral European cooperation was not ruled out, but "thinking European" took time.

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<sup>1</sup> Which required appropriate human resources.

## Factors for improving cooperation <sup>1</sup>

In the long run, two new elements, considered separately or together, should help relations with Europol and the exchange of intelligence:

- Article 24 of Chapter V of the law of 28 March 2003 concerning the automatic processing of information stipulates that

"The data contained in automatic personal data processing operations managed by national police and gendarmerie departments may be forwarded to bodies engaged in international criminal police cooperation or foreign police departments which afford guarantees in respect of personal data protection equivalent to those in domestic law, under international commitments properly incorporated into domestic law. Departments of the national police and gendarmerie may receive data included in processing operations managed by bodies engaged in international criminal police cooperation or foreign police departments, under the commitments provided for by this Article."

- The "Perben" law contains provisions on joint investigation teams.

It provides that "officers seconded to a joint investigation team as defined by the Council Framework Decision of 13 June 2002 on joint investigation teams may, inter alia and under certain conditions,

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<sup>1</sup> In the field of police cooperation, see the Presidency conclusions on the meeting of the Police Chiefs Task Force (Rome, 6 and 7 October 2003). See also 10913/6/03 REV 6 LIMITE ENFOPOL 62 on the operational project concerning " Multinational ad hoc teams for exchanging information on terrorists".

- be given an assignment, where appropriate, covering the whole of national territory,
- note all crimes, offences or violations and draw up a report on them, where necessary in the form laid down by the law of their State,
- record any statements made to them by any person likely to provide information on the acts in question, where necessary in the form laid down by the law of their State,
- assist French criminal police officers in the exercise of their duties,
- carry out surveillance and, if especially empowered to do so, undercover work".

The law further specifies that originals of the records "must be drawn up in or translated into French (and) taken into account in the French proceedings".

*Section Central de Coopération Opérationnelle de Police (SCCOPOL)* [Central Police Operational Cooperation Centre]

In the field of European and international cooperation (Schengen/Europol and Interpol), the DCPJ has created a platform in order to simplify the work of the operational services, which henceforth will have a single interlocutor, the Central Police Operational Cooperation Centre (SCCOPOL). This structure is made up of officials from the national police <sup>1</sup>, the national gendarmerie <sup>2</sup>, customs <sup>3</sup> and the judiciary <sup>4</sup> responsible for mutual legal assistance and for liaising with the legal authorities. In this area, two magistrates are responsible for checking the validity of the requests, circulated by the SIS for provisional arrest with a view to extradition and requests for authorisation to conduct cross-border surveillance within the Schengen framework.

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<sup>1</sup> 52 officials.  
<sup>2</sup> 23 military staff.  
<sup>3</sup> 1 official.  
<sup>4</sup> 2 magistrates and 4 assistants.

#### 1.4. *La Direction de la Surveillance du Territoire* – DST [Counter-Intelligence Agency]

The DST is one of the operational departments of the National Police that contributes directly to internal security, and as such is accountable to the Director-General of the National Police at the Ministry of the Interior.

Article 1 of Decree No 82-1100 of 22 December 1982 determining the powers of the DST stipulates that it is authorised to investigate and prevent, within the territory of the French Republic, activities that are directed, undertaken or supported by foreign powers and which could jeopardise national security, and, more generally, to combat such activities" <sup>1</sup>.

Article 2 states that "for the purpose of performing its duties and in the framework of instructions from the Government, the DST shall in particular be responsible for centralising and utilising all intelligence relating to the activities mentioned in Article 1 and which must be communicated to it forthwith by all the services that contribute towards national security" and "for maintaining the necessary links with other relevant services or bodies."

The DST <sup>2</sup> is an intelligence service with powers of criminal investigation <sup>3</sup>. Within the territory of the French Republic it investigates and prevents activities directed, undertaken or supported by foreign powers which could jeopardise national security. Its duties are traditionally three-fold: counter-espionage, counter-terrorism and protection of the economic and scientific heritage. New strategic threats, such as the proliferation of nuclear, bacteriological, chemical and ballistic weapons, are taken into account.

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<sup>1</sup> In this regard it performs a defence-related role.

<sup>2</sup> The Decree of 22 September 1982 lays down the remit of the DST.

<sup>3</sup> This dual role enables the DST to adopt a more comprehensive approach to terrorist activities "both those supported directly or indirectly by certain foreign States and those emanating from foreign organisations" (note from the French delegation).

## Interview

### The dual role of the DST

The DST in France has a unique feature, defining itself as an *intelligence service with powers of criminal investigation*<sup>1</sup>. The other intelligence agency responsible for dealing with terrorism – the *Renseignements généraux – RG* [General Intelligence Department] – has no criminal investigation powers, whereas DST officials, as criminal police officers, have authorisation from the Public Prosecutor and have national jurisdiction.

### DST and international or "imported" terrorism

While counter-espionage is still the DST's stock-in-trade, it has in the past thirty years adjusted its activities to home in on international terrorism and, more specifically, "imported" terrorism, i.e. terrorism originating beyond French borders.

As regards Islamic extremist terrorism, the DST initially set up a division specialising in Palestinian terrorism<sup>2</sup> in 1974 that focused in particular on Carlos<sup>3</sup>. In 1983 the division was strengthened. It subsequently had to deal with a wave of attacks in 1985/1986. At the time of these attacks the division became an autonomous department which in 1989, in a final development justifiably dictated by the demands of the fight against terrorism, was raised to the status of terrorism subdirectorate.

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<sup>1</sup> The Decree of 22 December 1982 determining the powers of the DST refers, moreover, to the penal code.

<sup>2</sup> Terrorist act carried out by the Black September organisation on 5 September 1972 at the Olympic Games in Munich.

<sup>3</sup> Illich Ramirez Sanchez, otherwise known as Carlos, was arrested by the DST in Khartoum in Sudan in 1994 and jailed in France. He was wanted for numerous terrorist acts committed in the 1970s and 1980s, as well as for the murder of two DST inspectors killed in June 1975 when carrying out a check at 9, rue Toullier in Paris. He was convicted of these offences by special Assize Court in Paris on 24 December 1997.



The latest development in the DST concerns the recent establishment within the terrorism subdirectorates of a team dealing with legal procedure, which underlines, if that were needed, the priority which the DST attaches to the judicial aspects of dealing with terrorism.

The development of the DST as regards cooperation

Before the 9/11 attacks, the DST had already stepped up its cooperation with other equivalent services in the field of counter-terrorism very considerably; however, it is aware of having to deal with the following challenges:

- the geostrategic approach of terrorism;
- improved synergies and increased cooperation with other intelligence services abroad;
- the transition from a preference – based on grounds of efficiency – for bilateral cooperation, to a multilateral approach.

The 9/11 attacks did not lead the DST to take any particular measures or decisions. The level of security in France was already high at that time and, more fundamentally, the DST was already engaged in investigating Islamic extremist terrorism and, in particular, Al Qaida, on the basis of letters rogatory filed before the events of 9/11, which enabled it to react promptly and effectively to the attacks on 11 September<sup>1</sup>. Nevertheless, at the time it increased the number of staff attached to the terrorism subdirectorates.

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<sup>1</sup> For example, the DST sent the United States a note on 1 September 2001 concerning Zacarias Moussaoui's stays in Afghanistan.

**NOT DECLASSIFIED**

In the more specific area of information exchange and operational coordination, the DST highlighted the role of UCLAT, stating that as regards "potential conflicts", its actions and those of the other departments were guided by a single criterion: "the importance of the case" and , more broadly, the importance of the fight against terrorism.

## International cooperation

The DST embarked very early upon a policy of liaising with counterpart services abroad. This policy has grown in importance over the last fifteen years and underwent very significant developments after September 2001 <sup>1</sup>. **NOT DECLASSIFIED**

The DST has of course access to information gathered by SCTIP's internal security attachés, in particular thanks to UCLAT, of which the two services are permanent members.

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<sup>1</sup> "Post and indeed pre-9/11, all information of possible relevance to ongoing investigations was forwarded to other Member States and to the US services. This was reciprocated. In 2002 the DST carried out 26 operations to detain people for questioning, which resulted in 60 being held in police custody, 27 of whom were jailed. They were all close to the Al Qaida networks. Information regarding these cases was forwarded to the various European intelligence agencies and to the judicial services if it concerned them. Cooperation takes place at operational level in the frameworks already described on a case-by-case basis in line with specific targeted investigations" (note from the French delegation).

## Cooperation with US services post-9/11

The events of 9/11 gave rise to a surge in demand for cooperation with France in general and with the DST in particular, which duly responded. In this regard, reference was made to the methodological differences between its activities and those of its US counterparts: the latter prefer the top-down approach to the terrorist network (i.e. top of the network), while the DST adopts a bottom-up approach, focusing on the network itself and the breeding-ground in which it thrives

**NOT DECLASSIFIED.**

**Pages 105 to 106: NOT DECLASSIFIED**

Other points

The "rapprochement" between the DST and RG that was reported in the press <sup>1</sup> is viewed rather favourably by the DST as it will enable synergies to be developed and common platforms to be identified, for example in the area of training, recruitment and technical resources <sup>2</sup>. The DST illustrated its point by referring to the Djamel Beghal investigation <sup>3</sup>, which was conducted jointly by the two services.

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<sup>1</sup> Article in *Le Monde*, 20 June 2003.

<sup>2</sup> The RG indicated that its staff sometimes initiated local investigations on behalf of the DST.

<sup>3</sup> Arrested on 28 July 2001 at Dubai airport, Djamel Beghal revealed the existence of a plan to attack the United States Embassy in Paris and named Nizar Trabelsi, a former footballer turned Islamic radical, as a martyr belonging to Osama Bin Laden's Al Qaida organisation. Trabelsi has just been sentenced by a court of first instance to ten years' imprisonment.

## 1.5. *Direction Centrale des Renseignements Generaux* - DCRG [Central General Intelligence Directorate]

General

The organisation and functions of the DCRG are laid down in Decree No 95-44 of 16 January 1995, the Order of 6 November 1995 and the ministerial circular of 3 January 1995.

Article 3 of the Decree stipulates that "the DCRG is responsible for gathering and centralising intelligence for the Government's information; it helps to defend the fundamental interests of the State and contributes to the general brief of internal security. It is responsible for the monitoring of gambling and racing".

Interview

Features of the RG

The Central General Intelligence Department is answerable to the Director-General of the National Police <sup>1</sup> and has two features:

- With the exception of those attached to the subdirectorate responsible for gambling and racing, its officers are not authorised to exercise powers of criminal investigation. This means that the RG is an intelligence agency, not a criminal investigation branch of the police.
- As regards seeking, gathering and analysing information, its primary task is to inform the Minister of the Interior (and the political authorities) so that they can, if necessary, take the appropriate decisions.

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<sup>1</sup> Order of 6 November 1995.

The DCRG's tasks include assisting in the fight against terrorism. In this regard it performs a two-fold task, combining the traditional role of analysis with the operational role of investigation and prevention of terrorist acts.

At the central level an investigation subdirectorates pools intelligence concerning the prevention of terrorism and monitors risk groups <sup>1</sup>.

As laid down in Decree No 90-185 of 27 February 1990, the RG has a "computerised file of persons for the exclusive purpose of carrying out its task of combating terrorism (...)" <sup>2</sup>. Its function is centralising information on "persons who may, by their individual or collective actions, jeopardise State security (...)" <sup>3</sup>. Access to the file is restricted to those RG officers who are "duly authorised and on a need-to-know basis."

Intelligence may be passed to the police or gendarmerie only after a procedure that guarantees "the strictly confidential nature" of the consultation and that allows "verification of the grounds for this consultation". Article 5 of the Decree of 27 February 1990 states, finally, that "officials of the DST, PJ, PAF, municipal police, officials and military staff of the DGSE and the military staff of the national gendarmerie may, after being authorised on an individual basis by a temporary and irrevocable decision, access information (...) in the following cases: examination of visa applications; checks on cross-border traffic; investigations carried out by the competent services. "The file shall not be interconnected with any other file" <sup>4</sup>.

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<sup>1</sup> The RG performs its functions throughout national territory, including gendarmerie districts.  
<sup>2</sup> Article 1 of the Decree of 27 February 1990.  
<sup>3</sup> Article 2 of the Decree of 27 February 1990.  
<sup>4</sup> Article 7 of the Decree of 27 February 1990.



The RG has for some years now been interested in the connection between the terrorist threat and the presence of radical Islamic movements within national territory, in particular through direct and indirect links the latter may have with terrorist groups and activities or, more importantly, the question of whether they have any involvement with these groups or activities. Hence, especially since the attacks in 1995, it has been led to focus on matters such as the crossovers between violent Islamic extremism and crime, particularly in sensitive urban areas, the phenomenon of converts, the financing of terrorism, etc.<sup>1</sup>. The attention that has long been focused on these matters has enabled the RG continually to improve its knowledge and analyses.

A number of important elements shape the RG's role in the fight against terrorism:

- The RG is a permanent member of UCLAT.
  
- The RG is a police force<sup>2</sup> and, as such, enjoys the support of all police and intelligence services (it has links with the DST, gendarmerie, DNAT and DCPAF in the area of illegal immigration, etc.).  
The fact that a police service also ensures feedback of information and experience from other services.
  
- In the RG's opinion, France's counter-terrorism structures are good and there is a clear division of powers. There are no conflicts of interest or aims<sup>3</sup>.

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<sup>1</sup> Interview with the magistrates with specific competences.

<sup>2</sup> "The non-police agencies do not live in the real world" (Head of the RG).

<sup>3</sup> It was not denied that there had been cooperation problems with other services, but these were due to the personalities of those involved.

- The RG is concerned exclusively with domestic terrorism in its different forms; it understands and views the fight against terrorism in operational and not purely analytical terms. However, as the RG operates throughout national territory, it assists the DST when the latter has to conduct investigations at local level that come within its remit.
  
- In order to obtain an overview, it is absolutely necessary that terrorism-related matters are centralised in Paris <sup>1</sup>, with each case feeding into a global knowledge of terrorism, its extensions, its modes of operation, its ramifications and networks, etc. This system has the advantage of bringing together a number of specialised services, each of which participates in the analysis and examination of terrorist acts on the basis of a corpus of intelligence, archives and a broader analysis <sup>2</sup>.
  
- The fact that officers in the criminal investigation department do not have security clearance is no bar to successful completion of the RG's tasks. Depending on the nature of the intelligence obtained, these officers contact in writing either the DST, in cases relating to international terrorism <sup>3</sup>, or the DCPJ/DNAT, on matters of domestic terrorism, and, where necessary, the national gendarmerie via UCLAT. Viewed from this perspective, the RG may be regarded as specialising in intelligence for judicial purposes, which does not constitute an impediment to more analytical approaches.

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<sup>1</sup> Law of 1986.

<sup>2</sup> The Roubaix case (1995) underscores the point, even though it had initially been classed as an "ordinary law" matter and handled as such at local level.

<sup>3</sup> And more specifically, terrorist activities carried out by radical Islamic groups.

- Consequently, the problem of the "judicialisation" of intelligence does not arise. For example, judicial tapping <sup>1</sup>, when recorded in a report by the criminal investigation department, replaces administrative tapping, which lacks any probative value before the courts <sup>2</sup>. In all cases, action by the RG precedes the involvement of the criminal investigation department and, a fortiori, the courts.
  
- The RG also contacts the judicial authorities on its own initiative by means of notes. These notes contain no information that could be used in proceedings <sup>3</sup>; they are documents which explain or analyse a particular element, fact or circumstance against the general background of terrorism or a given context, e.g. sensitive or difficult urban areas.
  
- **NOT DECLASSIFIED**

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<sup>1</sup> Judicial intercepts are governed by Articles 100 et seq. of the Code of Criminal Procedure.  
<sup>2</sup> Security or administrative intercepts are under the control of the Commission Nationale des Interceptions de Sécurité [*National Commission on Security Intercepts*]. They are authorised by the Prime Minister for the purpose of obtaining intelligence relevant to national security particularly as regards the prevention of terrorism.  
<sup>3</sup> Being sent directly to the operational services for judicial use under the direction of the magistrates.

➤ **NOT DECLASSIFIED**

## **1.6. Le Service de Coopération Technique Internationale de Police - SCTIP**

[Technical International Police Cooperation Department]

### General

The SCTIP<sup>1</sup>, one of the directorates/services of the Ministry of the Interior's National Police Force, is entirely dedicated to police cooperation with States that have signed cooperation agreements with France<sup>2</sup>.

Emerging with the decolonisation of Africa, the SCTIP gradually freed itself of its origins to become the National Police's instrument for global police cooperation (with officers stationed in the United States, Russia, Japan, Latin America, etc.).

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<sup>1</sup> Established by the Decree of 14 December 1961.

<sup>2</sup> The SCTIP as such is neither an operational police force nor an intelligence organisation.

More recently, it has laid emphasis on European cooperation and to this end has perfected its network of internal security attachés<sup>1</sup> in Europe, where they are responsible for counter-terrorism, drugs trafficking and other forms of cross-border organised crime, seconding officers:

- to certain Member States of the European Union (United Kingdom, Germany, the Netherlands, Spain, Italy, Denmark<sup>2</sup>)
- to some future Member States (Hungary, Czech Republic, Poland, Baltic States, Slovakia<sup>3</sup>)
- and beyond (Romania, Bulgaria, Croatia, Macedonia, etc.).

The SCTIP participates in the work carried out in the various police and security fora<sup>4</sup> in Europe, in particular, in general police cooperation terms.

#### Interview

Recent developments.

Over the last few years, the SCTIP has experienced a remarkable development quantitatively<sup>5</sup>, while also evolving significantly in qualitative terms. As regards the latter, the following should be noted:

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<sup>1</sup> The concept of internal security attaché is broader than that of liaison officer, particularly in terms of remit. For the sake of convenience, reference will be confined to liaison officers.

<sup>2</sup> Regional responsibility for all the Scandinavian countries.

<sup>3</sup> Post shortly to be made available in Slovenia.

<sup>4</sup> The SCTIP heads the French delegation to the Police Cooperation Working Party.

<sup>5</sup> The SCTIP comprises and manages 69 delegations and will make available an additional post in Jakarta in September.

- the status of SCTIP police attaché has changed to that of internal security attaché, which allows its staff to cover all relevant national police areas, each attaché having his own experts in situ <sup>1</sup>;
- the emphasis laid on operational cooperation and activities;
- the merger of police attaché networks with those of other national police departments <sup>2</sup>, joint management of all national police personnel posted abroad;
- the opening of its network to officers of the national gendarmerie (14 posts at present) <sup>3</sup>.

#### The SCTIP and counter-terrorism

In the field of counter-terrorism, internal security attachés focus on all terrorist acts <sup>4</sup> committed abroad and on the policies implemented by both States and regional and international organisations. Their contacts with the police and intelligence services of the host countries, their notes and their analyses <sup>5</sup> enable them to contribute to the analysis carried out by the counter-terrorism services in France and to assessment of the threat <sup>6</sup>.

Each internal security attaché cooperates with other attachés stationed in his region and, of course, with all their opposite numbers in the host country's police and intelligence services. After the Bali incident, the police attaché in Singapore worked with both the local authorities and the Australian and Japanese services. Likewise, the attachés in Saudi Arabia and the United Arab Emirates joined forces after the attacks in Riyadh.

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<sup>1</sup> The SCTIP also conducts missions abroad by French experts and organises visits to France for foreign experts.

<sup>2</sup> UCLAT and the DST have preserved their specific liaison officer networks.

<sup>3</sup> See interview with the national gendarmerie.

<sup>4</sup> And on the financing of terrorism.

<sup>5</sup> As recently, after the attack in Bali.

<sup>6</sup> In France or in relation to French interests abroad.

## The pooling of liaison officers <sup>1</sup>

While France is basically in favour of the idea of work-sharing by Member States' liaison officers stationed in one country <sup>2</sup> or region, such a step is beset by practical difficulties. It must be seen in the context of the manifold tasks performed by attachés and liaison officers on the ground. The possibility of having Member States' liaison officers in one region under the direction of Europol staff remains open but is regarded as problematic <sup>3</sup> (what might this direction involve, what methodology, what terms of reference, etc.) <sup>4</sup>.

In any event, internal security attachés can contribute to European policy and play the role of "facilitator", for example in the framework of the MEDA programme or the Commission's technical assistance programme for the Philippines, Thailand and Indonesia.

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<sup>1</sup> In the area of police cooperation.

<sup>2</sup> As stated, de facto sharing takes place.

<sup>3</sup> As was the situation in the Balkans.

<sup>4</sup> See the conclusions of the Presidency/8th meeting of the Police Chiefs Task Force (Rome, 6 and 7 October 2003 "Reinforcing the role of Europol").

## 1.7. Le Détachement Central Interministériel d'intervention technique – DCI

*[Interministerial Central Body for Technical Intervention]*

General

The DCI was established by the following Ministries on 6 March 1995 to cope with the threat of nuclear terrorism:

- Interior (direction de la défense et de la sécurité civile [*Defence and Civil Protection Department*], RAID<sup>1</sup> [*Search, Assistance, Intervention and Deterrence Unit*] and the central laboratory of the Paris Police Headquarters)
- Defence (mine disposal experts from the Service de Neutralisation et Destruction des Explosifs [*Explosive Ordnance Disposal*]/NEDEX)
- Economy, Finance and Industry (commissariat à l'énergie atomique [*Atomic Energy Commission*]/CEA).

The DCI is answerable to the RAID, which is itself accountable to the Director-General of the National Police, and has the task of seeking and locating, for analysis and neutralisation, improvised nuclear devices capable of dispersing radioactive material in the atmosphere or releasing nuclear energy.

Its remit has been extended to include chemical and biological threats and related forms of crime.

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<sup>1</sup> Established by an order dated 23 October 1985, the RAID (Search, Assistance, Intervention and Deterrence) assists throughout national territory in combating all forms of terrorism and large-scale organised crime, when serious events occur which require the use of specific techniques and methods for neutralising dangerous individuals. It provides support to UCLAT.



## Interview

The DCI is a specialised intervention unit which applies particular expertise in NRBC risk areas based on:

- skills appropriate to the sectors affected by this type of risk
- the use of high technology (pre-decontamination module <sup>1</sup>, mobile mass-spectrometry unit <sup>2</sup>, nuclear confinement space <sup>3</sup>, mobile anthropogammametry unit <sup>4</sup>, etc.).

The DCI is a unit which functions at the interface between technological risk and the police, and its position alongside RAID and, in a wider sense, under the Director-General of the National Police underlines the fact that it is an operational unit.

The DCI played a full part at the G8 summit in Evian, deploying all the available technology in the framework of preventive and security measures designed to counter terrorism <sup>5</sup>.

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<sup>1</sup> Decontamination of contaminated persons at a rate of 10 - 15 persons per hour.

<sup>2</sup> Using samples, spectral analysis makes it possible to identify the chemical components listed in a database.

<sup>3</sup> For the purpose of mitigating the effects of detonation and trapping radioactive aerosols.

<sup>4</sup> Measurement of internal contamination and gamma rays.

<sup>5</sup> The Director-General of the National Police authorised the services which had participated in the Summit to explain their role and that of the DCI to the Council's Working Parties.

## 2. The Ministry of Defence

### 2.1. The Directorate-General of the National Gendarmerie

#### General

The Ministry of Defence makes a significant contribution to the fight against terrorism at national level (domestic terrorism in Corsica and in the Basque country) through the activities of the national gendarmerie, which has seriously reinforced its counter-terrorism systems in recent years and increased its know-how. Information collected by the territorial network (3 600 brigades) <sup>1</sup>, research units and specialised gendarmeries (such as the Air Transport Gendarmerie and the Nuclear Transport Security Gendarmerie) is centralised and processed in the counter-terrorism section of the Directorate-General before communication to the Ministry of Justice or to UCLAT, of which the national gendarmerie is a permanent member.

The operational attachment of the national gendarmerie to the Ministry of the Interior since 2002 can only facilitate and develop synergies and complementarities between the departments involved in counter-terrorism.

The DGGN <sup>2</sup> is involved in all meetings on terrorism: to use its own terms, it attends all meetings described as "operational" (UCLAT, WPT, etc.) or "strategic" (SGDN, MAE [Ministry for Foreign Affairs]).

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<sup>1</sup> Examples have been given of the importance of seeking operational intelligence to gendarmerie brigades before the involvement of other specialised services (the use, for instance, of the resources of the GIGN [National Gendarmerie Intervention Group] for surveillance and the judicial authorities. The role of the gendarmerie in the overseas departments and territories has also been stressed.

<sup>2</sup> Subdirectorate for Operations and Subdirectorate for Employment.

## Interview

### Domestic terrorism

In the fight against domestic terrorism, officers and non-commissioned officers of the national gendarmerie who have the status of law enforcement officers and have been empowered can have cases referred to them by the judicial authorities <sup>1</sup> when they are territorially competent.

Its activities are complementary to those of the other specialised police services belonging to other ministries.

### Reorganisation of the Directorate General's departments

The central departments of the DGGN are being structured in order to make the gendarmerie more efficient. Eventually they will comprise a Subdirectorate of the Criminal Investigation Department and, within it, a (strengthened) *Bureau de la Lutte Anti-Terrorisme* (BLAT) [Counter-terrorism Bureau] with enhanced powers. Its function will be to collect and centralise raw information communicated by gendarmerie personnel, including officers in post abroad as internal security attachés. After analysis that information will be forwarded either to UCLAT or to the DST <sup>2</sup>.

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<sup>1</sup> Or jointly in the case of joint referrals to the police services.

<sup>2</sup> Within national territory the gendarmerie must also inform local DST stations.

The respective roles of the police and the gendarmerie; coordination

No difficulty was mentioned. In the field of domestic counter-terrorism<sup>1</sup> the basic principle is a magistrate's freedom of referral: officers and non-commissioned officers of the National Gendarmerie who have the status of law enforcement officers and have been empowered can have cases referred to them by the judicial authorities<sup>2</sup>. The pre-eminent role of the *Division Nationale Anti-Terroriste* (DNAT) [Counter-Terrorism Division] of the *Direction Centrale de la Police Judiciaire* (DCPJ) [Central Directorate of the Criminal Police] is recognised, however, in particular in the context of referrals by magistrates, but there are a number of cases in which referral to the gendarmerie is "certain", for example in the case of attacks on its personnel, its establishments or more generally on its interests. The gendarmerie deals with 120 to 130 cases of terrorism every year.

#### Exchanges of information

In the field of operational intelligence for the purpose of criminal investigation, "the gendarmerie acts as a full member of the intelligence community involved in counter-terrorism"<sup>3</sup>.

With regard to exchanges and the sharing of information<sup>4</sup> and the regulation of operational activities, the gendarmerie is a permanent member of UCLAT. One of its senior officers has been seconded to it since February 2003<sup>5</sup>. With the exception of criminal-investigation information and information communicated directly to the DST, UCLAT is the exclusive recipient of the information collected<sup>6</sup>, "with no own use by the gendarmerie".

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<sup>1</sup> Cases of international terrorism are not referred to the gendarmerie.

<sup>2</sup> Or jointly in the case of joint referrals to the police services.

<sup>3</sup> French Note.

<sup>4</sup> This means information "for the purposes of criminal investigation", which is communicated to a magistrate.

<sup>5</sup> An officer of the gendarmerie is also seconded to DNAT.

<sup>6</sup> No link with the DGSE except where appropriate through UCLAT. No direct link with the *Direction du Renseignement Militaire* (DRM) [Directorate of Military Intelligence] either.

As regards the Criminal Police, the *Service technique de renseignement judiciaire et de documentation* (STRJD) [Technical Department for Criminal Intelligence and Documentation] centralises at national level all the data concerning offences and the accused. Any intelligence relating to an act of terrorism is brought to the attention of the specialised department of the Paris Public Prosecutor's Office and of the competent local prosecutor's office.

**NOT DECLASSIFIED**

International relations in the field of exchanges of information: Europol

There are no bilateral relations with EUROPOL<sup>1</sup>, except in the long term through the SCOPOL platform run by the DCPJ once the information has been forwarded to UCLAT. EUROPOL is not regarded as an operational service (or police system), a circumstance which compromises practical cooperation at European level.

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<sup>1</sup> The gendarmerie has seconded to it one of its officers in the national unit.

## International level <sup>1</sup>

In the fields of the collection of information abroad and the analysis of domestic and external danger, the gendarmerie expects to benefit from the opening to its officers of the network of the *Service de coopération technique internationale de police* (SCTIP) [Technical International Police Cooperation Department] <sup>2</sup>, and from national gendarmerie participation in operations carried out by military forces engaged outside national territory <sup>3</sup>. A decree of 8 August 2003 provides that the Subdirectorate of the national gendarmerie shall include bureaux for institutional police cooperation, bilateral cooperation and multilateral security and defence cooperation <sup>4</sup>. In that field the gendarmerie also makes use of its contacts with its opposite numbers in Europe (Italy, Portugal, Spain, etc.) through an association of gendarmeries <sup>5</sup>.

The recent posting of national gendarmerie officers abroad to the network of internal security attachés of the SCTIP, under the Directorate-General of the National Police, should also be mentioned, as should national gendarmerie participation in operations carried out by French military forces engaged outside national territory <sup>6</sup>.

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<sup>1</sup> No account is taken of gendarmerie participation in proceedings and working parties in international and European bodies.

<sup>2</sup> At present fourteen internal security attaché posts are occupied by gendarmerie officers but some eighty gendarmes are in post abroad under the agreement with the SCTIP. The gendarmerie hopes in time to obtain one-third of the internal security attaché posts.

<sup>3</sup> It has, for example, set up an Investigation and Intelligence Analysis Unit in Pristina, Kosovo. The information thus collected is sent for analysis to the STRJD in Rosny (the STRJD is a gendarmerie instrument).

<sup>4</sup> Official Journal of 10 August 2003.

<sup>5</sup> In its own field the GIGN proceeds in a similar fashion.

<sup>6</sup> It has, for example, set up an Investigation and Intelligence Analysis Unit in Pristina, Kosovo.

## The outlook for the gendarmerie

- a build-up of counter-terrorism capacities within the gendarmerie <sup>1</sup>;
- a desire to enhance the added value capacities from gendarmerie activities;
- reinforcement of the specialised sections;
- development of the system of liaison officers and common instruments;
- combating the NRBC threat.

## Other points

The gendarmerie outlined the organisation and the roles of its specialist intervention groups such as the GIGN <sup>2</sup> and the national NRBC cell <sup>3</sup>, and in that context mentioned its interventions in Marseilles in 1994 (the Algiers Airbus), the Achille Lauro hostage-taking in collaboration with the Navy's Hubert commandos, its involvement in the Vigipirate, Piratair, Piratome and Piratox alert and rescue plans, its sky marshals project, the Béliet and Pégase conventions, etc.

## Another contribution by the Ministry of Defence to counter-terrorism

Under the contribution by the Ministry of Defence to counter-terrorism, mention must also be made of the fact that a representative of the DGSE attends UCLAT meetings <sup>4</sup>.

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<sup>1</sup> See the decrees of 8 August 2003 (Official Journal of 10 August 2003) and the establishment of a counter-terrorism bureau within the Subdirectorate of Criminal Police. See also the new structure of the Subdirectorate for International Cooperation.

<sup>2</sup> Member of the Atlas Group, which brings together the same units from the Member States. The gendarmerie would like a system for the pooling of research and development, in particular because of the high costs of training and equipment.

<sup>3</sup> The cell was created in June 2001 and then followed by the creation of the operational subgroup (SGO/NRBC) in October of the same year. It took part in the European exercise from 25 to 29 October 2002 in Canjuers.

<sup>4</sup> As well as taking part in UCLAT proceedings, "the DGSE carries out exchanges of intelligence by circulating notes, sent by official mail, thus feeding targeted institutional interlocutors, by attending periodical inter-Ministry meetings between various departments and by appropriate bilateral contacts" (French delegation note).

### 3. The Ministry of Finance

The Ministry of Finance contributes to counter-terrorism in the field of the fight against the financing of terrorism in its various forms, such as money laundering, the use of the banking system for that purpose, the implementation of the UN Security Council resolutions <sup>1</sup>, application of European decisions at national level <sup>2</sup>, etc.

#### 3.1. Directorate-General for Customs and Indirect Taxes (DGDDI) / GOLT

##### General

Customs activities, apart from their traditional functions and powers in connection with public safety <sup>3</sup>, constitute part of the fight against large-scale trafficking and organised crime <sup>4</sup> (drugs trafficking, for example). Customs are responsible for checking on compliance by international traders with regulations concerning military equipment, arms and ammunition, explosive powders and substances, and non-conventional weapons in the nuclear, ballistic and chemical fields.

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<sup>1</sup> Resolution 1373, etc.

<sup>2</sup> European list of terrorists and terrorist organisations, etc.

<sup>3</sup> Airport and air freight safety, shipping safety, safety of the cross-Channel link, and they are involved in the implementation of measures intended to prevent terrorist dangers.

<sup>4</sup> Since May 2002 customs have taken part in the *groupes d'intervention régionaux* (GIRs) [Regional Intervention Groups], of which there are twenty-eight. GIRs are inter-Ministry structures comprising police officers, gendarmes, customs officers and officials from tax departments, from the DGCCRF [General Directorate for Fair Trading, Consumer Affairs and Fraud Control] and from the Directorate for Labour and Employment. See interview with the Director-General of the National Police.



Customs contribute to counter-terrorism through their territorial positioning (airports <sup>1</sup>, ports <sup>2</sup>, freight, border sectors such as the cross-Channel link) and are one of the agencies that contribute to the prevention of terrorism dangers <sup>3</sup>. They also have powers in the fight against the laundering of the proceeds of trafficking.

Customs officers are empowered to search, record and crack down on the laundering of proceeds of offences against drugs or customs legislation. The *Direction nationale du renseignement et des enquêtes douanières* (DNRED) (National Directorate for Customs Intelligence and Investigations) carries out investigations on the basis of the information thus collected.

#### Interview

Customs/TRACFIN [Financial Intelligence Unit]/FINATER [unit combating the financing of terrorism] connections

In the field of the fight against the financing of terrorism, it should be noted that the Director-General of Customs is also the Secretary-General of TRACFIN <sup>4</sup>, the unit for intelligence processing and action against illicit financial channels. Cooperation between TRACFIN and customs is therefore close, particularly in the phase of the development of declarations of suspicion regarding suspect financial transactions made by the financial and non-financial professions amenable to such legislation.

Customs and TRACFIN prepare core files for meetings of the FINATER unit, the secretariat for which is provided by the Director-General of Customs, Secretary-General of TRACFIN.

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<sup>1</sup> The civil aviation code.  
<sup>2</sup> The seaports code.  
<sup>3</sup> The Customs are involved in the Vigipirate plan.  
<sup>4</sup> Article 6 of the Decree of 9 May 1990.

In the field, in matters concerning the transfer of funds, customs officers use the legal resources provided for in the Monetary and Financial Code: Article L 152-1 makes every natural person transferring out of the country or into the country sums of money or securities equal to or exceeding EUR 7 600 in value but not passing through a credit establishment or a service organisation subject to the obligation of making a declaration to customs. That obligation to declare physical transfers of capital, which entered into force on 1 January 1990, is an instrument in the fight against networks for the micro-financing of terrorism <sup>1</sup>.

### Creation of GOLT

Following the attacks of 11 September 2001, the DNRED set up a *Groupe opérationnel de lutte contre le terrorisme* (GOLT) [Operational Counter-terrorism Group] which, once customs resources had been mobilised, was to centralise and analyse intelligence relating to persons and bodies involved in terrorism and the financing of terrorist activities. Summaries are made in collaboration with the *direction du renseignement douanier* (DRD) [Customs Intelligence Directorate]. The areas of work involved show the particular attention given to international terrorism: the physical transfer of capital and the monitoring of banking institutions, of money changers and of companies and bodies likely to provide logistical support for terrorist networks.

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<sup>1</sup> These are bound to increase in number on account of the systems set up to make the banking system secure and prevent its abuse. See also intervention by Mr Michael Chandler, chairman of the UN Sanctions Monitoring Committee, in COTER [Working Party on Terrorism (International Aspects)] on 7 October 2003.

## Police and Customs Cooperation Centres

In the field, customs are members of the Police and Customs Cooperation Centres (CCPD)<sup>1</sup>, which makes it possible to pool action and information by associating the police, the gendarmerie and Customs. While customs have recently been granted access to certain "police" files such as stolen vehicles or wanted persons files, they still do not have access to SIS, with the exception of the border sectors where there are customs points<sup>2</sup> in addition to police sectors<sup>3</sup>.

## International cooperation

French customs have signed an agreement with the United States customs (on port security and container security; since December 2002 United States customs liaison officers have been seconded to Le Havre).

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<sup>1</sup> See interview with Mr Michel Gaudin, Director-General of the National Police.

<sup>2</sup> Partial access to SIS.

<sup>3</sup> Customs do not have access to the *système de traitement de l'information criminelle* (STIC) [Criminal Information Processing System].

In the field of international cooperation, customs may use their attachés abroad and the customs authorities of the host countries (spontaneous communication of information, forwarding of intelligence on request, special monitoring of suspect operations) or use the network and resources of the World Customs Organisation (WCO) <sup>1</sup>.

Customs attachés play an important role in gathering intelligence and ensuring the implementation of international mutual administrative assistance in customs matters.

In the field of the operational regulation of departments responsible for the application of the law, consideration is being given to customs' future participation in UCLAT's proceedings.

EUROPOL, on the other hand, remains more of a possibility for customs than a reality <sup>2</sup>.

Customs hope to refine even further the financial aspects of the fight against terrorism in collaboration not only with TRACFIN but also with OCRGDF and UCLAT, and to develop their role as an expert to the benefit of other administrations.

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<sup>1</sup> In the context of the World Customs Organisation the partnership between customs and firms against terrorism promotes the security of the supply chain and of the effective movement of legitimate trade across borders. The WCO's attention is now focused on the US initiative on containers. The proposal is for the establishment of criteria for the identification of high-risk containers, to filter them out before they are dispatched to the United States, to use technology to track high-risk containers and to develop secure, smart containers. The system proposed means that the US customs will be informed, by their European opposite numbers, of the targeting and the documentary and physical monitoring – including scanning – of potentially high-risk containers before their arrival in the United States. In June 2002 the directors of the 161 customs administrations that are members of the World Customs Organisation adopted a resolution for the protection of the international logistics chain against any terrorist act or other criminal activity while guaranteeing easier trade. An action group of international experts was then set up to draw up standards so that customs administrations could simultaneously identify high-risk goods and facilitate the movement of legitimate goods.

<sup>2</sup> Customs have begun to feed Sustrans and the DNRED is drawing up relevance criteria for this purpose.

### 3.2. FINATER (Financing of terrorism)

#### General

FINATER, which was set up by a decree of 25 September 2001<sup>1</sup>, is an inter-Ministry administrative body for coordination and exchange of information in the specific field of the fight against the financing of terrorism.

The creation of FINATER, set up on 3 October 2001, is part of a general strategy for combating terrorism directly in connection with, on the one hand, the attacks of 9/11 and, on the other, the need to combat the financing of terrorism<sup>2</sup>.

That ad hoc unit, placed within the Ministry of Finance/Treasury Directorate and dedicated to combating the financing of terrorism, has as its function to ensure intensified cooperation between the various parties competent in matters of large-scale trafficking, the transparency of accounts, combating the laundering of dirty money and the connections between different forms of trafficking. To that end, FINATER brings together six directorates of the Ministry (Treasury, Customs and Indirect Taxes, Taxation, Tax Legislation, Economic External Relations and Legal Affairs) and TRACFIN (the Financial Intelligence Unit); when necessary it has recourse to external expertise (qualified persons).

The Treasury Director is the Chairman of FINATER, and the Director-General of Customs and Indirect Taxes, who is also Secretary-General of TRACFIN, provides the secretariat. There is therefore a link-up between FINATER and TRACFIN.

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<sup>1</sup> That decree was adopted in order to strengthen the system for monitoring the assets of bodies connected with the Taliban and Osama Bin Laden.

<sup>2</sup> Decree No 2001-875 of 25 September 2001 had already intensified the action being taken by the French authorities in this area (close monitoring of the funds and assets of organisations and persons blacklisted by the United States immediately after 9/11).

Accordingly, at national level FINATER is an important component of the French system for combating the financing of terrorism:

- it is by nature a regular means of exchanging information and consultation;
- it enhances the coordination and consistency of the activities of the economic and financial departments responsible for implementing asset-freezing measures.

FINATER meets at least once a month.

As regards asset freezing, the administrations that are members of FINATER act within the framework and in accordance with the decisions taken by the United Nations Sanctions Committee (Resolution 1373) and implement Community regulations.

Interview

At national level

Within the framework of its remit, FINATER calls on all those involved in economic and financial life, and in particular involves the banking system as a whole, and especially the supervisory and monitoring authorities (the *Commission bancaire* [Banking Commission], the *Commission des opérations de bourse* (COB) [Stock Exchange Operations Commission], the *Commission de contrôle des assurances* [Insurance Control Commission]<sup>1</sup>, and the *Comité de contrôle des marchés* [Market-Monitoring Committee], etc.). (NB)

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NB: The Financial Security Act of 1 August 2003 set up the *Autorité des marchés financiers* (AMF) [Financial Markets Authority], an independent public authority with legal personality, produced by a merger of the Stock Exchange Operations Commission, the *Conseil des marchés financiers* (CMF) [Financial Markets Council] and the *Conseil de discipline de la gestion financière* (CDGF) [Financial Management Disciplinary Council].

<sup>1</sup> The Director of Finance, who chairs FINATER, is also the Government Commissioner on the Insurance Control Commission.

To perform its role, FINATER applies Community instruments<sup>1</sup> and uses the resources of French law, in particular the Monetary and Financial Code (Articles 152(1) to 152(2)), and since 2001 the rules concerning the freezing of assets have been invoked eight times.

Systematic use is made of existing files (through the intermediary of customs and tax departments).

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The fact that the FINATER secretariat is provided by the Secretary-General of TRACFIN is a distinct plus, as that body receives the declarations of suspicion made in particular by the banking sector and subject professions.

As regards the freezing of nationals' assets, several operations have been carried out but FINATER faces a legal void as regards confiscation; it has stated its preference for a Community instrument in this area<sup>2</sup>.

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<sup>1</sup> Council Regulation (EC) No 881/2002 (which incorporates UN Security Council Resolution 1390(2002)), Council Regulation (EC) No 561/2003 (which incorporates UN Security Council Resolution 1452(2002)), etc.

<sup>2</sup> Confiscation of nationals' assets is impossible at present without a court order.

At international level

FINATER has contacts with the G7, the FATF and the European authorities (list of persons and groups involved in asset freezing) and provides know-how for foreign States. Also in this area, FINATER benefits from the Secretary-General of TRACFIN's having connections with foreign correspondents (FATF, FIUs). FINATER also has a continuing relationship with the United States authorities (regular meetings).

### 3.3. TRACFIN (*Traitement du Renseignement et Action contre les Circuits financiers clandestins*) [French Financial Intelligence Unit]

General

A permanent administrative unit attached to the Ministry of Finance, TRACFIN was set up by a decree of 9 May 1990, and its functions in the fight against money laundering have been incorporated in the Financial and Monetary Code.

TRACFIN is a centre for intelligence on illicit financial channels and a department with anti-money-laundering expertise <sup>1</sup>. It collects, processes and circulates the information obtained within the Ministry of Finance and coordinates the activities of the Ministry's departments in that area.

TRACFIN is a true "inter-Ministry" administrative body since it includes not only officials of interdepartmental origin (Customs, Treasury departments, etc.) but also inter-Ministry officials, among them representatives of the national gendarmerie <sup>2</sup> and a magistrate <sup>3</sup>. An agreement has just been concluded on the secondment to TRACFIN of a police officer from the OCRGDF (*Office Central pour la Répression de la Grande Délinquance Financière*) [Central Office for Combating Serious Fraud] Central Directorate of the Criminal Police. TRACFIN is the French *cellule de renseignement financier* (CRF) [FIU or financial intelligence unit].

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<sup>1</sup> TRACFIN has a team of about forty persons, about thirty of whom concentrate on financial analysis.

<sup>2</sup> Since 1 August 2002.

<sup>3</sup> TRACFIN has seconded one of its investigators to the financial department of the Ministry of Justice.



## Interview

Prevention of the financing of terrorism depends to a large extent on combating the use of the financial system, and to that end the Financial and Monetary Code includes a certain number of measures, in particular measures concerning vigilance <sup>1</sup>.

Post 9/11, TRACFIN's role was enlarged to include fighting the financing of terrorism <sup>2</sup>, whether it used "legal" sources (commercial or charitable, for example) or "illegal" sources (protection, trafficking, robbery, prostitution, etc.). In practice, however, the events of 9/11 have changed nothing in the working methods and the activities of TRACFIN, which, with regard to the financing of terrorism, proceeded by analogy with organised crime <sup>3</sup>.

### At national level

TRACFIN receives and processes declarations of suspicion <sup>4</sup> from financial bodies (banks, public financial institutions, money changers, insurance companies, insurance and re-insurance brokers, investment and mutual firms) <sup>5</sup> and certain non-financial occupations (solicitors and property agents, casino operators, auctioneers and dealers in high-value goods) <sup>6</sup> when the amounts incriminated may be the proceeds of organised criminal activities.

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<sup>1</sup> Articles L 561(1), L 562(1) to L 562(10) and L 563(1) to L 563(3) of the Financial and Monetary Code.

<sup>2</sup> After the attacks of 11 September the FATF held an extraordinary plenary session in Washington on the financing of terrorism and decided to extend its role beyond money laundering and give priority to fighting the financing of terrorism.

<sup>3</sup> The Perben Act of 9 March 2004 explicitly included the financing of terrorism as a fact requiring declarations of suspicion to be sent to TRACFIN.

<sup>4</sup> There is no lower limit for declarations of suspicion.

<sup>5</sup> Act of 12 July 1990.

<sup>6</sup> In due course further sectors of economic activity will be included (chartered accountants, auditors and barristers). See also the FATF's new recommendations (plenary session in Berlin in June 2003).

In addition, the declaration system was supplemented in 2001 by a system based on automatic criteria, applicable only to financial institutions in the case of certain transactions regarded as particularly sensitive.

TRACFIN can oppose the execution of a declared transaction <sup>1</sup>, it can request any financial body to send it all items and documents relating to a transaction <sup>2</sup>, and it can, under circumstances specified by law, pass intelligence to foreign agencies exercising similar powers (FIU network) <sup>3</sup>.

Within the framework of its remit, TRACFIN exchanges information with criminal police officers of the OCRGDF <sup>4</sup>, customs and the authorities responsible for monitoring the occupations subject to the declaration system (the *Commission bancaire* [Banking Commission] and the *Commission de contrôle des assurances* [Insurance Control Commission]) and the agencies that are members of the *Comite interministériel du renseignement* (CIR) [Interministerial Intelligence Committee].

In addition, it can receive information necessary for the performance of its role from State administrations <sup>5</sup> and from local authorities and their public establishments.

At the end of the process, and on completion of its administrative investigations, TRACFIN refers matters to the Ministry of Justice (the Public Prosecutor's Office that is territorially competent) as soon as the presumption of money laundering is established <sup>6</sup>. In 2002 TRACFIN recorded seven thousand declarations and 291 cases were passed to the judicial authorities.

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<sup>1</sup> For up to twelve hours, but that period can be extended by the Presiding Judge of the *Tribunal de Grande Instance de Paris* [ordinary court of first instance].

<sup>2</sup> Banking confidentiality cannot be invoked against TRACFIN.

<sup>3</sup> Article 9 of the Decree of 9 May 1990.

<sup>4</sup> In the case of relations with the Criminal Police, there are formal exchanges (in writing) and TRACFIN keeps the data for ten years.

<sup>5</sup> In particular, from criminal police officers.

<sup>6</sup> Or any related or accessory crimes and offences discovered by the investigations.

At national level, TRACFIN administers, with the collaboration of the Ministry of Justice Directorate for Criminal Affairs and Pardons, a *Comité de liaison de la lutte contre le blanchiment des produits des crimes et des délits* (Liaison Committee on combating the laundering of the proceeds of crimes and offences). That new body was set up by a decree of 3 May 2002 and brings together the declaring occupations, the monitoring authorities and various State bodies (police, customs, Ministry of Justice, etc.).

At international level

TRACFIN can carry out exchanges of information with foreign opposite-number FIUs only on the basis of the Financial and Monetary Code. Bilateral agreements have been concluded with some of them in order to comply with the requirements of their national law on the matter. In the performance of its role, TRACFIN has use of the encrypted communications network developed within the framework of the Egmont Group<sup>1</sup>, used in a complementary manner to that subsequently set up at European level (FIU net). France hopes that all Member States of the European Union (present and future) will be connected to the FIU net and that its capacities will be developed.

All requests from opposite numbers are examined (consultation of the police, the *Fichier national des comptes bancaires* (FICOBA) [National bank account database]<sup>2</sup>, the banking behaviour of the person concerned) as are all declarations of suspicion from the financial occupations and the non-financial parties who are subject to the obligation to make declarations.

Since 1996 TRACFIN has been able to exchange information with its foreign opposite numbers subject to compliance with three cumulative conditions: the exercise of similar powers, reciprocity and fulfilling the same obligations with regard to professional confidentiality<sup>3</sup>.

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<sup>1</sup> On 31 October 2001 the Financial Crimes Enforcement Network (FinCEN) hosted a special meeting of the Egmont Group on the Financial Intelligence Units' role in the fight against terrorism.

<sup>2</sup> FICOBA centralises the information available concerning bank accounts opened with financial establishments. The courts and, on delegation, the police have access to it.

<sup>3</sup> Article 1 564(2) of the Financial and Monetary Code.

Combating the financing of terrorism is one of TRACFIN's priorities; the mobilisation of its know-how and resources and a number of identifications effected have made it possible to support investigations carried out by intelligence services <sup>1</sup> or by financial intelligence units <sup>2</sup> abroad.

The difficulties of combating the financing of terrorism

In overall terms, TRACFIN would appear to be an appropriate instrument, but it has been accepted that it has only an incomplete picture of the financing of terrorism, particularly as regards certain organisations and practices.

- The *Hawala* phenomenon, which makes it possible to carry out financial transactions with moving money physically by means of an informal banking system, illustrates the present limits of the fight against money laundering and the financing of terrorism even if, sooner or later in the process, there is a conventional banking stage <sup>3</sup>.
- Another difficulty is the role played by bodies that transfer capital abroad <sup>4</sup>, such as Western Union and Thomas Cook, the activities of which are very difficult to follow despite the existence of working documentation on the subject of such bodies <sup>5</sup>.

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<sup>1</sup> 15 to 17 % of cases examined are forwarded to the Ministry of Justice. There were 58 convictions for money laundering in 2001 and 82 in 2002.

<sup>2</sup> The following definition of Financial Intelligence Unit was adopted at the Egmont Group plenary meeting in Rome in November 1996: "A central, national government agency responsible for receiving (and, as permitted, requesting), analysing and disseminating to the competent authorities, disclosures of financial information:

- (i) concerning suspected proceeds of crime, or
- (ii) required by national legislation or regulation, in order to counter money laundering".

<sup>3</sup> Only legal persons approved as credit institutions can carry out banking transactions (Article L 511(5) of the Financial and Monetary Code). Informal banking operations are therefore prohibited and the implementation of the FATF's special resolution on informal banking networks requires no ad hoc legal basis.

<sup>4</sup> Wire transfer.

<sup>5</sup> The activities of Western Union should be followed more satisfactorily in future because of the conclusion of an agreement with *La Poste* (the French post office). Francis Mer, the Minister of Finance, announced in May 2003 that he would ask Frits Bolkestein, the European Commissioner, at an early date to propose to the Member States a text that would increase the transparency of international transfers in order better to combat money laundering and the financing of terrorism.

- After 11 September 2001 TRACFIN had to manage an avalanche of cases, 49 of which were passed on to the Ministry of Justice on the presumption of financing terrorism.

After that initial phase, the financial system was reorganised, and the *Commission Bancaire* (Banking Commission), for example, which can impose penalties which can be as severe as the withdrawal of approval <sup>1</sup>, each year draws up a plan for checks on financial institutions. The situation is similar in the insurance sector, with penalties based on non-compliance with anti-money-laundering rules.

- The use of networks of associations and charitable bodies (of a religious nature) is another of the difficulties facing TRACFIN, even if TRACFIN has on occasion been able to ascertain with some accuracy the amounts collected in mosques <sup>2</sup>.
- Offshore places.

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<sup>1</sup> As occurred in the case of one Middle-Eastern bank.

<sup>2</sup> With regard to the freezing of funds belonging to terrorists at the request of a foreign authority, the following procedure is followed: the matter is referred to the Ministry of Foreign Affairs, which decides whether to examine the case in an inter-Ministry forum, and under the decision taken (Articles 151(1) and (2) of the Financial and Monetary Code), an order is adopted on the freezing of the funds. The general procedure, however, is to add the body or person concerned to a list of terrorist organisations (See Resolution 1267 if there are links with Al Qaida and its sphere of influence, and see also Regulations Nos 881/2002 of 27 May 2002 and 2580/2001, which allow the freezing of assets immediately without recourse to the procedure laid down in the national decree).

## TRACFIN and EUROPOL

TRACFIN has no direct relations with EUROPOL, which is trying to develop an anti-money-laundering system (AWF) called SUSTRANS<sup>1</sup> for dealing with suspicious transactions. That project has run into the problem of the definition of relevant criteria for the inputting of data into the file and the recurrent problem of Member States' contributions, partly for reasons relating to the absence of any legal basis for inputting data into the EUROPOL file<sup>2</sup>.

### 4. The Ministry of Justice

#### 4.1. The Directorate for Criminal Matters and Pardons

##### General presentation<sup>3</sup>

As regards the judicial aspect which necessarily forms part of action to combat terrorism in France, counter-terrorism magistrates (public prosecutors and investigating magistrates) have a role which has no equivalent elsewhere in Europe, primarily because of the centralised nature of judicial counter-terrorism functions. Accordingly they are of course informed by the police and gendarmerie of all facts relating to acts of terrorism and/or their perpetrators<sup>4</sup>, but also, on occasion, receive "reports" from the General Intelligence Department (analyses and elements of factual intelligence).

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<sup>1</sup> See the interview with the *Direction nationale du renseignement et des enquêtes douanières* (DNRED) [National Directorate for Customs Intelligence and Investigations]. See also footnote 158, page 37.

<sup>2</sup> The Netherlands, Belgium and Austria input data into EUROPOL, in particular from investigations in progress. As regards France, some reports (about ten) would appear to have been made by the DNRED, while the police supply only summaries of files created by TRACFIN. It has been forbidden by the Ministry of Justice to supply information relating to investigations in progress.

<sup>3</sup> In view of the Article 36 Committee's mandate, and its definition of the focus of the assessment, exchanges of information which involve the Ministry of Justice's ad hoc structures (exchange of criminal intelligence on the national level, the statutory and conventional framework of mutual assistance in criminal matters, Eurojust) have not been taken into account.

<sup>4</sup> In connection with preliminary investigations, or in cases where terrorists are apprehended in flagrante delicto, or in order to continue investigations on the basis of letters rogatory.

Since specific legislation exists in France <sup>1</sup>, action to combat terrorism, in terms of law enforcement, is judicial in nature; this is reflected in the internal organisation of the Ministry of Justice, which has a bureau dedicated to combating organised crime, terrorism and money laundering, and in the organisation of the judiciary – the *tribunal de grande instance de Paris* (court of first instance in Paris) has a prosecutor's office (counter-terrorism section consisting of six magistrates) and specialised investigating magistrates (six in number) – and the role played by the specialist departments such as the Central Directorate of the Criminal Police, the *Direction de la Surveillance du Territoire* (the French counter-intelligence agency) and the National Gendarmerie <sup>2</sup>.

The most noteworthy features of the applicable legislation are:

- The concept of a terrorist act, which requires that two criteria be simultaneously fulfilled:
  - on the one hand, the existence of a crime or common law offence criminalised under the Penal Code, as specified in an exhaustive list. These offences also include ecological terrorism, the financing of terrorism, and illegal earnings deriving from terrorism,
  - on the other hand, a connection between these crimes or common law offences and an individual or collective undertaking whose aim is to cause serious disturbance to public order by intimidation or terror, which is the defining characteristic of terrorism.
  
- The existence of rules of procedure which constitute a derogation from common law <sup>3</sup>, such as:
  - the centralisation of prosecution, preparatory inquiries and sentencing at the court of first instance in Paris (see above),
  - the competence of French courts to adjudicate concerning acts which constitute terrorism, as defined in the International Convention for the Suppression of the Financing of Terrorism, insofar as elements of an offence have been partly committed or realised on French territory (Article 689-10 of the Code of Criminal Procedure),

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<sup>1</sup> Law of 9 September 1986 and subsequent legislation.

<sup>2</sup> Their investigators, who have the status of criminal police officers, have national territorial jurisdiction (DCPJ [Central Directorate of the Criminal Police]/DNAT [National Counter-Terrorism Division] and DST [*Direction de la Surveillance du Territoire*]) or local territorial jurisdiction (SIPJ [Criminal Police Interregional Services], gendarmerie investigation teams) as the case may be.

<sup>3</sup> Articles 706-16 to 706-25-1 of the Code of Criminal Procedure.

- the extension of the periods of statutory limitation for criminal proceedings and for sentences: 30 years for crimes, 20 years for major offences (*délits*) (Article 706-25 of the Code of Criminal Procedure – Law of 8 February 1995),
- maximum period of police custody increased to 96 hours,
- involvement of a lawyer postponed to the 72nd hour of police custody,
- possibility of carrying out searches in the course of a preliminary investigation, without the consent of those concerned, under a specific authorisation procedure,
- possibility of carrying out searches at night, under a specific authorisation procedure (Law of 30 December 1996),
- authorisation for searches of vehicles (Article 78-2-2 du Code of Criminal Procedure),
- searches, house searches and seizure of exhibits during preliminary enquiries, without the consent of the owner of the premises, after authorisation, giving reasons, has been issued by the *juge des libertés et de la détention* (magistrate for custody and release) (Article 76-1 of the Code of Criminal Procedure),
- provision for "reformed" terrorists (exemption from penalties for terrorists who change their mind and enable acts of terrorism to be avoided, reduction of penalties by half for terrorists who have made it possible to stop incriminated actions or prevent the offence causing loss of life,
- use, in the course of the proceedings, of audiovisual telecommunications, with recording (Article 706-71 of the Code of Criminal Procedure),
- anonymous hearing of witnesses (Articles 706-57 to 706-63 of the Code of Criminal Procedure); since the Law of 9 September 2002, recourse to such a hearing is possible in proceedings relating to a crime or serious offence punishable by a sentence of at least 3 years,
- recourse to the State's technical resources which are subject to national defence secrecy, in order to decipher an encrypted message (Article 230 of the Code of Criminal Procedure),
- provision enabling financial and other assets to be frozen and confiscated (Article 706-24-2 of the Code of Criminal Procedure).



In the field of combating terrorist financing, France has also acquired an ad hoc legal basis with the Law of 15 November 2001, which introduced new offences. It established

- a specific offence of financing a terrorist undertaking <sup>1</sup>,
- an additional penalty consisting in the confiscation of the property <sup>2</sup> of the person convicted, and a provision enabling protective measures to be ordered in relation to his/her assets.

This Law also included the offences of irregular operation of insider trading <sup>3</sup> and money laundering <sup>4</sup> in the list of terrorist acts.

#### Legislative adjustments and draft legislation

Among other provisions, the "Perben" Law *adapting the justice system to take account of developments in organised crime* contains measures relating to "crimes and serious offences constituting acts of terrorism, as defined in Articles 421-1 to 421-5 of the Penal Code". As regards the means utilised by the specialised services, it will, in particular, permit investigators to make use of new tools such as the use of undercover agents <sup>5</sup>, a new basis for the interception of correspondence sent via telecommunications <sup>6</sup>, the installation of sound recording devices in certain premises or vehicles <sup>7</sup>, etc.

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<sup>1</sup> Article 421-2-2 of the Penal Code.

<sup>2</sup> Articles 422-6 and 422-7 of the Penal Code.

<sup>3</sup> Article 465-1 of the Monetary and Financial Code.

<sup>4</sup> Article 421-1-6 of the Penal Code.

<sup>5</sup> "The use of undercover agents consists (...) in conducting surveillance on persons suspected of committing a crime or serious offence by pretending, to these persons, to be one of their accomplices, accessories or receivers. To this end, the criminal police officer is permitted to make use of an assumed identity and, if necessary, to commit the acts specified in Article 706-82"; the article in question defines a certain number of criminal acts, or acts constituting offences, for which the criminal police officer cannot be held criminally liable.

<sup>6</sup> "(...) the magistrate for custody and release in the court of first instance may, at the request of the public prosecutor, authorise the interception, recording and transcription of correspondence (...)".

<sup>7</sup> "(...) the investigating magistrate may order that technical means be put in place to effect - without the consent of those concerned - the interception, recording (including audiovisual recording) and transcription of words spoken by them or by several other persons in their private capacity in any public or private place or vehicle (...)".

This text also contains provisions relating to international cooperation ("international mutual legal assistance") and in particular "to mutual assistance between Member States of the European Union".

➤ Eurojust <sup>1</sup>

The Eurojust unit, acting through its national representatives or as a body, may:

- "1° Notify the Principal Public Prosecutor of offences of which it becomes aware and ask him to have an investigation carried out or initiate prosecution;
- "2° Ask the Principal Public Prosecutor to report offences, or have them reported, to the competent authorities in another Member State of the European Union;
- "3° Ask the Principal Public Prosecutor to have a Joint Investigation Team established;
- "4° Ask the Principal Public Prosecutor or investigating magistrate to provide it with information deriving from legal procedures which it requires in order to carry out the tasks assigned to it".

"If the Principal Public Prosecutor or investigating magistrate to whom a request has been submitted by the Eurojust unit, acting as a body, does not accede to this request, he shall notify the unit, as quickly as possible, of the decision taken and the reasons for the decision", however, "notification of these reasons shall not be mandatory (...) if it could adversely affect national security or compromise the satisfactory conduct of an investigation in progress or the safety of a person" <sup>2</sup>.

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<sup>1</sup> The Law of 9 March 2004 transposed the European arrest warrant and Joint Investigation Teams into national law. The articles in the Code of Criminal Procedure relating to Eurojust and its representative also derive from this Law.

<sup>2</sup> Extract.

- French representative to Eurojust

(...)

He may "ask public prosecutors and pretrial investigation and trial courts to provide it with information deriving from legal procedures which it requires in order to carry out the tasks assigned to it"; however, "the judicial authority to which the request is submitted may refuse to provide this information if doing so would adversely affect public order or essential national interests " <sup>1</sup> or "postpone doing so for reasons relating to investigations in progress".

(...)

- Joint Investigation Teams.

"Within the limits of the powers conferred on them by virtue of their status, officers seconded to a Joint Investigation Team, as defined in the Council Framework Decision of 13 June 2002 on Joint Investigation Teams, may be required to undertake the following tasks, where appropriate throughout the national territory:

- "1. To establish all crimes, offences or infringements and draw up reports of them, if necessary in the form specified by the law of their State;
- "2. To record statements made to them by any person capable of providing information concerning the facts in question, if necessary in the form specified by the law of their State;
- "3. To assist French criminal police officers in the performance of their duties;
- "4. To conduct surveillance and, if they are specifically authorised to do so, carry out undercover operations, on the terms laid down in Articles 706-81 ff., without it being necessary to apply the provisions of Articles 694-7 and 694-8.

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<sup>1</sup> Extract.

"These responsibilities will be entrusted to them, on the terms specified in the Council Framework Decision of 13 June 2002 referred to above, by the French judicial authority which possesses the relevant territorial jurisdiction to establish and direct the Joint Investigation Team.

"These officers will be strictly confined to the operations which they are directed to carry out, and none of the powers specific to the French criminal police officer in charge of the Joint Investigation Team may be delegated to them.

"One original copy of the reports which they have prepared, drawn up in or translated into French, is to be included in the French proceedings.

"*Art. 695-3.* – Within the Joint Investigation Team, French criminal police officers seconded on the terms specified in the Council Framework Decision of 13 June 2002, referred to above, may carry out operations, as directed by the officer in charge of the team, throughout the territory of the State in which they operate, within the limits of the powers vested in them by this Code.

"Their responsibilities will be defined by the judicial authority which holds the relevant territorial jurisdiction to establish and direct the Joint Investigation Team.

"They may take statements and establish offences in the form specified by this Code, subject to the consent of the State in whose territory they operate".

The operations conducted by the specialised services fall entirely within this judicial context, the dominant element – to borrow one of the expressions used by the Central Directorate of the Criminal Police – being intelligence for judicial purposes to be used in the judicial proceedings initiated by the investigators.

The "Perben" Law also expands this almost exclusively judicial dimension of counter-terrorism activities by making available to criminal police officers new tools, the use of which must, as the Law stipulates, be authorised by a magistrate (enhanced role for public prosecutors) and recorded in the proceedings.

Until recently there was no provision in law enabling intelligence to be exchanged with international bodies. In addition, the law does not recognise the right of investigators to disseminate or share judicial intelligence; if they do so they are in breach of the secrecy of the investigation and as such have committed a criminal offence. Two recent initiatives have shed new light on this problem, whilst nonetheless falling short of solving it entirely:

- Under a Franco-Spanish agreement, each quarter a working group<sup>1</sup> looks into ways of improving intelligence exchanges between investigative services as well as magistrates. The members of the group assess the state of play as regards Franco-Spanish cooperation and adherence to the rules of good conduct (such as ensuring that intelligence flows smoothly), and also deal with the setting up of joint investigation teams (a committee to monitor these teams has been established).
- Very recently, Article 24 of Chapter V of the law of 28 March 2003, which relates to automatic information processing, has established that:

"The data contained in automatic personal data processing operations managed by national police and gendarmerie departments may be forwarded to bodies engaged in international criminal police cooperation or foreign police departments which afford guarantees in respect of personal data protection equivalent to those in domestic law, under international commitments properly incorporated into domestic law.

Departments of the national police and gendarmerie may receive data included in processing operations managed by bodies engaged in international criminal police cooperation or foreign police departments, under the commitments provided for by this Article."

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<sup>1</sup> The members of the working group are: from France, antiterrorism magistrates, the Paris Public Prosecutor's Office, the Chief Prosecutor's Office, the Central Administration of the Ministry of Justice – the Division for Criminal Affairs and Pardons (DACG) and the Department of European and International Affairs (SAEI) – and the relevant police departments and intelligence services (DST, DCPJ/DNAT and DCRG); and from Spain, the High Court, the Guardia Civil, specialised police departments and the intelligence services.

## 4.2. The specialised magistrates

Criminal proceedings are conducted by the public prosecutor under the control and authority of the Principal Public Prosecutor.

Relations with the services responsible for law enforcement and intelligence.

The Paris Public Prosecutor's Office mentioned regular meetings with all the services involved in counter-terrorism activities <sup>1</sup>, and indicated that in some cases proceedings had been initiated in close collaboration with the specialised investigating magistrates. These meetings enable information, including operational information, to be exchanged and preliminary investigations to be begun, where appropriate, on the basis of data supplied by the intelligence services: it was stated, by way of example, that the General Intelligence Department was currently paying particular attention to cases of terrorist financing related to criminal activities, or activities constituting common law offences, which formed part of the hidden economy (counterfeiting, etc.) and involved individuals known to have been concerned in common law offences. To further emphasise the role played by the intelligence services, and the quality of the relationship between the judiciary and the intelligence services – in this case on the level of international cooperation –, it was also stated that an investigation was in progress based on intelligence supplied by the Irish services concerning the purchase of weapons in France by a branch of the IRA.

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<sup>1</sup> UCLAT [Counter-Terrorism Coordination Unit] takes part in these meetings.

The circulation of information.

In other words, cooperation between the judiciary and the intelligence services is good, "information circulates well " and, more generally, the relationship between public prosecutors and the police and intelligence services was "well-established". The respondents admitted, however, that the use of intelligence in the course of investigations could prove problematic <sup>1</sup>, especially where the protection of sources was concerned, and that some magistrates were liable to hesitate in view of the difficulties encountered. The overall indications are, however, that the use of intelligence is not intrinsically difficult as long as precautions are taken "upstream", and that public prosecutors needed to be familiar with intelligence as such.

The respondents also stated that the relationship between public prosecutors and investigating magistrates was one of "ongoing dialogue".

The specialised investigating magistrates confirmed what was said by the public prosecutors in this connection and stated that the circulation of information was not only "essential" but also functioned "very well", and that this observation was central to the French counter-terrorism system, an observation reinforced (and made evident) by the requirements of the fight against Islamic extremist terrorism <sup>2</sup>.

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<sup>1</sup> The problem being "converting intelligence into judicial evidence" (the Director of Criminal Matters and Pardons).

<sup>2</sup> "In our system, the judiciary supplies judicial evidence" on the basis of "a two-way process involving the judiciary and the police"(M Marin, Directorate for Criminal Matters and Pardons).

Utilisation of complementarities and the respective roles of those involved.

They also emphasised the fact that the specific characteristics of the French system – centralisation and specialisation – gave rise, as a natural corollary, to a need for synergy and complementarity between the judiciary, on the one hand, and the police and intelligence services on the other. The respondents also stated that this last aspect should not undermine the distinctive roles of the various parties involved and that, on the contrary, it was necessary to "have due regard to the respective tasks and constraints of those involved ". In other words, intelligence-gathering and criminal police work are different roles, with one observation being pertinent by way of summary here: in terms of procedure, there is no benefit to be gained from referring to intelligence unless it can be given probative value. The application of this principle does, however, leave open one important question: "how can one use intelligence for the purpose of proceedings if it is not to be explicitly referred to in them?".

International cooperation.

With regard to international cooperation, it was stated that, given the supranational nature of terrorism, investigations could only be conducted on the basis of exchanges of information <sup>1</sup>.

Europol and Eurojust.

The international dimension of cooperation via Europol and Eurojust was also mentioned.

One of the obstacles to cooperating with Europol was said to be the absence of a shared perception of the threat from terrorism and of the facts, an idea which was developed with regard to Eurojust – cooperation was said to suffer from the absence of a common/European conception of criminal proceedings. Eurojust is perceived as a platform which allows of additional cooperation when this cannot be implemented by other means.

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<sup>1</sup> "More than 50 % of requests for mutual assistance in criminal matters received by France" relate to exchanges of information (Judge Bruguière).



Bilateral cooperation.

This aspect of cooperation was described essentially on the basis of the special relationship between France and Spain <sup>1</sup> and the establishment of an ad hoc working group.

Cooperation with the Americans was considered to be "very good ", with a reciprocity in requests "in real time ", and the respondents stated, in particular, that collaboration between the intelligence services was "excellent". Cooperation with the United Kingdom encounters particular obstacles, especially the difficulty in identifying a contact, whereas cooperation with Germany was also judged to be excellent, despite the legal obstacles created by the Constitution and the federal structure <sup>2</sup>.

## 5. Coordination of counter-terrorism activities

### 5.1. The Counter-Terrorism Coordination Unit (UCLAT)

General

UCLAT is the sole body responsible for coordinating <sup>3</sup> and organising the operational services. It is accountable to the Director-General of the National Police Force at the Interior Ministry.

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<sup>1</sup> The making available of persons held in custody in France, on a temporary basis, to the Spanish authorities is an arrangement which was regarded as very satisfactory, and as an excellent practice which should be further developed.

<sup>2</sup> French cooperation with Germany involves going through the *Länder*, whereas German cooperation with France is more centralised.

<sup>3</sup> By definition, the term "coordination" refers to two complementary notions: that of concerted action but also that of the circulation and sharing of information.

Established by a ministerial order <sup>1</sup> on 8 October 1984, UCLAT <sup>2</sup> is a standing administrative structure, the sole task of which was, originally, "to coordinate, organise and direct the activities of police departments and services engaged in combating terrorism" <sup>3</sup>, covering both criminal investigation and intelligence activities. The unit was created following experience in counter-terrorism and in the light of the difficulties inherent in the involvement of several departments.

Subsequently, as there was a need for coherence in combating terrorism when a large number of players of varying statuses and roles was involved, UCLAT was expanded to include other members, such as the national gendarmerie and the Directorate-General of External Security (Ministry of Defence) <sup>4</sup>.

Over time, for reasons connected with the requirements of combating terrorism and the needs of international cooperation <sup>5</sup>, its remit was broadened and deepened, eventually going far beyond its initial role. Nowadays, UCLAT operates as a standing interministerial body <sup>6</sup>, although strictly speaking it does not have that legal status, and its responsibilities have proliferated. Although its powers have increased significantly, its stock-in-trade remains fundamentally the same: it is the body responsible for operational coordination and organisation of counter-terrorism activities, a function which is enhanced by its new powers and responsibilities, particularly those connected with its activities in international and European cooperation.

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<sup>1</sup> By Mr Joxe, Minister for the Interior.

<sup>2</sup> France's report to the Counter-Terrorism Committee pursuant to paragraph 6 of Security Council resolution 1373 of 28 September 2001 states that "a number of entities have been set up to provide the necessary coordination between different levels of the State hierarchy, including the Anti-Terrorist Coordination Unit (UCLAT)".

<sup>3</sup> Article 2 of the order of 8 October 1984.

<sup>4</sup> The fact that the DGSE participates in UCLAT meetings, as well as the SGDN and the CIR, is evidence of the significance that the Interior Ministry attaches to defence and its importance for terrorist acts and/or definition of the terrorist threat.

<sup>5</sup> UCLAT represented France on the TREVI 1 Group on terrorism.

<sup>6</sup> UCLAT is not, strictly speaking, an interministerial body since its legal basis is an order of the Minister for the Interior alone, not a decree.

## Interview

### The role of UCLAT

Although the administrative authorities have allocated responsibilities, the risk of confusion remains, particularly between the criminal police services working in the field of domestic terrorism (national police and national gendarmerie).

UCLAT enables all the agencies engaged in counter-terrorism to meet very regularly and provides a forum for the different professional cultures and "trades" to come together, understand each other's interests, and refine the criteria for useful intelligence (criminal or security) in relation to their individual powers, responsibilities and objectives.

The services guide one another towards shared perceptions by means of exchange and dialogue and, ultimately, this ongoing learning process, and their shared knowledge base, facilitate decision-making and approval of decisions by the counter-terrorism agencies <sup>1</sup>.

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<sup>1</sup> In combating the financing of terrorism, the allocation of responsibilities is more simple, as full competence lies with the OCRGDF at the DCPJ, which works with the other national police services and DNRED and TRACFIN at the Ministry of Finance. Overlapping of responsibilities cannot arise with, for example, TRACFIN, as it is not a law enforcement body and the arrangements for passing on information are clearly laid down.

## Working methods

In practical terms, UCLAT meets once a week (or as often as necessary in time of crisis), bringing together the services which are permanent members and, depending on the issues to be discussed, qualified outside persons. This "conclave" method with representatives and experts from ministries which are not members of UCLAT produces necessary added value in certain specific areas, for instance when technical issues requiring specific expert advice are discussed, such as the financing of terrorism. Apart from simple information exchange, these "conclaves" provide an opportunity to share and pass on experience and know-how. UCLAT also holds ad hoc meetings with a small number of services to discuss topical problems posed by specific events.

While UCLAT is not strictly speaking an operational service, it is nevertheless a crucial element in counter-terrorism machinery by virtue of its function of organising the activities of the services actively engaged in counter-terrorism. Thus, recently, during the war in Iraq, UCLAT brought together all the services daily and, using enhanced resources, directed the permanent crisis unit set up at national police headquarters (COB) and was responsible in particular for liaising between all the administrations involved. It was also the focal point for incoming foreign intelligence and the outgoing point for intelligence supplied to foreign partners. In that field it assessed the daily threat using intelligence supplied by French ministries and departments as well as its foreign partners (European Union and others).

Given the constant exchange of intelligence between its members, UCLAT has thus naturally become, de facto, the "interministerial operational" body best suited to organise the activities of the services responsible for law enforcement and intelligence, regardless of the ministry to which they may be administratively attached. This organisational function (leading, directing and coordinating) is not a management function in the classical or strictly hierarchical meaning of the word, since the services operate very independently.

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New members

Consideration is being given to bringing in new partners (such as the National Directorate for Customs Intelligence and Investigations) which have expressed interest in this form of collective work. The Ministry of Justice has also formally stated its intention of becoming a member of UCLAT <sup>1</sup>. This matter is currently under examination <sup>2</sup>.

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<sup>1</sup> This matter was brought up during the two interviews at the Ministry of Justice's central administration department on 27 June and 8 September 2003.

<sup>2</sup> In UCLAT information on judicial matters (current criminal investigations) is exchanged, but so is non-judicial information which might never become judicial in the context of a criminal investigation led by a magistrate.

Given the operational nature of the information exchanged between UCLAT members, this request from the Ministry of Justice underlines the problem of the "judicialisation" of information long before the actual judicial procedure.

#### Information exchange

As a standing body whose aim is to form a structured network of all those engaged in counter-terrorism <sup>1</sup> (police services in the broad sense and intelligence services, other bodies depending on the matter under discussion), UCLAT favours working collectively.

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UCLAT is also the venue for bilateral information exchange between intelligence services, during periodical informal meetings on specific topics, or through regular exchanges of intelligence notes <sup>2</sup>.

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<sup>1</sup> Personal contact and real knowledge of partners, which foster relationships of mutual trust, are fundamental to the operation of policing and intelligence networking.

<sup>2</sup> Exchanges are under the authority of the heads of central services and involve experts on a given topic (Islamic extremist terrorism, organised crime, sects, etc.).

It also ensures that information is shared as necessary, in particular to avoid duplication, even where unintentional or objective, that might be prejudicial to the interests of ongoing investigations and ultimately to the fight against terrorism. Apart from this function as a disseminator of information, UCLAT is also a forum for sharing knowledge and information, which unquestionably helps to broaden and enhance the knowledge of those involved.

UCLAT's added value

The constant aim of UCLAT is to "produce", to be a source of added value, in particular by making its product available to all, enhanced by its analyses which draw on its many contacts both in France and abroad, on its role in international fora and on its documentation system

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The guiding principle for its action is very simple: to ensure that all available useful information reaches the relevant services, thus always to inform the services depending on the relevance of the investigation or, more broadly, the case in hand. The specific matter of the transmission/circulation and sharing of information by those services which need to know is paramount <sup>1</sup>. This precise point was emphasised by the police and intelligence services concerned, and also by the specialised magistrates <sup>2</sup>.

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<sup>1</sup> As strikingly evidenced by the situation in the United States, which suffered from a plethora of services and a super abundance of information of all kinds. These two factors, among others, prevented the competent services from realising in time which intelligence was relevant and placing it in perspective in the context of threat analysis.

<sup>2</sup> "Circulation of intelligence is essential and very good" (Judge Bruguières, 9 September 2003).

## UCLAT's other powers and responsibilities

While its basic task is to manage the activities of all the police and intelligence services involved in counter-terrorism, UCLAT fulfils other responsibilities directly related to its coordination function which give greater depth and relevance to that function.

### UCLAT

- defines the threat level in operational, strategic and analytical terms, on a general level or in certain sectors, for example the Islamic extremist threat,
- draws up thematic analyses,
- analyses initiatives,
- assesses risk and participates in risk assessment in certain circumstances (protection and security during official visits, security at major events) in concert with not only its usual partners but also all useful French and foreign partners <sup>1</sup>,
- helps to deal with matters with a "civil and legal liberties" <sup>2</sup> dimension in close collaboration with the Interior Ministry's Directorate of Civil Liberties and Legal Affairs (DLPAJ),
- participates in preparatory administrative and legislative work (in committees or ad hoc working groups) <sup>3</sup>,
- takes initiatives in the legislative field (proposes legislation),
- assists if necessary in examining applications for naturalisation (communities at risk),

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<sup>1</sup> The head of UCLAT gave as a specific detailed example the G8 meeting in Evian, with a daily threat and risk analysis in which liaison officers of the G8 Member States and neighbouring States were involved.

<sup>2</sup> For instance on measures involving removal, expulsion, refusal of entry to French territory, etc. Orders are issued by the DLPAJ after seeking advice from UCLAT.

<sup>3</sup> For example in matters relating to the storage, possession and transport of explosives.



- ensures link-up with other bodies and departments (ministerial and interministerial) such as
  - the General Secretariat for National Defence, for example in strategic threat assessment, establishment of defence plans and emergency response plans,
  - the Directorate-General for Civil Aviation (DGAC/Interministerial Group for High-Risk Flights) in threat definition and in airport and airborne security,
  - the Internal Security Council (CIS) in terms of contribution to meetings, etc.

#### UCLAT and international cooperation

UCLAT assumes a number of responsibilities in this field

- on the basis of bilateral agreements, it runs a network of French liaison officers abroad <sup>1</sup> (2 in Germany, 3 in Spain, 2 in Italy, 2 in the United Kingdom, 1 in Belgium) **NOT** **DECLASSIFIED**,
- foreign liaison officers in France (1 German, 1 Italian, 6 Spanish, 1 United Kingdom, 1 Belgian) <sup>2</sup> attend its meetings,

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<sup>1</sup> "In the context of their duties, they transmit intelligence and information some of which relates to individuals. (...). They are responsible for coordinating the transmission of both judicial and intelligence information. They serve as an interface and a relay point for more effective routing of information to the agencies for which it is intended, whose structures and workings they know well". They are regarded as "cooperation accelerators" (note from the French delegation).

<sup>2</sup> These officers were due to be meeting regularly from September 2003 to facilitate information exchange all round, not only in a vertical structure as before.

- represents the National Police Force in international and European bodies (investigations, member and, as often as not, head of French delegations <sup>1</sup>, etc.),
- takes the necessary measures during specific major events to draw together national expertise and that of foreign partners <sup>2</sup>.

UCLAT is a contact point for a number of multilateral bodies <sup>3</sup> such as the Counter-Terrorism Action Group (CTAG) on capacity-building assistance recently created by the G8 <sup>4</sup>.

UCLAT's added value in the field of international cooperation

Lastly, UCLAT is a compulsory interface and acts as a fusion point not only for domestic services, but also between national and international planes, and be given its role at European and international levels is able to provide enhanced information for use by national services. This is an added bonus in bilateral and multilateral relations in which counter-terrorism bodies are involved.

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<sup>1</sup> For example, UCLAT heads the French delegation on the third-pillar Working Party on Terrorism. The head of UCLAT also chairs the G8 Roma Group practitioners subgroup. It participated in the proceedings of the G8/CTAG in Paris on 2 July 2003 (technical assistance in counter-terrorism).

<sup>2</sup> This was done at the G8 Summit in Evian (June 2003), for example.

<sup>3</sup> ICPO-Interpol wants UCLAT to be its contact point for matters relating to Islamic extremist terrorism.

<sup>4</sup> The purpose of this group is to implement Security Council resolution 1373, in collaboration with the UN Counter-Terrorism Committee. France's report to the Sanctions Committee – resolution 1455(2003) – gives the following information in this field: "In 2002, France provided technical assistance in the area of counter-terrorism to 77 countries through a total of 204 interventions (training, auditing, evaluation and so forth) in the various areas of cooperation identified in resolution 1373 (2001): police and law enforcement; airport security; customs legislation and border surveillance; laws against the financing of terrorism; implementation, legislation and practice in the area of immigration law; and anti-terrorism laws."

## Europol

Relations with Europol illustrate the difficulties of international cooperation, specifically in the area of information exchange where it is conducted outside the bilateral context.

The question arises as to whether Europol's internal structure is the most appropriate from this point of view. Because the national unit is the mandatory contact point with Europol, departments cannot have direct contacts <sup>1</sup> with it.

It may also be asked what kind of information should be sent to Europol. Should it be operational, intelligence, security or judicial information?

In the case of judicial information, it would be for magistrates to define the criteria for transmissible information and the criteria for actual transmission.

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<sup>1</sup> This point was emphasised by both the national gendarmerie and the DST, although they did not call for a direct link to be established.

One of the obstacles to cooperation with Europol in terms of transmission of police intelligence stems from the fact that operational services do not see it as an "added value producer", particularly operational added value. From that point of view, Europol's analysis of facts is not seen as being of "police" or operational interest, i.e. concrete and directly useful for ongoing investigations <sup>1</sup>.

However, it has been said that certain Europol studies could be used as analysis and investigative tools in specific fields, for example regarding chemicals and toxic substances.

One way to bring Europol in from the cold would be for it to agree to intervene for the benefit of, for example, two States on problems of mutual concern, rather than adopting a rigid, technological (technocratic?) approach valid for all European Union States.

Other points

As regards public order and security measures to be introduced in response to the terrorist threat, UCLAT is in favour of a Europe-wide alert system, based on an approach similar to the Vigipirate plan, provided that the Ministers concerned deal with this dossier <sup>2</sup>. This type of response could apply to a single type of threat (e.g. CBRN) or a specific area (one or more Member States depending on the nature of the threat).

A better system for exchanging information between EU Member States must therefore be found.

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<sup>1</sup> Despite some successes.

<sup>2</sup> See interview with the General Secretariat for National Defence.

UCLAT points out that, as regards terrorism and counter-terrorism, the traditional divisions between civil and military, the internal and external dimensions of France and the external and external dimensions of the EU are becoming blurred and of less relevance than in the past <sup>1</sup>.

## **5.2. The General Secretariat for National Defence (SGDN) and the Interministerial Intelligence Committee (CIR)**

### **5.2.1. The General Secretariat for National Defence (SGDN)**

General

The SGDN is one of the Prime Minister's departments and is accountable to him; it is "an institution with the specific task of interministerial coordination in matters of defence and security". Its responsibilities were laid down in Decree No 78-78 of 25 January 1978.

"In liaison with the ministerial departments concerned, the SGDN shall monitor the development of crises and international conflicts that may affect France's interests in terms of security and shall study possible positions to be adopted in this field".

Among other tasks, the Secretary-General for National Defence is required to "provide the secretariat of the Interministerial Intelligence Committee" <sup>2</sup>.

"In carrying out plans, guidelines and decisions adopted by defence councils or the Interministerial Intelligence Committee, (it) shall communicate any intelligence objectives. It shall direct intelligence gathering in areas relating to defence and shall provide for its use by the Government and the bodies concerned".

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<sup>1</sup> See SGDN and CIR.

<sup>2</sup> Article 4 of Decree No 78-78 of 25 January 1978.

Lastly, it plays a decisive role in the plans for responding to terrorist threats (such as the Vigipirate plan)<sup>1</sup> in defining plans for emergency relief and safeguarding the population and in proposing the appropriate alert status to the political authorities.

#### Interview

At present, the SGDN's role reflects the changes in its traditional duties and the recognition of its new areas of action which may be directly or indirectly involved in counter-terrorism, such as, for instance, the security of information systems<sup>2</sup>.

#### Intelligence summary

Being the highest point of convergence of defence and security-related matters, the SGDN is responsible for summarising intelligence at decision-making and strategic level for use by the State authorities. To assist in its analysis, it:

- coordinates some interministerial intelligence exchanges, in particular in specialised working groups,
- and conducts its own exchanges with foreign counterparts<sup>3</sup>.

Its working groups primarily involve the ministries which, as regards prevention, law enforcement and threat analyses, are in the forefront of the fight against terrorism, such as the Interior, Defence, Foreign Affairs and Finance Ministries, i.e. those ministries (Interior, Defence, etc.) which, at operational service level, are members of the Counter-Terrorism Coordination Unit attached to the National Police Force.

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<sup>1</sup> Terrorist threats were the reason for establishment of the Vigipirate plan in 1981.

<sup>2</sup> See Decree No 2001-693 on the Central Directorate for Security of Information Systems (DCSSI).

<sup>3</sup> For example the United Kingdom.

## The CBRN threat

Another of the SGDN's responsibilities is to chair interministerial meetings on combating nuclear, chemical and biological terrorism and to bring these matters to the attention of the government authorities<sup>1</sup>.

## The SGDN and assessment of the terrorist threat

The SGDN organises meetings of a working group to conduct a general assessment of the terrorist threat, composed of representatives of the services responsible for law enforcement and intelligence and, more broadly, defines its role as "interministerial evaluation of defence programmes, in particular drawing on the experience of international and domestic crises, as well as crises involving both international and domestic aspects of defence and security, following the attacks of 9/11".

The SGDN considers that various types of threat are now interconnected (terrorism, the CBRN threat, organised crime, etc.) and that "security borders no longer coincide with geographical borders".

This general situation is also reflected in the SGDN's approach in other fields not unconnected with the terrorist threat, such as security of information systems<sup>2</sup> or protection of the key infrastructures<sup>3</sup> of transport, energy, etc. These are potential targets of terrorist attacks, including low-level attacks.

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<sup>1</sup> "As directed by the President of the Republic and the Prime Minister, since July 2002 the SGDN has been restructuring the plans for vigilance, prevention, protection and intervention against the various identified forms of terrorist threat" (draft finance law 2004, Annex 36, Prime Minister, SGDN and defence).

<sup>2</sup> The SGDN organises the meetings of the Interministerial Commission on Security of Information Systems (CISSI).

<sup>3</sup> One of the SGDN's major strands of action.

## Crisis management

The SGDN also exercises its guidance and interministerial coordination functions in emergency situations when crises erupt <sup>1</sup> with possible consequences for the security of national territory or of French interests abroad. For example, during the 9/11 attacks, an intelligence summary and vigilance unit was set up and numerous interministerial meetings were held with the constant aim of raising security levels. During the war in Iraq, there were daily meetings in which top intelligence officials took part.

## The SGDN's partners

In order to fulfil its duties, and in particular to provide a constant analysis of the current threat and risk factors, the SGDN maintains close contact with many ministries and departments, including the defence attachés, the Directorate-General for External Security (DGSE) <sup>2</sup>, the Directorate for Defence Protection and Security (DPSD) <sup>3</sup>, the Directorate of Military Intelligence (DRM) <sup>4</sup>, the national gendarmerie (DGGN), the Counter-Intelligence Service (DST), the Central Border Police Directorate (DCPAF), police headquarters general intelligence (RGPP Paris), the Central General Intelligence Directorate (DCRG), TRACFIN, <sup>5</sup>etc.

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<sup>1</sup> The SGDN monitors all crisis situations so that it is constantly adding to its knowledge.

<sup>2</sup> The DGSE was set up by Decree No 82-306 of April 1982 to gather and exploit intelligence concerning the security of France, to detect and thwart espionage directed against French interests throughout the world in order to prevent the consequences of such espionage. In every crisis, the DGSE provides political and strategic intelligence on the region concerned and on the instigators of the crisis. It cooperates with the intelligence services of allied States.

<sup>3</sup> Created by Decree No 2001-1126 of 29 November 2001, the DPSD's job is counter-intelligence or, in other words, the identification and management of all security threats originating from foreign intelligence services, organisations or individuals involved in espionage, sabotage, subversion, terrorism or organised crime.

<sup>4</sup> The DRM, created after the Gulf War by Decree No 92-523, is directly attached to the Chief of Defence Staff and his Director at the Ministry of Defence. It carries out strategic monitoring, assists in operational planning and provides back-up for the action of the armed forces by supplying tactical and strategic intelligence.



## The Vigipirate plan <sup>1</sup>

The Vigipirate plan, which is a government plan for vigilance, prevention and protection against the threat of terrorist acts, was set up in 1981 because of a need for more effective reaction to attacks. Its aims and procedures have just been amended, not to say recast, in the light of the lessons learned from the attacks of 9/11, and more generally to take account of the new features and forms of terrorism in an international context where the threat can no longer be seen in solely sectoral terms. It reflects the desire to provide a collective response to terrorist threats.

Aside from its technical characteristics (which go further than the original dual approach by defining five increasing alert statuses <sup>2</sup> which correspond to various security objectives, etc.), this plan is a further illustration of the underlying principle of counter-terrorism in France:

- it refers to a "permanent security posture" which is "that of all those involved, and which is aimed at constantly raising the security level of the nation's activities".

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<sup>1</sup> Vigipirate has 4 aspects: threat assessment, choice of alert status, determination of specific security measures (vigilance, prevention, protection), and implementation and monitoring. Decisions may be taken and implemented selectively, on the basis of an activity or on a geographical basis. There are special intervention plans for the specific threats of biological and chemical terrorism (Piratox), radiological and nuclear terrorism (Piratome), and malicious acts and biological attacks (Biotox). During the interview the emphasis was placed on the need to evaluate plans concretely during emergency exercises and simulations. A large-scale exercise to simulate a biological and chemical terrorist attack was carried out at the Invalides in Paris in October 2003. The United Kingdom also conducted one in London in September (chemical attack).

<sup>2</sup> The transition from one alert status to another is based on threat analysis and assessment by the specialised services, constantly updated as necessary. Whenever an alert threshold is passed, there is increased mobilisation of the public and private agencies involved and of their resources to be deployed to protect and safeguard the population (saving and preserving human lives).

- it brings to<sup>1</sup>gether all players relevant to the level of threat. It "spells out the role of every player, every minister, central services, prefects, ambassadors, at every stage of action of the public services. It brings together private operators, administrators of major public service networks, business leaders (...)". .

#### Collective crisis management <sup>2</sup>

As and when required in the light of developments in the situation, the SGDN organises meetings of a group to assess the general terrorist threat, composed of representatives of the specialised services and ministries concerned. The group produces a proposal for a national alert status (the decision being taken by the Prime Minister after discussion with the President of the Republic).

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<sup>1</sup> For example as detailed in the "circular relating to the national doctrine on the use of emergency relief and assistance in the event of a terrorist act involving radioactive material" (No 800/SGDN/PSE/PPS of 23 April 2003).

<sup>2</sup> A plan to ensure the safety of French citizens abroad has also been drawn up and an Interministerial Committee on the safety of French communities abroad has been set up.

## 5.2.2. The Interministerial Intelligence Committee (CIR)

### General

The CIR, whose powers were laid down by Decree No 89-258 of 20 April 1989, is accountable to the Prime Minister and is responsible for directing and coordinating the documentation and intelligence services. Meetings are convened by the Prime Minister whenever necessary, and at least twice yearly. It draws up a *national intelligence plan* (PNR) which is submitted to the President of the Republic for approval<sup>1</sup>. The ministries involved in counter-terrorism (Interior, Defence, Finance, etc.) are *ex officio* members of the CIR, as is the Secretary-General for National Defence whose departments provides its secretariat. The Ministers for the Interior and Defence (and Foreign Affairs) are assisted in intelligence matters by expert committees under their authority.

### Interview

The services responsible for counter-terrorism participate in working groups set up by the CIR.

- police and intelligence services attached to the Director-General of the national police force at the Ministry of the Interior (DCPAF, DST, DCRG and RGPP)<sup>2</sup>,

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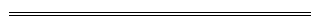
<sup>1</sup> A new version of the PNR was introduced in January 2001, entitled "national directives on intelligence". That text lays down, for the period 2001-2003, the government's objectives regarding intelligence gathering and focuses the activities of the intelligence services on a number of strategically important projects.

<sup>2</sup> Direction Centrale de la Police Aux Frontières (Central Border Police Directorate), Direction de la Surveillance du Territoire (Counter-Intelligence Directorate), Direction Centrale des Renseignements Généraux (Central General Intelligence Directorate), Renseignements Généraux de la Préfecture de Police de Paris (General Intelligence Division at Police Prefecture of Paris).

- "police" and intelligence services answerable to the Minister for Defence (mainly DGSE, DRM and DGGN) <sup>1</sup>
- or TRACFIN <sup>2</sup>, which comes under the Ministry of Finance.

The National Intelligence Plan (PNR) lays down the government's objectives regarding intelligence gathering and focuses the activities of the intelligence services on a number of strategically important projects.

This institutional set-up provides the link between the political dimension and the ministries responsible for operational counter-terrorism activities, and also a link between the law-enforcement and intelligence services, in the field of intelligence-sharing and operational activities. It also enables account to be taken of the aspects of threats abroad when assessing the threat at domestic (and European) level <sup>3</sup>.



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<sup>1</sup> Direction Générale de la Sécurité Extérieure (Directorate-General for External Security), Direction du Renseignement Militaire (Directorate for Military Intelligence) and Direction Générale de la Gendarmerie Nationale (national gendarmerie).

<sup>2</sup> Body set up to combat the financing of organised crime and terrorism (see above).

<sup>3</sup> "(...) the transnational nature of the threat means that proceedings are conducted in a context of cooperation and sometimes international coordination (...)". (Draft finance bill 2004, Prime Minister, SGDN and defence).