

**DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS  
INVESTMENT COMMITTEE**

**Measure with a bearing on the National Treatment instrument**

**Notification by France**

**14 October 2014**

*Pursuant to Article 1 of the Third Revised Decision by the Council on National Treatment, France has notified the Organisation of the introduction of a measure regarding the implementation of commitments under the National Treatment instrument.*

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1. On 15 May 2014 the French government published Decree No. 2014-479 which updates the range of sectors subject to the prior authorisation procedure for investments in France. The sectors that have been added are as follows: transport, water, energy, electronic communications, public health and activities of vital importance as specified in the *Defence Code*.

2. By the present document France notifies the OECD of this measure, in compliance with the provisions of Article 1 of the National Treatment instrument. This Article provides that Members must notify the Organisation not only of measures that constitute exceptions to national treatment, but also of “any other measures which have a bearing on national treatment.” The reform promulgated in Decree No. 2014-479 falls within the scope of these other measures.

3. Since 2005, foreign investment in a limited number of sectors of activity, which play a part in the exercise of public authority or which concern activities capable of jeopardising public order, public security or the interests of public defence are subject to prior authorisation by the Ministry of the Economy.

4. The Decree of 15 May 2014 updates the range of sectors subject to the prior authorisation procedure for investments by amending the *Monetary and Financial Code*. The following six sectors have been added: transport, water, electronic communications, public health and activities of vital importance as specified in the *Defence Code*. Where necessary, the government may require specific commitments or set conditions on the performance of the investments concerned. These commitments are set out in the regulations and must be proportionate to French interests with regard to national defence, security and public order. This provision will continue to be applied selectively and proportionately, as it has been since 2005, by taking account of each set of circumstances.

5. This reform is designed to take better account of activities that are essential to safeguarding the interests of France with regard to public order, public security and national defence. The challenge for the government is to ensure that the legitimate aims of protecting public order are properly taken into account by foreign investors.

6. France proposes to amend the list of its measures reported for transparency as follows:

“Activities affecting the public order, public security and national defence interests. Prior governmental approval is required for foreign-controlled enterprises to invest in the following areas: activities related to interception and detection of communication; evaluation and certification of security systems; activities related to dual-use technologies; cryptology; activities by enterprises privy to classified defence information; production and trade in arms, ammunition, gunpowder and explosives for military purposes as well as war material; activities by enterprises having concluded research or supply contracts with the Ministry of Defence; research, development and production of means of protection against the illicit use, through terrorist activities, of pathogenic or toxic agents as well as their health impacts; money gambling and casinos; transport; water; energy; electronic communications; public health; activities of vital importance as specified in the Defence Code.”

*Authority:* Monetary and Financial Code, Articles L151-3 and R153-2; Decree No. 2005-1739 of 30 December 2005; Decree No. 2014-479 of 15 May 2014.”