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**Spanish presidency and EU arms exports  
Reviewing the implementation of the Common Position  
one year after its adoption**

Mr. Juan Luis Muñoz de Laborde  
Ministerio de Asuntos Exteriores  
Madrid  
España  
COARM Chair

7<sup>th</sup> January 2010

Dear Mr. Juan Luis Munoz,

On the 8<sup>th</sup> of December 2008, a Common Position was reached within the European Council on common rules governing the control of arms exports<sup>1</sup>. This achievement was historic, since now all 27 member states are legally bound to comply with the 8 criteria of this Common Position, including the “Respect for human rights in the country of final destination as well as respect by that country of international humanitarian law”, the “preservation of regional peace, security and stability” and the compatibility of the exports with the economic capacity of the recipient country, ensuring “the least diversion of human and economic resources for armaments”.

A group of NGOs, among them AEFJN have warmly welcomed this huge step forward. However, one year after the Common Position, the issue of its implementation is still relevant. Several Member states have not yet changed their national legislation to comply in the first place with the Code of Conduct and also with the Common Position.

It is indeed positive that some countries have changed their national regulations and practices in accordance with these two legal instruments. Spain has indeed been one of the leading states in this respect, by voting law 53/2007 of 28/12/2007 and now planning to adopt a new royal decree in 2010 that will fully incorporate last year's Common Position : AEFJN sincerely appreciate such leadership. With this in mind, we are writing to ask you to put on the agenda of the Spanish presidency an item on :

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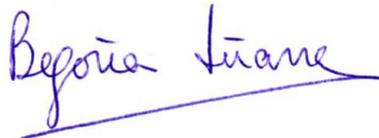
<sup>1</sup> Council Common Position 2008/944/ CFSP defining common rules governing control of exports of military technology and equipment (OJ L 335 of 13 December 2008, pages 99 – 103)

“Progress report one year after reaching the Common Position on arms exports”, through which it would be useful to look at the following questions :

- implementation to date :
  - How have MS implemented the legal requirements of the Common Position –in terms of legislation, policy and practice ?
  - How has each Member State interpreted article 1.2 to determine in which case an export license is required ?
  - What have been the challenges? Has the change from the Code of Conduct to the Common Position had a major impact on transfers authorized –in terms of overall numbers, or in relation to particular destinations or products?
  - Case studies : Operation Cast Lead was a major international development over the past 12 months. Guinea was also subject to major troubles in September 2009. Since then, have Member states provided credible evidence that the arms they export were not used in the Gaza military operation or in the Guinea troubles? And if there is evidence arms were used, what steps have Member states taken as a result?
  - To what extent have their exports policies (and practice and guarantees) towards Israel, Guinea and other states neighboring them has actually been reviewed to comply with the Common Position ?”
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We thank you for your attention to these issues and remain at your disposal to discuss them in greater depth.

Yours Sincerely



Signed: Begoña Iñarra  
Deputy Executive Secretary