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Security Council Committee established pursuant to resolution 1737 (2006)

Note verbale dated 20 March 2007 from the Permanent Mission of Spain to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of Spain to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1737 (2007) and, in reply to the latter's note of 7 February 2007, has the honour to transmit herewith the national report of Spain on implementation of the measures envisaged in paragraphs 3, 4, 5, 6, 7, 8, 10, 12 and 17 of that resolution, pursuant to paragraph 19 thereof (see annex).

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Annex to the note verbale dated 20 March 2007 from the Permanent Mission of Spain to the United Nations addressed to the Chairman of the Committee

National report submitted by Spain pursuant to Security Council resolution 1737 (2006)

In paragraph 19 of resolution 1737 (2006), adopted by the Security Council on 23 December 2006, the Council urges all Member States to report to the Security Council within 60 days on the steps they have taken with a view to implementing effectively paragraphs 3, 4, 5, 6, 7, 8, 10, 12 and 17 of the resolution.

This report summarizes the measures that Spain envisages in order to meet the obligations that it has assumed as a reflection of its commitment to the United Nations and to the multilateral non-proliferation regime. Spain considers that effective multilateralism, based on the political will of Governments aware of the risk of proliferation, is an essential tool for achieving international peace and security.

The recent adoption of the Council of the European Union's Common Position 2007/140/CFSP of 27 February 2007 concerning restrictive measures against Iran constituted a firm commitment by the European Community on that issue, which will be demonstrated in a more practical manner in the future with the entry into force of new regulations, still at the drafting stage, that will promote the application of this Common Position and facilitate better monitoring by member States of all matters covered by resolution 1737 (2006).

Measures taken in connection with the provisions of paragraphs 3, 4, 5, 6, 7, 10, 12 and 17 of resolution 1737 (2006):

3. [Spain] shall take the necessary measures to prevent the supply, sale or transfer directly or indirectly from [its] territor[y], or by [its] nationals or using [its] flag vessels or aircraft to, or for the use in or benefit of, Iran, and whether or not originating in [its] territor[y], of all items, materials, equipment, goods and technology which could contribute to Iran's enrichment-related, reprocessing or heavy water-related activities, or to the development of nuclear weapon delivery systems, namely:

(a) those set out in sections B.2, B.3, B.4, B.5, B.6 and B.7 of INFCIRC/254/Rev.8/Part 1 in document S/2006/814;

(b) those set out in sections A.1 and B.1 of INFCIRC/254/Rev.8/Part 1 in document S/2006/814, except the supply, sale or transfer of:

(i) equipment covered by B.1 when such equipment is for light water reactors;

(ii) low-enriched uranium covered by A.1.2 when it is incorporated in assembled nuclear fuel elements for such reactors;

(c) those set out in document S/2006/815, except the supply, sale or transfer of items covered by 19.A.3 of Category II;

(d) any additional items, materials, equipment, goods and technology, determined as necessary by the Security Council or the Committee established by

paragraph 18 below (hereinafter "the Committee"), which could contribute to enrichment-related, or reprocessing, or heavy water-related activities, or to the development of nuclear weapon delivery systems;

Royal Decree No. 1782/2004 of 30 July 2004, approving the regulations for the control of external trade in defence materials, other materials and dual-use items and technologies, controls erga omnes export transactions within its scope that involve such materials in accordance with Council Regulation (EC) No. 1334/2000 of 22 June 2000, which lists them in its annex I.

All the items mentioned in paragraphs 3 (a), (b), (b) (i), b (ii) and (c) of the resolution are listed in annex I to Council Regulation (EC) No. 1334/2000 on items subject to control.

The regulations governing Spain's external trade that are set forth in Royal Decree No. 1782/2004, applicable in the national territory, require authorization for exports, shipments and withdrawal from free-trade zones and depots and linkage of the listed items and technologies with the customs warehousing procedure in accordance with Council Regulation (EC) No. 1334/2000, which establishes the Community regime for dual-use exports.

Council Regulation (EC) No. 1334/2000 does not apply to listed items that merely transit through Community territory or to the transmission of technology if that transmission involves cross-border movement of natural persons.

In granting export authorization, the Spanish authorities will apply the resolution with a strong presumption of denial.

As noted above, Council Regulation (EC) No. 1334/2000 is currently in force. However, new regulations that will supersede it insofar as it applies to the Islamic Republic of Iran are being developed as a consequence of adoption of the Council's Common Position 2007/140/CFSP of 27 February 2007 concerning restrictive measures against Iran.

Furthermore, Spain considers the complete systems, subsystems and components mentioned in the aforementioned document, insofar as they are of exclusively military use and thus cannot be deemed to be dual-use, to be defence materials and therefore covered by the annex to Royal Decree No. 1782/2004 on defence materials. Transit of such items of exclusively military use is subject to control by the Ministry of Foreign Affairs and Cooperation.

Pursuant to article 2 (c), paragraph 3 (d), of the regulations included in Royal Decree No. 1782/2004 of 30 July 2004, approving the regulations for the control of external trade in defence materials, other materials and dual-use items and technologies, and to article 4 of Council Regulation (EC) No. 1334/2000 of 22 June 2000, export transactions within the scope of these regulations that involve defence materials and dual-use items not specifically listed in those regulations may be subject to control and authorization if the exporter has previously been informed that the items in question may be intended for use in enrichment-related, reprocessing or heavy water-related activities, or for the development of nuclear weapon delivery systems.

The new regulations that are being drafted in accordance with the Common Position will prohibit the supply, sale or transfer directly or indirectly of the items and technologies mentioned in their annex I (which will include the items and

technology mentioned in this paragraph of the resolution), whether or not originating in the European Community, to any natural or legal person, entity or body of, or for use in, the Islamic Republic of Iran.

Moreover, Spain is a member of the Nuclear Suppliers Group and the Zangger Committee, forums in which it exchanges information with other members concerning transfer denials.

4. [Spain] shall take the necessary measures to prevent the supply, sale or transfer directly or indirectly from [its] territor[y], or by [its] nationals or using [its] flag vessels or aircraft to, or for the use in or benefit of, Iran, and whether or not originating in [its] territor[y], of the following items, materials, equipment, goods and technology:

(a) those set out in INFCIRC/254/Rev.7/Part 2 of document S/2006/814 if the State determines that they would contribute to enrichment-related, reprocessing or heavy water-related activities;

(b) any other items not listed in documents S/2006/814 or S/2006/815 if [Spain] determines that they would contribute to enrichment-related, reprocessing or heavy water-related activities, or to the development of nuclear weapon delivery systems;

(c) any further items if [Spain] determines that they would contribute to the pursuit of activities related to other topics about which the IAEA has expressed concerns or identified as outstanding;

Royal Decree No. 1782/2004 of 30 July 2004, approving the regulations for the control of external trade in defence materials, other materials and dual-use items and technologies, controls export transactions within its scope that involve such materials in accordance with Council Regulation (EC) No. 1334/2000 of 22 June 2000, which lists them in its annex I.

All items mentioned in paragraph 4 (a) of the resolution are included in annex I of Council Regulation (EC) No. 1334/2000 on items subject to control.

The regulations governing Spain's external trade that are set forth in Royal Decree No. 1782/2004, applicable in the national territory, require authorization for exports, shipments and withdrawal from free-trade zones and depots and linkage of the listed items and technologies with the customs warehousing procedure in accordance with Council Regulation (EC) No. 1334/2000, which establishes the Community regime for dual-use exports.

Council Regulation (EC) No. 1334/2000 does not apply to listed items that merely transit through Community territory or to the transmission of technology if that transmission involves cross-border movement of natural persons.

In granting export authorization, the Spanish authorities will apply the resolution with a strong presumption of denial.

Pursuant to paragraph 4 (b) and (c) of the resolution, article 2 (c) of the regulations included in Royal Decree No. 1782/2004 of 30 July 2004, approving the regulations for the control of external trade in defence materials, other materials and dual-use items and technologies, and to article 4 of Council Regulation (EC) No. 1334/2000 of 22 June 2000, export transactions within the scope of these regulations that involve defence materials and dual-use goods not specifically listed

in those regulations may be subject to control and authorization if the exporter has previously been informed that the items in question may be intended for use in enrichment-related, reprocessing or heavy water-related activities, or for the development of nuclear weapon delivery systems.

As noted above, Council Regulation (EC) No. 1334/2000 is currently in force. However, new regulations that will supersede it insofar as it applies to the Islamic Republic of Iran are being developed as a consequence of adoption of the Council's Common Position 2007/140/CFSP of 27 February 2007 concerning restrictive measures against Iran.

The new regulations that are being drafted in accordance with the Common Position will prohibit the supply, sale or transfer directly or indirectly of the items and technologies listed in their annex I (which will include the items and technology mentioned in this paragraph of the resolution), whether or not originating in the European Community, to any natural or legal person, entity or body of, or for use in, the Islamic Republic of Iran. They will also require authorization for the supply, sale or transfer directly or indirectly of the items and technologies listed in their annex II (which includes the items and technology mentioned in this paragraph of the resolution), whether or not originating in the European Community, to any natural or legal person, entity or body of, or for use in, the Islamic Republic of Iran.

5. ... for the supply, sale or transfer of all items, materials, equipment, goods and technology covered by documents S/2006/814 and S/2006/815 the export of which to Iran is not prohibited by subparagraphs 3 (b), 3 (c) or 4 (a) above, [Spain] shall ensure that:

(a) the requirements, as appropriate, of the Guidelines as set out in documents S/2006/814 and S/2006/985 have been met; and

(b) [it has] obtained and [is] in a position to exercise effectively a right to verify the end-use and end-use location of any supplied item; and

(c) [it] notif[ies] the Committee within ten days of the supply, sale or transfer; and

(d) in the case of items, materials, equipment, goods and technology contained in document S/2006/814, [it] also notif[ies] the IAEA within ten days of the supply, sale or transfer;

Article 8 of Council Regulation (EC) No. 1334/2000 states that in deciding whether or not to grant authorizations, including under that regulation, the obligations and commitments accepted under international non-proliferation regimes and export control arrangements or by ratification of relevant international treaties should be taken into account.

The General Secretariat of Foreign Trade shall transmit the authorizations granted within the scope of its competencies for export to the Islamic Republic of Iran to the Ministry of Foreign Affairs and Cooperation, which shall notify the Committee established pursuant to the resolution. The International Atomic Energy Agency (IAEA) shall be notified of authorizations for export to the Islamic Republic of Iran of items listed in the document mentioned in paragraph 5 (d) of the resolution. Royal Decree No. 1206/2003 of 19 September 2003, implementing Spain's commitments under the Additional Protocol to the Safeguards Agreement arising from the Treaty on the Non-Proliferation of Nuclear Weapons, governs

compliance with the obligations established in the Protocol, including the obligation to inform IAEA of exports of the equipment and non-nuclear material specified in annex II to the Protocol.

As noted above, Council Regulation (EC) No. 1334/2000 is currently in force. However, new regulations that will supersede it insofar as it applies to the Islamic Republic of Iran are being developed as a consequence of adoption of the Council's Common Position 2007/140/CFSP of 27 February 2007 concerning restrictive measures against Iran.

Also as noted above, the new regulations that are being drafted in accordance with the Common Position will prohibit the supply, sale or transfer directly or indirectly of the items and technologies listed in their annex I (which will include the items and technology mentioned in this paragraph of the resolution), whether or not originating in the European Community, to any natural or legal person, entity or body of, or for use in, the Islamic Republic of Iran.

Article 14 of the regulations governing Spain's external trade, included in Royal Decree No. 1782/2004, authorizes the Interministerial Board for the Regulation of External Trade in Defence and Dual-Use Materials (JIMDDU) to require the submission of whatever control documents it deems appropriate as a condition for granting the authorizations covered by these regulations.

6. [Spain] shall also take the necessary measures to prevent the provision to Iran of any technical assistance or training, financial assistance, investment, brokering or other services, and the transfer of financial resources or services, related to the supply, sale, transfer, manufacture or use of the prohibited items, materials, equipment, goods and technology specified in paragraphs 3 and 4 above;

Royal Decree No. 1782/2004 of 30 July 2004, approving the regulations for the control of external trade in defence materials, other materials and dual-use items and technologies, makes export transactions conducted within its scope and the provision of assistance or technical training subject to control if they involve the prohibited items, materials, equipment, goods and technology specified in paragraphs 3 and 4 of the resolution.

As noted above, Council Regulation (EC) No. 1334/2000 is currently in force. However, new regulations that will supersede it insofar as it applies to the Islamic Republic of Iran are being developed as a consequence of adoption of the Council's Common Position 2007/140/CFSP of 27 February 2007 concerning restrictive measures against Iran.

The new regulations that are being drafted in accordance with the Common Position will prohibit the supply, sale or transfer directly or indirectly of the items and technologies listed in their annexes I and II (which will include the items and technology mentioned in these paragraphs of the resolution), whether or not originating in the European Community, to any natural or legal person, entity or body of, or for use in, the Islamic Republic of Iran.

7. ... Iran shall not export any of the items in documents S/2006/814 and S/2006/815 and [Spain] shall prohibit the procurement of such items from Iran by [its] nationals, or using [its] flag vessels or aircraft, and whether or not originating in the territory of Iran;

Royal Decree No. 1782/2004 of 30 July 2004, approving the regulations for the control of external trade in defence materials, other materials and dual-use items and technologies, makes subject to control within its scope only the import of all materials that constitute weapons of war or are listed in the Convention on the Prohibition of Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction of 13 January 1993.

As noted above, Council Regulation (EC) No. 1334/2000 is currently in force. However, new regulations that will supersede it insofar as it applies to the Islamic Republic of Iran are being developed as a consequence of adoption of the Council's Common Position 2007/140/CFSP of 27 February 2007 concerning restrictive measures against Iran.

The new regulations that are being drafted in accordance with the Common Position will prohibit the acquisition from the Islamic Republic of Iran of the items and technologies listed in their annex I (which will include the items and technologies mentioned in this paragraph of the resolution), whether or not originating in the Islamic Republic of Iran.

Spain does not import defence-related items from the Islamic Republic of Iran.

10. [Spain shall] exercise vigilance regarding the entry into or transit through [its] territor[y] of individuals who are engaged in, directly associated with or providing support for Iran's proliferation sensitive nuclear activities or for the development of nuclear weapon delivery systems, and ... shall notify the Committee of the entry into or transit through [its] territor[y] of the persons designated in the annex to this resolution (herein "the Annex"), as well as of additional persons designated by the Security Council or the Committee as being engaged in, directly associated with or providing support for Iran's proliferation sensitive nuclear activities and for the development of nuclear weapon delivery systems, including through the involvement in procurement of the prohibited items, goods, equipment, materials and technology specified by and under the measures in paragraphs 3 and 4 above, except where such travel is for activities directly related to the items in subparagraphs 3 (b) (i) and (ii) above;

The National Police has sole responsibility for controlling foreigners' entry into and exit from the national territory (art. 12 (1) (b) of the Security Forces and Bodies Organization Act (Organization Act No. 2/86) of 13 March 1986). By extension, the security forces and bodies of the State (the police and the Civil Guard, in the exercise of their functions and in defence of the law and of public safety (art. 5 (4)) are mandated to protect the free exercise of rights and freedoms and to ensure compliance with laws and general provisions (art. 11 (1) (a)), including Security Council resolution 1737 (2006).

12. [Spain] shall freeze the funds, other financial assets and economic resources which are on [its] territor[y] at the date of adoption of this resolution or at any time thereafter, that are owned or controlled by the persons or entities designated in the annex, as well as those of additional persons or entities designated by the Security Council or by the Committee as being engaged in, directly associated with or providing support for Iran's proliferation sensitive nuclear activities or the development of nuclear weapon delivery systems, or by persons or entities acting on their behalf or at their direction, or by entities owned or controlled by them, including through illicit means, and that the measures in this paragraph shall cease

to apply in respect of such persons or entities if, and at such time as, the Security Council or the Committee removes them from the annex, and ... [Spain] shall ensure that any funds, financial assets or economic resources are prevented from being made available by [its] nationals or by any persons or entities within [its] territor[y], to or for the benefit of these persons and entities;

Spain will apply the Common Position concerning restrictive measures against Iran. The Council of the European Union adopted Common Position 2007/140/CFSP on 27 February 2007 and, in article 5 thereof, decided that "all funds and economic resources which belong to, are owned, held or controlled, directly or indirectly, by:

(a) persons and entities designated in the Annex to UNSCR 1737 (2006) as well as those of additional persons and entities designated by the Security Council or by the Committee in accordance with Paragraph 12 of UNSCR 1737 (2006), such persons or entities being listed in Annex I,

(b) persons and entities not covered by Annex I that are engaged in, directly associated with, or providing support for, Iran's proliferation sensitive nuclear activities or for the development of nuclear weapon delivery systems, or persons or entities acting on their behalf or at their direction, or entities owned or controlled by them, including through illicit means, as listed in Annex II, shall be frozen".

The Common Position establishes several exceptions related, inter alia, to funds and resources which are necessary to satisfy basic needs or are intended for payment of professional fees for legal services, after notification of the Committee and in the absence of a negative decision by the Committee within five working days of such notification.

A new regulation setting forth this Common Position is being drafted.

17. [Spain shall] exercise vigilance and prevent specialized teaching or training of Iranian nationals, within [its] territor[y] or by [its] nationals, of disciplines which would contribute to Iran's proliferation sensitive nuclear activities and development of nuclear weapon delivery systems;

The General Information Office is preparing an alertness- and awareness-raising plan aimed at private enterprises, official agencies and independent research and training entities involved with sensitive items and dual-use technology in order to facilitate awareness-raising on issues related to the proliferation of weapons of mass destruction and the development of delivery systems.

There are no technical agreements, memorandums of understanding or similar agreements of any kind between the Ministry of Defence and the Islamic Republic of Iran. Thus, there are no joint exercises, economic relations or teaching- or training-related activities.

In addition to the provisions of Security Council resolution 1737 (2006), it should be noted that within the framework of international law currently in force, and in application of the relevant provisions of its domestic law, Spain is considering the question of the availability of resources for implementation of the resolution. Particularly noteworthy is the negotiation, within the framework of the European Union, of supplementary instruments in order to harmonize the activities of its member States. The most recent such measure was the adoption of Common Position 2007/140/CFSP of 27 February 2007 concerning restrictive measures

against Iran. New regulations that will include the most recent developments in that area are being drafted.

Furthermore, Spain is a party to the Convention on the Physical Protection of Nuclear Material. Royal Decree No. 158/1995 of 3 February 1995 on the physical protection of nuclear material establishes, within the framework of domestic law, the administrative controls applicable to the physical protection of nuclear material. The Royal Decree establishes, among other obligations, that the act of importing or exporting nuclear material requires specific authorization and that the levels of physical protection established by the Convention must be ensured during international nuclear transport.

In addition, Spain participates in various international export control forums (the Nuclear Suppliers Group, the Zangger Committee, the Australia Group, the Missile Technology Control Regime and the Wassenaar Arrangement), in which it exchanges information on measures, requirements and denials of transfer of defence and dual-use items listed by these forums.

In short, the Government of Spain is employing all the means required by law for the proper fulfilment of its international obligations, including the provisions of Security Council resolution 1737 (2006).