

(English version)

Priority question for written answer P-001392/24
to the Vice-President of the Commission/High Representative of the Union for Foreign Affairs and Security Policy
Irene Montero (The Left), Isabel Serra Sánchez (The Left)
(19 July 2024)

Subject: Stopover in Spain, en route to Israel, of the *Overseas Santorini*, carrying military fuel

The *Red Solidaria contra la Ocupación de Palestina*, a Spanish pressure group against the occupation of Palestine, has reported that the *Overseas Santorini* is carrying military fuel to Israel. This includes JP-8, a lethal aviation fuel used by the genocidal State of Israel in air strikes in Gaza. Having departed from Texas, the vessel is due to stop over in Algeciras on 30 July. It is stipulated in Council Common Position 2008/944/CFSP ⁽¹⁾ that military equipment and essential parts may not be sent to countries that fail to respect human rights, or if they pose a threat to peace and stability. Under the Spanish law on the control of foreign trade in defence material ⁽²⁾, the material in transit must be assessed and subject to an assurance that it will not be used in breaches of human rights. Given that Israel is under investigation for genocide by the International Court of Justice, and that the Court has established that Israel's colonies in the West Bank and East Jerusalem are illegal and constitute apartheid, we have the following questions for the Vice-President/High Representative:

1. What is the Vice-President/High Representative's assessment of Spain's failure to comply with its legislation and the Common Position on the export of military fuel?
2. Will the Vice-President/High Representative insist that Spain does not allow the transit of vessels carrying material that will be used to perpetrate Israel's genocide against the Palestinian people?

Submitted: 19.7.2024

Answer given by High Representative/Vice-President Borrell i Fontelles on behalf of the European Commission
(5 September 2024)

The control on the export of arms by Member States is subject to national legislation, the Council Common Position 2008/944/CFSP ⁽¹⁾ and the Arms Trade Treaty ⁽²⁾ (ATT).

The competent authorities of Member States take final decision whether to authorise or deny an individual export or transit license of military equipment, in accordance with the said legal frameworks.

Member States are solely responsible to ensure compliance with applicable laws, including the Common Position and the ATT. The High Representative/Vice-President is not in a position to assess specific export cases against the criteria of the Common Position, nor is mandated, under EU law, to enforce the Common Position or other applicable laws.

Notwithstanding the above, it is unlikely that the said transit would be subject to assessment under the Common Position, since it applies to items on the EU Common Military List (ML), and JP-8 aircraft fuel is explicitly excluded from that list ⁽³⁾.

¹ Council Common Position 2008/944/CFSP of 8 December 2008 defining common rules governing control of exports of military technology and equipment: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32008E0944>

² Law No 53/2007 of 28 December 2007 on the control of foreign trade in defence and dual-use material: <https://www.boe.es/buscar/act.php?id=BOE-A-2007-22437>

⁽¹⁾ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32008E0944>

⁽²⁾ <https://thearmstradetreaty.org/treaty-text.html?templateId=209884>

⁽³⁾ See ML8(c)(1), Note 1, <https://data.consilium.europa.eu/doc/document/ST-5654-2024-INIT/en/pdf>