**Position paper of Reporters without Borders on the export of
European surveillance technology**

On occasion of the Internet Governance Forum in Baku, Nov.06th 2012

1. **Reporters without Borders calls on the European Commission to make the export and sale of software that is used to monitor and spy on journalists and bloggers subject to export controls. We recommend that the Commission proposes to amend the '*Community regime for the control of exports, transfer, brokering and transit of dual-use items'* accordingly.**

2. **A parliamentary inquiry in Germany suggests, that export-credit guarantees have been granted to export of surveillance technology. The Commission should also ask the Member States, if they have used such guarantees to support the export of such software. If so, this should be prohibited in the future.**

It has been known for years that prominent manufacturers of surveillance technology - including those from Europe - export their products to totalitarian states, and thus contribute to the suppression of free speech and freedom of press on the Internet. We are well aware of the active involvement of the German companies Gamma International, Trovicor, and Syborg. Software has been supplied to Libya, Bahrain and Egypt, amongst others. Amesys, a French firm, sold Deep Packet Inspection Technology to Lybia in 2009. Software of Italian software firm 'Hacking Team' has supposedly been used to spy on journalists in Morocco.

The London-based journalist and university professor Ala'a Shehabi, co-founder of the blog *bahrainwatch.org,* which is deemed to be critical of the government*,* received e-mails with allegedly recent news about human rights violations. These e-mails were supposed to infect her computer with a Trojan of the company Gamma International GmbH (so-called Finfisher). The lives of journalists and their sources across the world are being put at risk by the use of this software.

European surveillance technology has also been exported to Syria. From the very beginning, this country has been on the list of the "Enemies of the Internet", which Reporters Without Borders has been publishing since 2006. Surveillance technology was first exported in 2000 by Siemens. In 2008, further equipment was sold by Nokia Siemens Networks. Siemens later sold this business area, which has now been renamed Trovicor.

Today, we are still without an effective control regime to regulate the export of such software to authoritarian regimes. If the European Union is to retain its reputation as a reliable partner in international human rights politics, we urgently need to act in this regard.

Surveillance technology helps secret services, police authorities and other players to monitor the entire communication between individuals and provides them with direct access to all data stored on a computer. In part, this software also allows for the subsequent installation or addition of programmes or files, and hence the planting of false evidence.

> *"We have to acknowledge that certain software products now are actually as effective as weapons."* Marietje Schaake, MEP, July 2012

The discussion on electronic surveillance software in Europe has been influenced by the German Federal Constitutional Court's decision on state Trojans in 2008. In the grounds of the decision, the court states that this type of software not only interferes with a core area of private life, but might also include the manipulation of contents. Therefore, the court permits the use of such software only when it is subject to very strict constitutional requirements, which have not yet been technically realised.

The civil use of this type of surveillance technology is very limited, with manufacturers such as Gamma, Trovicor and Hacking Team supplying their software exclusively to government actors, such as police, secret services, or other government authorities. Therefore, their export should be subject to the same control regulations as the export of traditional weapons of war.

The U.S. House of Representatives is currently discussing the Global Online Freedom Act–a law governing the international sale of surveillance software. The draft law was proposed after it came to light that the U.S. company Bluecoat had delivered spyware to Egypt and Libya.

In his speech about the "Arab Spring" in November 2011 at the German Institute for International and Security Affairs (Stiftung Wissenschaft und Politik), Federal Foreign Minister Dr. Guido Westerwelle demanded that telecommunications surveillance software be included in the export control regime:

> "At the EU level, countries like Germany and Finland - with our strong telecommunications industries - should push for technology used for controlling the Internet to be included in sanctions regimes. If technological development changes the form of repression, sanctions cannot stop at small arms and water cannons."

We expressly support this demand, and hope that it will be followed up by actions very soon.

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Sources:

Report on Gamma / Bloomberg's Finfisher
Software: http://tinyurl.com/finfisherbahrain

Examples of advertising videos of surveillance technology
manufacturers:

http://tinyurl.com/werbungueberwachungI
http://tinyurl.com/werbungueberwachungII
http://tinyurl.com/werbungueberwachungIII

Speech made by the German Minister for Foreign Affairs
Guido Westerwelle at the German Institute for International and
Security Affairs (Stiftung Wissenschaft und Politik):
http://preview.tinyurl.com/redebmwesterwelle

RWB-Report „Internet Enemies Report 2012"
http://tinyurl.com/9gpuers

Reports on 'Hacking Team' Software used against Moroccan
Journalists
http://tinyurl.com/slatemorocco
http://tinyurl.com/bloombergmorocco

Report on Amesys equipping Lybia with DPI-Technology
http://tinyurl.com/amesyslybia

Parliamentary Question of Alliance 90/The
Greens (Fraktion Bündnis 90 / Die Grünen) to
the German Federal Government:
http://tinyurl.com/anfragegrueneueberwachung