

# EC/Morocco Euro-Mediterranean Association Agreement: products originating in Western Sahara (amend. Protocols 1 and 4)

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**PURPOSE:** to conclude, on behalf of the Union, the agreement in the form of an Exchange of Letters between the EU and Morocco on the amendment of Protocols 1 and 4 to the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and Morocco, of the other part.

**PROPOSED ACT:** Council Decision.

**ROLE OF THE EUROPEAN PARLIAMENT:** Council may adopt the act only if Parliament has given its consent to the act.

**BACKGROUND:** the Euro-Mediterranean Agreement establishing an Association between the European Communities and their Member States, of the one part, and Morocco, of the other part entered into force on 1 March 2000.

Liberalisation measures on agricultural products, processed agricultural products, fish and fishery products were introduced into the Association Agreement by an Agreement in the form of an Exchange of Letters between the European Union and the Kingdom of Morocco (the Liberalisation Agreement), which entered into force in 2012.

Since the Association Agreement entered into force, the Union has continued to **strengthen its bilateral relations** with Morocco and awarded it **advanced status in 2008** which enshrines the strength of the bilateral links between the parties and their shared ambitions and commitments with a view to the advancement of their joint initiatives, such as good governance and political and socio-economic reforms.

At the same time, the Union has consistently reaffirmed its commitment to **resolving the dispute** in Western Sahara. Although it has not recognised Morocco's sovereignty over Western Sahara, it fully supports the efforts made by the United Nations Secretary-General and his personal envoy to help the parties reach a fair, lasting and mutually-acceptable political solution that would ensure the self-determination of the people of Western Sahara under agreements aligned with the principles and objectives of the Charter of the United Nations, as set out in the Resolutions of the UN Security Council, in particular Resolutions 2152 (2014) and 2218 (2015).

In its judgment of 21 December 2016 in Case C-104/16 P3, the Court of Justice of the European Union ruled that the Association Agreement and the Liberalisation Agreement between the Union and Morocco did not apply to Western Sahara.

Following the Court judgment, the practice of applying the trade preferences set out in the Association Agreement and its protocols on a *de facto* basis to products originating in Western Sahara, a non-self-governing territory, could not continue, unless **Protocol 1** (access to the EU market for Moroccan agricultural products, processed agricultural products, fish and fishery products) and **Protocol 4** (concerning rules of origin) were amended to establish that products originating in Western Sahara should be treated in the same way as those from Morocco.

On 29 May 2017, the Council authorised the Commission to open negotiations with Morocco with a view to establishing a legal basis to grant the tariff preferences laid down in the Association Agreement to products originating in Western Sahara.

An agreement between the EU and Morocco is the only means of ensuring that the import of products originating in Western Sahara benefits from preferential origin, given that only the Moroccan authorities are able to ensure compliance with the rules necessary for the granting of such preferences.

CONTENT: the present proposal calls on the Council to adopt the decision to approve, on behalf of the Union, the Agreement in the form of an Exchange of Letters between the European Union and the Kingdom of Morocco on the amendment of Protocols 1 and 4 to the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the Kingdom of Morocco, of the other part.

This proposal applies amendments to Protocol 4 and Protocol 1 of the EU-Morocco Association Agreement with a view to respecting the obligations of the Court judgment of 21 December 2016 and providing a legal basis for granting preferences to products from Western Sahara.

The aim of the proposal is to:

- **avoid disrupting trade** with Western Sahara while maintaining access to the EU market at a stable level, since no new preferences are being granted;
- **foster the economic development** of Western Sahara by treating its exports to the EU the same as exports of products of Moroccan origin.

These measures will prevent Western Sahara suffering a competitive disadvantage and missing out on investment opportunities compared with neighbouring countries, which benefit from tariff preferences on different grounds (association agreements or the Generalised System of Preferences).

Lastly, it should be emphasised that the judgment delivered by the Court of Justice on 27 February 2018 in Case C-266/16 relates to the partnership agreement between the EU and Morocco in the fishing industry. This is a separate issue from the matter of market access, which is covered by the Association Agreement and therefore this proposal.

Any agreement is understood to be purely provisional, pending the resolution of the dispute through the UN and in accordance with the relevant resolutions of the UN Security Council. On this point, the Agreement states that it is concluded without prejudice to the respective positions of the European Union and Morocco with regard to the status of Western Sahara.