

To the attention of Pierre Moscovici  
European Commissioner of Economic and Financial Affairs, Taxation and Customs

Brussels  
24 October 2018

**Re. the partial territorial coverage of the proposed amendment to the EU-Morocco Association Agreement**

Dear Commissioner,

Western Sahara Resource Watch is privileged to write to you. We wish to express our concerns about, and ask for your clarifications regarding, the territorial coverage of the proposed amendments to 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, on the other part.

As is reported in the Commission's own Staff Working Document, Western Sahara is a divided territory: during the years of war, the Moroccan army undertook to construct a 2700km long wall that runs from the Moroccan-Western Sahara border southward across the territory, and into Mauritania. Today, that wall - where reportedly 100,000 Moroccan soldiers are stationed and which are effectively surrounded by the world's densest mine-fields - continues to split the territory in two parts: about two-thirds of the territory are controlled by Morocco, while the remaining third is under control of the Front Polisario.<sup>1</sup>

The part that is controlled by the Front Polisario - east of 'the Berm' - includes a coastal area, and areas that are being cultivated. Trade in agricultural, and to a lesser extent fisheries-, products is possible, and there is good potential to expand these sectors. It is our view - and we presume the European Commission to share it - that the people living on both sides of the Berm have a right to development. Accordingly, we find it concerning that the European Commission has the view that the currently proposed amendment to the EU-Morocco Association Agreement, which aims at integrating Western Sahara into the agreement's territorial scope, will only apply to the area that is under Moroccan control, since the Joint Declaration explicitly states that the goods concerned are those "subject to controls by the Moroccan customs authorities".<sup>2</sup> We also refer to the Staff Working Document, which reads that "this report uses the term 'Western Sahara' to refer to the part of the territory administered de facto by Morocco".<sup>3</sup> We would be grateful if you could provide an answer to the following questions:

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<sup>1</sup> European Commission, Commission Staff Working Document, SWD(2018) 346 final, 11.06.2018, p.6.

<sup>2</sup> Joint Declaration to be inserted after Protocol 4 to the Association Agreement, see Annex to the Proposal for a Council Decision on the conclusion of 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, COM(2018) 479 final, p.1.

<sup>3</sup> European Commission, Ibid.

1. Can you confirm that the proposed amendment to the EU-Morocco Association Agreement does not cover the part of Western Sahara that is outside of Morocco's control or goods originated therein?
2. If so, how does the agreement comply with the EU's Treaty-based obligation to respect international law, of which the respect for the principle of territorial integrity is an integral component?
3. Is there a precedent for an EU agreement with a third territory that has only partial territorial coverage?
4. What is foreseen in order to allow EU trade with and in the part of Western Sahara that is under control of the Front Polisario?
5. How will you ensure that the agreement does not discriminate against the population living in the part of Western Sahara that is outside the coverage of the agreement?
6. How does the European Commission assess the partial coverage of the agreement to be in line with its stated commitment not to prejudice the status of the territory or the UN peace process, when in practice it will effectively reinforce the division of the territory through contributing to the development of only one part?

We would be grateful for your swift reply, as clarifications on this issue seems fundamental and urgent in order to ensure an open and transparent public debate over the Commission's proposal and to allow Members of the European Parliament to make informed decision when they will vote on the proposal.

We look forward to hearing from you.

Sincerely,

Sara Eyckmans  
Coordinator  
Western Sahara Resource Watch  
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A copy of this letter has been sent to:

- HE Horst Köhler, Personal Envoy of the UN Secretary General for Western Sahara
- HE Colin Stewart, UN Special Representative for Western Sahara and Head of the UN Mission of the Referendum in Western Sahara (MINURSO)