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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: COUNCIL DECISION authorising the opening of negotiations with the Kingdom of Morocco for an agreement in the form of an exchange of letters on the amendment 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

COUNCIL DECISION (EU) 2025/

of ...

**authorising the opening of negotiations with the Kingdom of Morocco
for an agreement in the form of an exchange of letters
on the amendment 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**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 207(4), first subparagraph, in conjunction with Article 218(3) and (4) thereof,

Having regard to the recommendation from the European Commission,

Whereas:

- (1) 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 part¹ (the ‘Association Agreement’) entered into force on 1 March 2000.
- (2) In its judgment in Case C-104/16 P² of 21 December 2016, the Court of Justice of the European Union (the ‘Court’) clarified that the Association Agreement only covers the territory of the Kingdom of Morocco and does not cover Western Sahara, which is a non-self-governing territory that is distinct from the Kingdom of Morocco.
- (3) In order to establish a legal basis to grant the tariff preferences laid down in the Association Agreement to goods originating in Western Sahara, the European Union and the Kingdom of Morocco concluded an Agreement in the form of an Exchange of Letters on the amendment of Protocols 1 and 4 to the Association Agreement³ (the ‘Agreement in the form of an Exchange of Letters’), which was signed on 25 October 2018.

¹ OJ L 70, 18.3.2000, p. 2, ELI: http://data.europa.eu/eli/agree_international/2000/204/oj.

² Judgment of the Court of Justice of 21 December 2016, *Council of the European Union v Polisario Front*, C-104/16 P, ECLI:EU:C:2016:973.

³ 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 (OJ L 34, 6.2.2019, p. 4, ELI: http://data.europa.eu/eli/agree_international/2019/217/oj).

- (4) In its judgment of 4 October 2024 in Joined Cases C- 779/21 P and C- 799/21 P⁴, the Court ruled that any agreement with Morocco concerning Western Sahara must have the consent of the people of Western Sahara. Moreover, the Court held that such consent may be presumed provided that the agreement in question does not give rise to any obligation for the people of Western Sahara and that that people receives a specific, tangible, substantial and verifiable benefit from the exploitation of natural resources in Western Sahara territory which is proportional to the degree of that exploitation. The benefit must be accompanied by guarantees that that exploitation is carried out under conditions consistent with the principle of sustainable development.
- (5) As a consequence of the judgment of the Court in Case C-779/21 P, Council Decision (EU) 2019/217⁵ will cease to have effect on 4 October 2025.
- (6) It is important to ensure that the flows of trade which have developed over the years are not disrupted, and that the tariff preferences under the Association Agreement apply to goods originating in Western Sahara, while fully respecting the conditions laid out in the judgment of the Court in Joined Cases C- 779/21 P and C- 799/21 P.

⁴ Judgment of the Court of Justice of 4 October 2024, *Council of the European Union v Polisario Front*, Joined Cases C- 779/21 P and C- 799/21, ECLI:EU:C:2024:835.

⁵ Council Decision (EU) 2019/217 of 28 January 2019 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 (OJ L 34, 6.2.2019, p. 1, ELI: <http://data.europa.eu/eli/dec/2019/217/oj>).

- (7) The Union supports the efforts of the United Nations to find a mutually acceptable political solution which would provide for the self-determination of the people of Western Sahara consistent with the principles and purposes of the Charter of the United Nations.
- (8) Negotiations should be opened with a view to concluding an agreement in the form of an exchange of letters on the amendment to the Agreement in the form of an Exchange of Letters following the conditions established by the Court in its judgment in Joined Cases C-779/21 P and C-799/21 P,

HAS ADOPTED THIS DECISION:

Article 1

1. The Commission is hereby authorised to open a negotiations, on behalf of the Union, for an agreement in the form of exchange of letters on the amendment to 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.
2. The negotiations shall be conducted in accordance with the negotiating directives of the Council set out in the addendum to this Decision.

Article 2

The negotiations shall be conducted in consultation with the Special committee provided for in Article 218(4) of the Treaty on the Functioning of the European Union.

Article 3

This Decision is addressed to the Commission.

Done at ..., ...

For the Council

The President
