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## LEGISLATIVE ACTS AND OTHER INSTRUMENTS

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Subject: COUNCIL DECISION on the signing, on behalf of the Union, and provisional application 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

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**COUNCIL DECISION (EU) 2025/...**

**of ...**

**on the signing, on behalf of the Union, and provisional application  
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(5) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) On 10 September 2025, the Council authorised the Commission to open negotiations with the Kingdom of Morocco for an 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 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<sup>1</sup> (the ‘Association Agreement’) entered into force on 1 March 2000.
- (3) In its judgment in Case C-104/16 P<sup>2</sup> 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.

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<sup>1</sup> OJ L 70, 18.3.2000, p. 2, ELI: [http://data.europa.eu/eli/agree\\_internation/2000/204/oj](http://data.europa.eu/eli/agree_internation/2000/204/oj).

<sup>2</sup> Judgment of the Court of Justice of 21 December 2016, *Council of the European Union v Front populaire pour la libération de la saguia-el-hamra et du rio de oro (Front Polisario)*, C-104/16 P, ECLI:EU:C:2016:973.

- (4) 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 Agreement<sup>3</sup> (the ‘Agreement in the form of an Exchange of Letters’), which was signed on 25 October 2018. The Agreement in the form of an Exchange of Letters was approved by means of Council Decision (EU) 2019/217<sup>4</sup>.
- (5) As a consequence of the Court’s judgment of 4 October 2024 in Joined Cases C-779/21 P and C-799/21 P<sup>5</sup>, Decision (EU) 2019/217 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.

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<sup>3</sup> 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\\_internation/2019/217/oj](http://data.europa.eu/eli/agree_internation/2019/217/oj)).

<sup>4</sup> 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>).

<sup>5</sup> Judgment of the Court of Justice of 4 October 2024, *European Commission and Council of the European Union v Front populaire pour la libération de la Saguia el-Hamra et du Rio de oro (Front Polisario)*, Joined Cases C- 779/21 P and C- 799/21, ECLI:EU:C:2024:835.

- (7) In successive Commission staff working documents, the Commission has taken the view that the extension of tariff preferences to products originating in Western Sahara has a direct impact concentrated in a small number of agricultural and fishery products in the territory of Western Sahara. The application of the Agreement in the form of an Exchange of Letters allowed savings of EUR 44.4 million in customs duties in 2022 on EUR 590 million worth of exported products.
- (8) In its judgment in Joined Cases C- 779/21 P and C- 799/21 P, the Court ruled that any agreement with the Kingdom of 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.

- (9) Furthermore, in its judgment in Case C-399/22<sup>6</sup> of 4 October 2024, the Court clarified that the territory of Western Sahara is to be considered as a separate customs territory for the purposes of Article 60 of Regulation (EU) No 952/2013 of the European Parliament and of the Council<sup>7</sup> and, consequently, of Regulation (EU) No 1308/2013 of the European Parliament and of the Council<sup>8</sup> and Commission Implementing Regulation No 543/2011<sup>9</sup> as regards the indication of the country of origin on the labelling of those products harvested in that territory, which may designate only Western Sahara as such origin.

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<sup>6</sup> Judgment of the Court of Justice of 4 October 2024, *Confédération paysanne, v. Ministre de l'Agriculture et de la Souveraineté alimentaire and Ministre de l'Économie, des Finances et de la Souveraineté industrielle et numérique*, C-399/22, ECLI:EU:C:2024:839.

<sup>7</sup> Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (OJ L 269, 10.10.2013, p. 1, ELI: <http://data.europa.eu/eli/reg/2013/952/oj>).

<sup>8</sup> Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 (OJ L 347, 20.12.2013, p. 671, ELI: <http://data.europa.eu/eli/reg/2013/1308/oj>).

<sup>9</sup> Commission Implementing Regulation 543/2011/EU of 7 June 2011 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 in respect of the fruit and vegetables and processed fruit and vegetables sectors (OJ L 157, 15.6.2011, p. 1, ELI: [http://data.europa.eu/eli/reg\\_impl/2011/543/oj](http://data.europa.eu/eli/reg_impl/2011/543/oj)).

- (10) In accordance with the conditions established by the Court in its judgment in Joined Cases C-779/21 P and C-799/21 P, the Commission has negotiated a new 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 ‘new Agreement in the form of an Exchange of Letters’), replacing the Agreement in the form of an Exchange of Letters.
- (11) The new Agreement in the form of an Exchange of Letters extends the bilateral tariff preferences granted by the Association Agreement to products originating in the territory of Western Sahara which are subject to controls by the Moroccan customs authorities.
- (12) In the context of the new Agreement in the form of an Exchange of Letters, the Association Council established by the Association Agreement will be called upon to adopt a decision amending Protocol 4 to the Association Agreement concerning the definition of the concept of ‘originating products’ and methods of administrative cooperation in order to lay down the provisions necessary to ensure the applicability of that Protocol to products originating in Western Sahara and the continuation of trade, in particular for the fruit and vegetables sector and for the fisheries sector.

- (13) Furthermore, in order to ensure a clear distinction on labelling between, on the one hand, products of the fruit and vegetables sector originating in Western Sahara which are subject to controls by the Moroccan customs authorities and, on the other hand, products of the same sector originating in Morocco, and to ensure that Union consumers are properly informed, the new Agreement in the form of an Exchange of Letters establishes that, when imported into the Union, fruit and vegetables originating in Western Sahara which are subject to controls by the Moroccan customs authorities are identified by a reference to the region of origin of the product, as indicated on the certificate of origin accompanying those products at the time of their import into the Union. In addition, the new Agreement in the form of an Exchange of Letters provides that, in respect of fresh fruit and vegetables originating in Western Sahara which are subject to controls by the Moroccan customs authorities, the Union may grant the Moroccan authorities concerned the necessary authorisations to issue certificates of conformity proving compliance with Union marketing standards, in accordance with Union legislation.
- (14) According to the declaration of the Union, to be made when the new Agreement in the form of an Exchange of Letters is signed, the Union will first provide funding for the region focusing on key sectors, such as water, including irrigation, energy, combating desertification, and desalinisation of water in line with the principle of sustainable development. The joint assessment mechanism provided for in the new Agreement in the form of an Exchange of Letters will be implemented by the parties. At the same time, the Union will increase its humanitarian aid to the Tindouf camps. That aid will be channelled through relevant Union and United Nations mechanisms, and will be subject to the same operational arrangements in place for humanitarian action. The Commission will support suitable programmes in sectors such as education, culture and skills.

- (15) A regular monitoring mechanism will be established in accordance with paragraph 153 of the judgment of the Court in Joined Cases C-779/21 P and C-799/21 P, including the joint assessment mechanism.
- (16) The Union supports the efforts of the United Nations to find a fair, lasting and mutually acceptable political solution that would allow the self-determination of the people of Western Sahara under agreements aligned with the principles and objectives enshrined in the Charter of the United Nations.
- (17) The new Agreement in the form of an Exchange of Letters should be signed, subject to its conclusion at a later date, and the declaration of the Union to be made upon signing should be approved.
- (18) The new Agreement in the form of an Exchange of Letters should be applied provisionally, pending its entry into force,

HAS ADOPTED THIS DECISION:

### *Article 1*

The signing 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, is hereby authorised on behalf of the Union, subject to the conclusion of the said Agreement<sup>+10</sup>.

### *Article 2*

The Declaration of the European Union concerning 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 is hereby approved on behalf of the Union.

### *Article 3*

The Agreement shall be applied provisionally, in accordance with the Agreement and subject to the notifications provided for therein, pending the completion of the procedures necessary for its entry into force.

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<sup>+</sup> Delegations/OJ: see document ST 13169/25.

<sup>10</sup> The text of the Agreement is published in ... [OJ: please insert publication details for Document ST 13169/25].

*Article 4*

This Decision shall enter into force on the date of its adoption.

Done at ..., ...

*For the Council*

*The President*

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