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General Secretariat

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LIMITE

PECHE

WORKING PAPER

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LETTER

From:	General Secretariat of the Council
To:	Delegations
Subject:	Letter regarding the GCEUs annulment of the EU-Morocco Trade and Fisheries Agreements relating to Western Sahara on 29th September 2021 to the attention of President Michel

Delegations will find attached a letter on the above-mentioned subject, as received from the European Parliament.

MAIL REGISTRATION

10440

From: SCHIEDER Andreas <andreas.schieder@europarl.europa.eu>
Sent: mardi 19 octobre 2021 19:16
To: MICHEL Charles
Subject: Letter regarding the GCEUs annulment of the EU-Morocco Trade and Fisheries Agreements relating to Western Sahara
Attachments: Letter regarding the GCEUs annulment of the EU-Morocco Trade and Fisheries Agreements relating to WS.pdf

Dear President Michel,

Please find attached a letter regarding the GCEUs annulment of the EU-Morocco Trade and Fisheries Agreements relating to Western Sahara on 29th September 2021.

As you will be aware, the GCEU invalidated these agreements because the EU had failed to secure the consent of the people of Western Sahara, as requested under EU and international law. We are convinced that the EU has been complicit in the unlawful exploitation of natural resources and the entrenchment of the protracted, illegal occupation of Western Sahara, and has undermined UN efforts to reach a lasting solution to the long-standing conflict. Therefore, we believe it is now imperative for the EU and its member states to uphold the rule of law, to conform with the decision of the General Court and to ensure that all its dealings with Western Sahara meet the Court's requirements.

This initiative is promoted by me, Andreas Schieder and Manu Pineda, in our function as Chair and Vice-Chair of the Intergroup for Western Sahara. The letter has been signed by other Members of the European Parliament across political parties.

Many thanks for your attention and
Kindest regards,

Andreas Schieder

Andreas Schieder, MEP
Chair of the Intergroup for Western Sahara
Head of the SPÖ-EU-Delegation
Member of the European Parliament

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E-MAIL

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To the attention of

President of the European Council, Mr. Charles Michel

Brussels, October 19 2021

We, the undersigned Members of the European Parliament, are writing to you regarding the General Court of the European Union's (GCEU) annulment of the EU-Morocco Trade and Fisheries Agreements relating to Western Sahara on 29th September 2021.

As you will be aware, the GCEU invalidated these agreements because the EU had failed to secure the consent of the people of Western Sahara, as requested under EU and international law. Significantly, the Court dismissed the "consultations" of "populations concerned" carried out by the European Commission, which could not substitute this fundamental requirement of securing the free and genuine consent of the Sahrawi people.

Moreover, through these agreements, we are convinced that the EU has been complicit in the unlawful exploitation of natural resources and the entrenchment of the protracted, illegal occupation of Western Sahara, and has undermined UN efforts to reach a lasting solution to the long-standing conflict.

Therefore, we believe it is now imperative for the EU and its member states to uphold the rule of law, to conform with the decision of the General Court and to ensure that all its dealings with Western Sahara meet the Court's requirements.

Namely, we urge the Commission, the European External Action Service and the Member States to take the following immediate steps:

1. adopt a **policy of differentiation**, which ensures the EU's full and effective non-recognition of Morocco's illegal annexation of Western Sahara, across its sectorial cooperation, including in trade, fisheries and energy, and its technical assistance with Morocco, in line with EU and international law;
2. engage with the **POLISARIO Front**, as the internationally recognised representative of the Saharawi people, notably to secure the latter's consent for any EU dealings with the territory;
3. carry out a **comprehensive audit** of the territorial scope of EU-Morocco dealings to ensure these are limited to within Morocco's internationally recognised borders, and fully and effectively exclude Moroccan entities and activities relating to Western Sahara;
4. call on **EU-based financial and economic operators**, notably in the fisheries, energy, aviation and extractive sectors, to cease their ongoing activities in Western Sahara; issue EU-wide and Member State **business advisory notices**, warning European

companies about the legal, financial and reputational risks of carrying out activities in Western Sahara;

5. adopt an ambitious strategy document for enhanced EU action in support of the **UN efforts** to reach a just and sustainable solution to the conflict; actively support the work of the newly appointed Personal Envoy of the UN Secretary General for Western Sahara, Staffan de Mistura; ensure the UN Mission MINURSO has a human rights mandate;
6. establish a **Trust Fund for Western Sahara**, to enhance EU and international assistance to the people of Western Sahara, in support of their resilience and the realisation of their right to self-determination, both within the occupied territory and the refugee camps in Tinduf (with a focus on civil society and governance building);
7. Provide an assessment by the Commission of the financial implications of the Court's ruling, notably in terms of the **potential compensation claims** that might be submitted by the Saharawi people and by EU economic operators, as well as an assessment of the legal costs entailed by the EU side during the five years of protracted legal proceedings in Court, since the first ruling from the European Court of Justice in 2015.

Finally, we wish to underscore that the steps outlined above for a new, legally-sound and positive policy framework for Western Sahara, are also the necessary measures to allow for the stability and predictability of the EU's important relationship with its Moroccan partner and to ensure that the EU institutions and Member States are not seen as above the law but instead, fully in compliance with the most cardinal principle of our European system, that of the rule of law.

Sincerely,

Andreas Schieder (S&D)
Manu Pineda (GUE/NGL)

Thomas Waitz (Greens/EFA)
Hannes Heide (S&D)
Dietmar Köster (S&D)
Andrea Cozzolino (S&D)
Salima Yenbou (Greens/EFA)
Giuliano Pisapia (S&D)
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Pernando Barrena Arza (GUE/NGL)
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