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SENSITIVE*

Proposal for a

COUNCIL DECISION

on the conclusion, on behalf of the European Union, of the Agreement in the form of an Exchange of Letters amending 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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EXPLANATORY MEMORANDUM

For more than half a century, the European Union ('the Union') and the Kingdom of Morocco ('Morocco') have built a rewarding, multi-faceted partnership, most obviously reflected by 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 EU-Morocco Association Agreement' or the 'Association Agreement'), which entered into force in 2000. It was also under this special partnership that Morocco was awarded '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. 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 provide for 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, as set out in the Resolutions of the UN Security Council.

The EU is committed to the sustainable development of the territory of Western Sahara, which is a non-self-governing territory pursuant to the case-law of the Court of Justice in Case C-104/16 P². In 2018, the Union and Morocco signed an Agreement in the form of an Exchange of Letters concerning the amendment of Protocols 1 and 4 to the Association Agreement³ ('Agreement in the form of an Exchange of Letters'). That agreement allowed the Union to import goods originating in Western Sahara at preferential tariff rates⁴.

On 4 October 2024, in Joined Cases C-779/21 P and C-799/21 P, the Court of Justice of the European Union (CJEU) dismissed the appeals of the Council of the European Union and of the European Commission and upheld the ruling of the General Court of 29 September 2021 (Case T-279/19) annulling Council Decision (EU) 2019/217 on the conclusion of the Agreement in the form of an Exchange of Letters⁵.

In its judgment, the Court ruled that any agreement with Morocco that includes Western Sahara requires the consent of the *people* of Western Sahara rather than the consent of the *population* of Western Sahara⁶. Specifically, the Court ruled that the people of Western Sahara must give their consent to any new agreement concluded by the Union. This consent may be given either explicitly or implicitly. In the particular case of a people of a non-self-governing territory, the Court ruled that the consent of that people to an international agreement in respect of which it has the status of a third party and which is to be applied in the territory to which its right to self-determination relates may be presumed as long as two conditions are satisfied:

¹ OJ L 70, 18.3.2000, p. 1.

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

³ [EUR-Lex — 22019A0206 \(01\) — EN — EUR-Lex](#)

⁴ [EUR-Lex — 22000A0318 \(01\) — EN — EUR-Lex](#)

⁵ [Decision — 2019/217 — EN — EUR-Lex](#)

⁶ The 'people' of Western Sahara refers strictly to the indigenous people of Western Sahara. These individuals have been dispersed since Morocco's administration began in 1975, with half of the people living in camps in Algeria. By contrast, the 'population' of Western Sahara is considered by the Court to refer to the current inhabitants of the territory more generally (indigenous and non-indigenous).

First, the agreement in question must not give rise to an obligation for that people.

Second, the agreement must provide that the people itself, which cannot be adequately represented by the population of the territory to which the right of that people to self-determination relates, receives a specific, tangible, substantial and verifiable benefit from the exploitation of that territory's natural resources which is proportional to the degree of that exploitation. That benefit must be accompanied by guarantees that that exploitation will be carried out under conditions consistent with the principle of sustainable development so as to ensure that non-renewable natural resources remain abundantly available and that renewable natural resources, such as fish stocks, are continuously replenished. Lastly, the agreement in question must also provide for a regular control mechanism enabling it to be verified whether the benefit granted to the people in question under that agreement is in fact received by that people.

The fulfilment of these conditions is necessary in order to ensure that such an agreement is compatible with the principle, derived from Article 73 of the Charter of the United Nations and enshrined in customary international law, that the interests of the peoples of non-self-governing territories are paramount. It thus contributes to the Union's action on the international scene being based, as provided for in Article 21(1) TEU, on the principles of the Charter of the United Nations and of international law.

In the event that the two conditions set out in the judgment are satisfied, the consent of the people concerned must be held to have been obtained.

The Court also ruled that the effects of the Council Decision concluding the Agreement in the form of an Exchange of Letters are maintained for a period of 12 months (until 4 October 2025). For the 12 months following the judgment, therefore, tariff preferences can continue to be applied for goods originating in Western Sahara imported into the EU. The applicable preferential rates were unilateral, meaning that they applied only to the EU's imports from Western Sahara and not to the EU's exports to that territory. The objective at the time was to support the sustainable development of the local economy by providing a competitive advantage to goods originating in this developing territory when placed on the EU market. The judgment does not call into question the validity of the Association Agreement, since the scope of the Association Agreement does not extend to Western Sahara, as clarified by the Court of Justice in its ruling of 21 December 2016 in Case C-104/16 P.

The trade implications of the expiry of the time limit set by the Court, without the conclusion of a new agreement, would mean that EU importers would no longer be able to claim preferential tariff rates on goods imported from Western Sahara. Instead, EU customs authorities would be required to collect duties on these imported goods under the same non-preferential tariff rates applied to all goods imported under the most-favoured-nation (MFN) rules of the World Trade Organization. MFN duties are higher than preferential tariff rates.

The EU imports a wide variety of fish and crustaceans from Western Sahara, in addition to tomatoes and melons. The main entry points in the EU are Spain (for fish) and France (for tomatoes and melons). According to Moroccan data, in 2022, 203 000 tonnes of products originating in Western Sahara were exported to the EU (129 200 tonnes of seafood and 74 000 tonnes of agricultural products). In 2023, tariff preferences exempted imports from Western Sahara from an estimated EUR 44.4 million in import duties⁷. That year, the products at entry cost EUR 590 million instead of EUR 634.4 million, which is 8.4 % less than if the import duties had been paid, representing a limited but non-negligible difference. It is also

⁷ In 2022, EUR 504 million worth of fishery products of Western Saharan origin were exported to the EU, as were EUR 85.6 million worth of agricultural products.

estimated that the agreement created more than 49 000 direct jobs in Western Sahara, which represents around 18 % of the territory's active population⁸.

In line with the judgment in Joined Cases C-779/21 P and C-799/21 P, it is in the Union's interest to preserve existing trade relations in order to continue providing products from Western Sahara with preferential access to the EU market, which contributes to sustaining the local economy. These tariffs should remain unilateral in nature and should remain aligned with the conditions for agricultural quotas granted to Morocco under the Association Agreement.

While Western Sahara represented barely 0.02 % of total imports into the EU in 2022, the EU is the primary export market for the territory. Since 2019, the major operators in the agriculture and fisheries sectors in the territory have developed their business around high added-value products destined for the EU market. In 2022, 82 % of tomatoes and melons harvested in Western Sahara were destined for the European market; around 60 % of seafood landed in Western Sahara is earmarked for the European market⁹.

All goods entering the EU must go through customs clearance procedures at the point of entry of the importing EU Member State. Customs procedures are a legal requirement and are undertaken irrespective of an existing agreement with the exporting country or territory. Moreover, if an EU importer claims preferential treatment under the terms of an international agreement, the importer must provide the proof that the goods meet the corresponding legal requirements i.e. the importer must provide proof of origin of the goods.

The certificate of origin must clearly allow EU customs authorities to identify the goods as originating in Western Sahara. To ensure similar treatment for goods originating in Western Sahara as compared to goods originating in Morocco, the applicable rules of origin should be those enforced under Protocol 4 of the EU-Morocco Association Agreement concerning the definition of the concept of 'originating products' and methods of administrative cooperation, adapted to the specificities of the commercial value chain of products originating in Western Sahara, with detailed rules to be laid down in a decision of the Association Council established by the EU-Morocco Association Agreement in order to be able to ensure the applicability of that Protocol to products originating in Western Sahara.

In its judgment in Case C-399/22, the Court of Justice further clarified that the territory of Western Sahara is to be considered as a separate customs territory for the purposes of Article 60 of the Union Customs Code and, consequently, of Regulation (EU) No 1308/2013 and Commission Implementing Regulation No 543/2011 (repealed and replaced by Delegated Regulation (EU) 2023/2429) as regards the indication of the country of origin on the labelling of fresh fruit and vegetables harvested in that territory, which may designate only Western Sahara as such origin. In this vein, provisions on the labelling of products of the fruit and vegetables sector originating in Western Sahara should also be taken into account. Those provisions should be consistent with the detailed rules laid down for the indication of the origin of the products in question on the certificates of origin accompanying those products at the time of import into the Union.

On 10 September 2025, the Council authorised the Commission to open negotiations with Morocco with a view to 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

⁸ '2023 Report on the impact and benefits for the population of Western Sahara of the extension of tariff preferences to products originating in Western Sahara': https://taxation-customs.ec.europa.eu/report-impacts-and-benefits-eu-morocco-agreement-extending-tariff-preferences-products-originating_en

⁹ *Ibid.*

Communities and their Member States, of the one part, and the Kingdom of Morocco, of the other part. In line with the negotiating directives, the primary objective of the negotiations is to provide a legal basis to grant preferences to products originating in Western Sahara, in accordance with the conditions laid down by the Court.

Negotiations took place from 10 to 15 September, following the Council's authorisation. The lead negotiators initialled the draft Agreement on 15 September 2025.

The draft Agreement is intended to replace the 2018 Agreement in the form of an Exchange of Letters in accordance with the conditions and obligations laid down by the Court in its judgment of 4 October 2024. The Agreement is based on the special partnership developed between the European Union and the Kingdom of Morocco and aims to establish the instruments of that partnership with the shared ambition of the parties for the future of that partnership, of which the Association Agreement and its Protocols are essential parts.

The draft Agreement provides a legal basis for granting tariff preferences to products originating in Western Sahara. It ensures that the trade preferences provided for in the EU-Morocco Association Agreement and its Protocols are granted to products originating in Western Sahara, while allowing the identification of these products on import into the EU. In addition, the draft Agreement explicitly provides for an appropriate framework and process for the parties, on the basis of regular exchanges of information, to evaluate the impact of the Agreement during its implementation and to discuss impediments to the proper functioning of the Agreement.

In addition, the draft Agreement contains provisions on the labelling of products of the fruit and vegetables sector originating in Western Sahara which are subject to controls by Moroccan customs authorities in line with what is provided for for the certificate of origin accompanying those products at the time of their import into the Union and taking into account the respective positions of the parties to the Agreement and the need to inform the Union consumer of the place of origin of the product. It also contains provisions on the possibility for the EU to grant authorisations allowing the Moroccan authorities to issue certificates of conformity proving the compliance with Union marketing standards of fresh fruit and vegetables originating in Western Sahara which are subject to controls by Moroccan customs authorities in accordance with EU rules.

In accordance with the judgment in Joined Cases C-779/21 P and C-799/21 P, the draft Agreement does not create obligations on the Sahrawi people and ensures that they receive a specific, tangible, substantial and verifiable benefit from the exploitation of that territory's natural resources which is proportional to the degree of that exploitation. That benefit is accompanied by guarantees that that exploitation will be carried out under conditions consistent with the principle of sustainable development. The proposed Agreement thus provides for a regular control mechanism enabling it to be verified whether the benefit granted to the people in question under that agreement is in fact received by that people.

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

The Association Agreement entered into force on 1 March 2000. Since then, the Union has continued to strengthen its bilateral relations with the Kingdom of Morocco and awarded it 'advanced status'.

In its judgment in Joined Cases C-779/21 P and C-799/21 P, the Court of Justice ruled that any agreement with Morocco concerning Western Sahara must have the consent of the people of Western Sahara. Consent may be presumed provided that the agreement in question does

not give rise to any obligation for that people and that the people receives a specific, tangible, substantial and verifiable benefit from the exploitation of the territory's natural resources 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.

Any new agreement relevant to Western Sahara and the import of goods from that territory must be in full compliance with Union law. The Union remains committed to ensuring that the trade flows developed over the years are not disrupted. For reasons of legal certainty of the international commitments to which the Union has agreed, the Court of Justice allowed the effects of the Agreement in the form of an Exchange of Letters to continue to apply for a period of 12 months from the date of delivery of the judgment.

On 29 May 2017, the Council first 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, in accordance with the judgment delivered by the Court in Case C-104/16 P. At the time, an agreement between the European Union and the Kingdom of Morocco was the only means of ensuring that the import of products originating in Western Sahara could benefit from preferential origin, given that only the Moroccan authorities are able to ensure compliance with the rules necessary for the granting of such preferences.

Today, these same arguments remain valid. On 10 September 2025, the Council authorised the Commission to open negotiations with Morocco. In accordance with the Court's case-law, the Commission has negotiated with Morocco a new Agreement in the form of an Exchange of Letters between the European Union and the Kingdom of Morocco in order to incorporate the relevant provisions and guarantees stemming from the Court's judgment, while maintaining the preferential treatment of goods originating in the territory of Western Sahara.

- **Consistency with existing provisions in the policy area**

The proposed agreement will provide legal certainty for economic operators based in the Union and Western Sahara who currently benefit from preferential tariffs. It will also address shortcomings in the 2018 Agreement.

- **Consistency with other Union policies**

The proposed agreement will further support the strengthening of close relations with Morocco in all areas of the EU-Morocco Partnership and should be seen as contributing to the sustainable development of local economies in Africa.

The EU attaches high value to its strategic partnership with Morocco, which is long-standing, wide-ranging and deep.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

The legal basis for the proposed Council Decision is Article 207, read in conjunction with Article 218(6)(a)(i) of the Treaty on the Functioning of the European Union (TFEU), as it is a matter falling under the common commercial policy.

- **Subsidiarity (for non-exclusive competence)**

The common commercial policy is a matter of exclusive competence of the Union (Article 3(1) TFEU) and, in accordance with Article 5(3) of the Treaty on European Union (TEU), the subsidiarity principle does not apply in areas of exclusive competence.

- **Proportionality**

The proposal constitutes a proportionate response to the matter raised.

The Agreement will not change the degree of access to the Union market for products originating in Western Sahara that existed before the Court's judgment of 4 October 2024.

The rules of origin are laid down in Protocol 4 to the Association Agreement; amendments are being made to the Protocol to achieve the aim pursued and respond within a reasonable time frame to current commercial uncertainty affecting exports to the Union of products from Western Sahara, without prejudice to the procedure implemented by the UN in relation to Western Sahara or the final outcome of the dispute.

Consequently, the proposal for a Council Decision relating to the conclusion of 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, does not go beyond what is necessary or appropriate in order to achieve the stated objectives.

- **Choice of instrument**

The protocols in question can only be amended by agreement between the parties. This also applies to the cooperation required between authorities to implement the trade preferences.

The proposed Agreement takes the form of an Exchange of Letters between the European Union and the Kingdom of Morocco. Such an agreement 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.

3. RESULTS OF EX POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Impact assessment**

Since 2020, the European Commission has produced four consecutive impact assessment reports on the impact and benefits of the Agreement in the form of an Exchange of Letters on the people of Western Sahara. The last report was published in April 2024 and provides an assessment of the impacts during the 2023 calendar year¹⁰.

- **Fundamental rights**

The proposal does not affect the fundamental rights set out in the Charter of Fundamental Rights of the European Union.

4. BUDGETARY IMPLICATIONS

The budgetary implications concern the waiver of the duty levied on goods originating in Western Sahara. In 2023, this amounted to an estimated EUR 44.4 million in non-collected duties on the basis of the preferential treatment applied.

A regular control mechanism enables it to be verified whether the benefit granted to the people in question under that agreement is in fact received by that people.

¹⁰ Report on the impact and benefits for the population of Western Sahara of the extension of tariff preferences to products originating in Western Sahara - European Commission

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Proposal for a

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on the conclusion, on behalf of the European Union, of the Agreement in the form of an Exchange of Letters amending 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, in conjunction with point (a)(i) of Article 218(6) thereof,

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament,

Whereas:

- (1) In accordance with Council Decision [XXX] of [...] [add reference in footnote], 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 new Agreement in the form of an Exchange of Letters'), was signed on [...] and was applied provisionally from [...], subject to its conclusion at a later date.
- (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 part¹¹ ('the Association Agreement') entered into force on 1 March 2000.
- (3) In its judgment in Case C-104/16 P¹², the Court of Justice specified that the Association Agreement covered the territory of the Kingdom of Morocco alone and not Western Sahara, which is a non-self-governing territory distinct from the Kingdom of Morocco.
- (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 Agreement¹³ ('the

¹¹ OJ L 70, 18.3.2000, p. 2.

¹² Judgment of the Court of Justice of 21 December 2016, *Council of the European Union v Front Polisario*, C-104/16 P.

¹³ 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 2019, L 34, p. 4).

Agreement in the form of an Exchange of Letters'), which was signed on 25 October 2018. The Agreement was approved by Council Decision (EU) 2019/217 of 28 January 2019 on the conclusion of the agreement in the form of an Exchange of Letters¹⁴.

- (5) As a consequence of the judgment in Joined Cases C-779/21 P and C-799/21 P, the effects of Council Decision (EU) 2019/217 of 28 January 2019 on the conclusion of the Agreement in the form of an Exchange of Letters¹⁵ cease on 4 October 2025.
- (6) It is important to ensure that the trade flows 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 in Joined Cases C-779/21 P and C-799/21 P.
- (7) In successive Commission staff working documents¹⁶, the European 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 P¹⁷, the Court of Justice ruled that any agreement with Morocco concerning Western Sahara must have the consent of the people of Western Sahara. Moreover, the Court held that consent may be presumed provided that the agreement in question does not give rise to any obligation for that people and that the people receives a specific, tangible, substantial and verifiable benefit from the exploitation of Western Saharan territory's natural resources 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-399/22¹⁸, 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 the Union Customs Code and, consequently, of Regulation (EU) No 1308/2013 and Commission Implementing Regulation No 543/2011 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. In accordance with the conditions established by the Court of Justice of the European Union 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.

¹⁴ OJ L 34, 6.2.2019, p. 1.

¹⁵ OJ L 34, 6.2.2019, p. 1.

¹⁶ Report on the impact and benefits for the population of Western Sahara of the extension of tariff preferences to products originating in Western Sahara - European Commission

¹⁷ Judgment of the Court of Justice of 4 October 2024 in Joined Cases C-779/21 P and C-799/21 P, *Council of the European Union v Front Polisario*.

¹⁸ Judgment of the Court of Justice of 4 October 2024 on a request for a preliminary ruling, *Confédération paysanne*, C-399/22.

- (10) This new Agreement extends the bilateral tariff preferences granted by 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, to products originating in the territory of Western Sahara which are subject to controls by the Moroccan customs authorities.
- (11) 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 that 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 the fisheries sector.
- (12) 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 EU consumers are properly informed, the new agreement 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 Agreement 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.
- (13) According to the Union declaration, made when the new Agreement in the form of an Exchange of Letters was 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 Exchange of Letters will be implemented by the parties. At the same time, the Union will increase its humanitarian aid to the Tindouf camps. This aid will be channelled through relevant Union and UN 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.
- (14) A regular monitoring mechanism will be established in accordance with paragraph 153 of the judgment in Joined Cases C-779/21 P and C-799/21 P, including the joint assessment mechanism.
- (15) 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.
- (16) The new Agreement in the form of an Exchange of Letters and the declaration made by the Union when signing the Agreement should be approved,

HAS ADOPTED THIS DECISION:

Article 1

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, is hereby approved.

Article 2

The declaration made by the Union when signing the Agreement is hereby approved.

Article 3

This Decision shall enter into force on the [...] day following that of its publication in the *Official Journal of the European Union*.

Done at Brussels,

*For the Council
The President*



EUROPEAN
COMMISSION

Brussels, 18.9.2025
COM(2025) 534 final

ANNEXES 1 to 2

SENSITIVE*

ANNEXES

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

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ANNEX 1

DRAFT 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

A. Letter from the Union

Dear Sir,

I write with reference to the negotiations that took place as part of 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 Association Agreement'), concerning the amendment of certain protocols to the Agreement.

Following those negotiations, the European Union and the Kingdom of Morocco have agreed the following:

The two parties refer to the Joint Declaration by the European Union and Morocco for the 14th meeting of the Association Council, held in Brussels on 27 June 2019, and to the national positions of the Member States of the Union as put forward by their competent national authorities.

Referring to its Declaration of XX.XX.XX, the European Union has agreed with the Kingdom of Morocco that the following Joint Declaration is to be inserted after Protocol 4 to the Association Agreement:

'Joint declaration concerning the application 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 Association Agreement")

- (1) Products originating in Western Sahara subject to controls by the customs authorities of the Kingdom of Morocco shall benefit from the same trade preferences as those granted by the European Union to products covered by the Association Agreement.
- (2) Protocol 4 shall apply *mutatis mutandis* for the purposes of defining the originating status of the products referred to in paragraph 1, including with regard to proof of origin¹.
- (3) The customs authorities of the Member States of the European Union and of the Kingdom of Morocco shall be responsible for ensuring that Protocol 4 is applied to those products.
- (4) The European Union and the Kingdom of Morocco have agreed to allow the products covered by paragraph 1 to be identified by reference to the region of origin given on the proof of origin provided for in Protocol 4.
- (5) With respect to the products referred to in paragraph 1, the European Union may grant the competent Moroccan authorities the necessary authorisations to draw up

¹ The Kingdom of Morocco customs authorities shall be responsible for applying the provisions of Protocol 4 for the products referred to in paragraph 1.

certificates of conformity proving compliance with Union marketing standards, in accordance with Union legislation.

- (6) The European Union and the Kingdom of Morocco agree that products of the fruit and vegetables sector covered by this Agreement shall feature a label indicating their place of origin as given on the certificates of origin pursuant to paragraph 4 above.'

The European Union and the Kingdom of Morocco reaffirm their commitment to applying the protocols in accordance with the provisions of the Association Agreement concerning respect for fundamental freedoms and human rights.

The insertion of the joint declaration is based on the long-standing special partnership between the European Union and the Kingdom of Morocco, as notably embodied in the advanced status awarded to the Kingdom of Morocco, and on the parties' shared desire to deepen and expand the partnership.

In this spirit of partnership and in order to allow the parties to assess the impact of the Agreement, particularly on sustainable development and with regard to the advantages stemming from this Agreement and the exploitation of the natural resources of the territories in question, the European Union and the Kingdom of Morocco have agreed to exchange information at least once a year by means of the Association Committee.

The specific arrangements for this evaluation exercise will be determined at a later date before being adopted by the Association Committee at the latest two months after the entry into force of this Agreement.

This Agreement can be applied provisionally by mutual agreement notified by an exchange of notifications between the parties, with effect from the date of the signature authorised by the Council of the European Union.

This Agreement takes effect the day after the date on which the parties notify the completion of the internal procedures for its adoption.

This Agreement replaces the Agreement from 2018.

I would be obliged if you would confirm that your Government is in agreement with the above.

Yours faithfully,

B. Letter from the Kingdom of Morocco

I have the honour to acknowledge receipt of your letter of today's date, which reads as follows:

'Dear Sir,

I write with reference to the negotiations that took place as part of 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 Association Agreement'), concerning the amendment of certain protocols to the Agreement.

Following those negotiations, the European Union and the Kingdom of Morocco have agreed the following:

The two parties refer to the Joint Declaration by the European Union and Morocco for the 14th meeting of the Association Council, held in Brussels on 27 June 2019, and to the national positions of the Member States of the Union as put forward by their competent national authorities.

Referring to its Declaration of XX.XX.XX, the European Union has agreed with the Kingdom of Morocco that the following Joint Declaration is to be inserted after Protocol 4 to the Association Agreement:

'Joint declaration concerning the application 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 Association Agreement")'

- (1) Products originating in Western Sahara subject to controls by the customs authorities of the Kingdom of Morocco shall benefit from the same trade preferences as those granted by the European Union to products covered by the Association Agreement.
- (2) Protocol 4 shall apply *mutatis mutandis* for the purposes of defining the originating status of the products referred to in paragraph 1, including with regard to proof of origin².
- (3) The customs authorities of the Member States of the European Union and of the Kingdom of Morocco shall be responsible for ensuring that Protocol 4 is applied to those products.
- (4) The European Union and the Kingdom of Morocco have agreed to allow the products covered by paragraph 1 to be identified by reference to the region of origin given on the proof of origin provided for in Protocol 4.
- (5) With respect to the products referred to in paragraph 1, the European Union may grant the competent Moroccan authorities the necessary authorisations to draw up certificates of conformity proving compliance with Union marketing standards, in accordance with Union legislation.
- (6) The European Union and the Kingdom of Morocco agree that products of the fruit and vegetables sector covered by this Agreement shall feature a label indicating their place of origin as given on the certificates of origin pursuant to paragraph 4 above.'

² The Kingdom of Morocco customs authorities shall be responsible for applying the provisions of Protocol 4 for the products referred to in paragraph 1.

The European Union and the Kingdom of Morocco reaffirm their commitment to applying the protocols in accordance with the provisions of the Association Agreement concerning respect for fundamental freedoms and human rights.

The insertion of the joint declaration is based on the long-standing special partnership between the European Union and the Kingdom of Morocco, as notably embodied in the advanced status awarded to the Kingdom of Morocco, and on the parties' shared desire to deepen and expand the partnership.

In this spirit of partnership and in order to allow the parties to assess the impact of the Agreement, particularly on sustainable development and with regard to the advantages stemming from this Agreement and the exploitation of the natural resources of the territories in question, the European Union and the Kingdom of Morocco have agreed to exchange information at least once a year by means of the Association Committee.

The specific arrangements for this evaluation exercise will be determined at a later date before being adopted by the Association Committee at the latest two months after the entry into force of this Agreement.

This Agreement can be applied provisionally by mutual agreement notified by an exchange of notifications between the parties, with effect from the date of the signature authorised by the Council of the European Union.

This Agreement takes effect the day after the date on which the parties notify the completion of the internal procedures for its adoption.

This Agreement replaces the Agreement from 2018.

I would be obliged if you would confirm that your Government is in agreement with the above.

Yours faithfully,'

I can confirm that my Government takes note of all the above points and expresses its agreement with the content of this letter.

ANNEX 2

Declaration of the European Union of XXX 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.

In accordance with the judgment of the Court of Justice of the European Union ('the Court') of 4 October 2024 in Joined Cases C-779/21 P and C-799/21 P, and in order to provide specific, tangible, substantial and verifiable benefits for the group of beneficiaries referred to in paragraph 153 of that judgment, the European Union will first provide funding for the region focusing on key sectors, such as water including irrigation, energy, combating desertification, and water desalination in line with the principle of sustainable development. The joint assessment mechanism provided for in the Exchange of Letters will be implemented by the parties.

At the same time, the EU will increase its humanitarian aid to the Tindouf camps. This aid will be channelled through relevant European Union and UN mechanisms, and will be subject to the same operational arrangements that have always been in place for humanitarian action.

Moreover, the European Union will support suitable programmes in sectors such as education, culture and skills.

A regular control mechanism will be established in accordance with paragraph 153 of the above-mentioned judgment, including the joint assessment mechanism.