Report:

LABEL AND LIABILITY

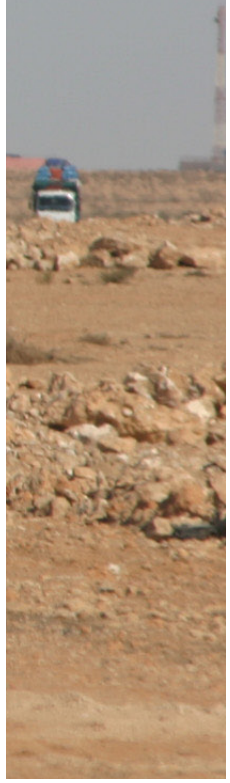
- How the EU turns a blind eye to falsely stamped agricultural products made by Morocco in occupied Western Sahara.

On 1 July 2012, a new agricultural agreement between the EU and Morocco is expected to enter into force.

The agreement will give a boost to the agricultural industry in Western Sahara – a territory that Morocco illegally occupies. The products are grown on the plantation lands of the Moroccan king, and of French agricultural companies, and end up in European supermarkets, labelled as coming from 'Morocco'.

This report documents how this controversial export trade and mislabelling occur and the consequences of such practices.

WSRW
Western Sahara Resource Watch
EMMAUS
STOCKHOLM



FOREWORD

On 1 July 2012, a new trade agreement between the EU and Morocco is expected to enter into force, pending Morocco's ratification. The agreement will allow ever greater volumes of agricultural products from the occupied territory of Western Sahara to reach the EU market erroneously labelled as from "Morocco".

How is this trade and false labelling possible? After all, Western Sahara is not part of Morocco. The larger part of the territory is illegally occupied by its neighbour to the north.

This report reveals a two-fold problem.

Firstly, it shows how unaware European consumers unwittingly contribute to perpetuating an illegitimate and brutal occupation with dire human rights consequences, by purchasing products that are being systematically mislabelled with the wrong country of origin. The report reveals the incoherence in the EU's approach to origin issues, and describes the EU consumer's rights to be properly informed. It also identifies the vegetable labels which the ethically minded EU consumers should avoid, and names grocery retailers that fail the obligation to label their products correctly. The report reveals how the systematic malpractice can be traced back to two little known certification offices in the Saharan cities of El Aaiun and Dakhla.

Secondly, the report shows how the EU has failed to limit the geographical scope of the new trade agreement, so that Western Sahara is not specifically excluded from its application. In this way, there is a danger that the agricultural products made in Western Sahara are given preferential tariff treatment upon exports to Europe. In contrast, the EU has put in place arrangements to prevent goods produced in Palestine to be exported with preferences under the EU-Israel free trade cooperation.

The report 'Label and Liability' is a follow-up of the 'Conflict Tomatoes' report by Western Sahara Resource Watch and Emmaus Stockholm in February 2012, which revealed the booming Moroccan agri-production in the occupied territory. Information concerning the actual production on the ground in Western Sahara, which was presented in the former report (mainly pages 3,4,13-15,20) is reproduced in this new and extended edition.

The report is researched and written by Western Sahara Resource Watch (WSRW) with the generous financial support from the network member organisation Emmaus Stockholm.

The two organisations recommend the EU to immediately put a halt to the practice which has allowed Western Sahara goods be labelled "Produit du Maroc".

Brussels/Stockholm, 18 June 2012

WESTERN SAHARA
occupied colony

Morocco is illegally occupying its neighbouring country, Western Sahara. While the people of Western Sahara are legitimately struggling for liberty, the territory is treated by the UN as the last remaining colonial issue in Africa. Morocco's occupation is contrary to the International Court of Justice's 1975 Western Sahara opinion[1], and violates more than 100 UN resolutions which acknowledge the right of Western Sahara's people to self-determination.

The Moroccan occupation of the former Spanish colony took place in a highly violent manner. As Moroccan air forces bombed local Western Sahara settlements with napalm bombs, a majority of the indigenous Saharawis were forced to leave their homes, and flee to the Algerian desert. There, they still live. The Saharawis remaining in the occupied territory are subjected to severe human rights violations if they speak out for their legitimate demands for independence. At the time this report was published, the secretary-general of the Saharawi association that works for the protection of natural resources in Western Sahara has been in military jail for 19 months, still without a trial.

Morocco is today turning the agricultural industry into a driving force behind populating the territory with settlers. In 2008, the agricultural sector around Dakhla employed around 4,000 seasonal workers with 10-month contracts, and approximately 200 permanent employees[2]. In 2010, the total number of workers in Dakhla's agribusiness had reached 6,480.[3] Most of the workers are of Moroccan origin. As we will see later: The outlook for future growth is highly worrisome.

" The General Assembly deeply deplores the aggravation of the situation resulting from the continued occupation of Western Sahara by Morocco".

UN General Assembly res. 34/37, as the Moroccan forces entered the territory where the tomato production is now taking place.

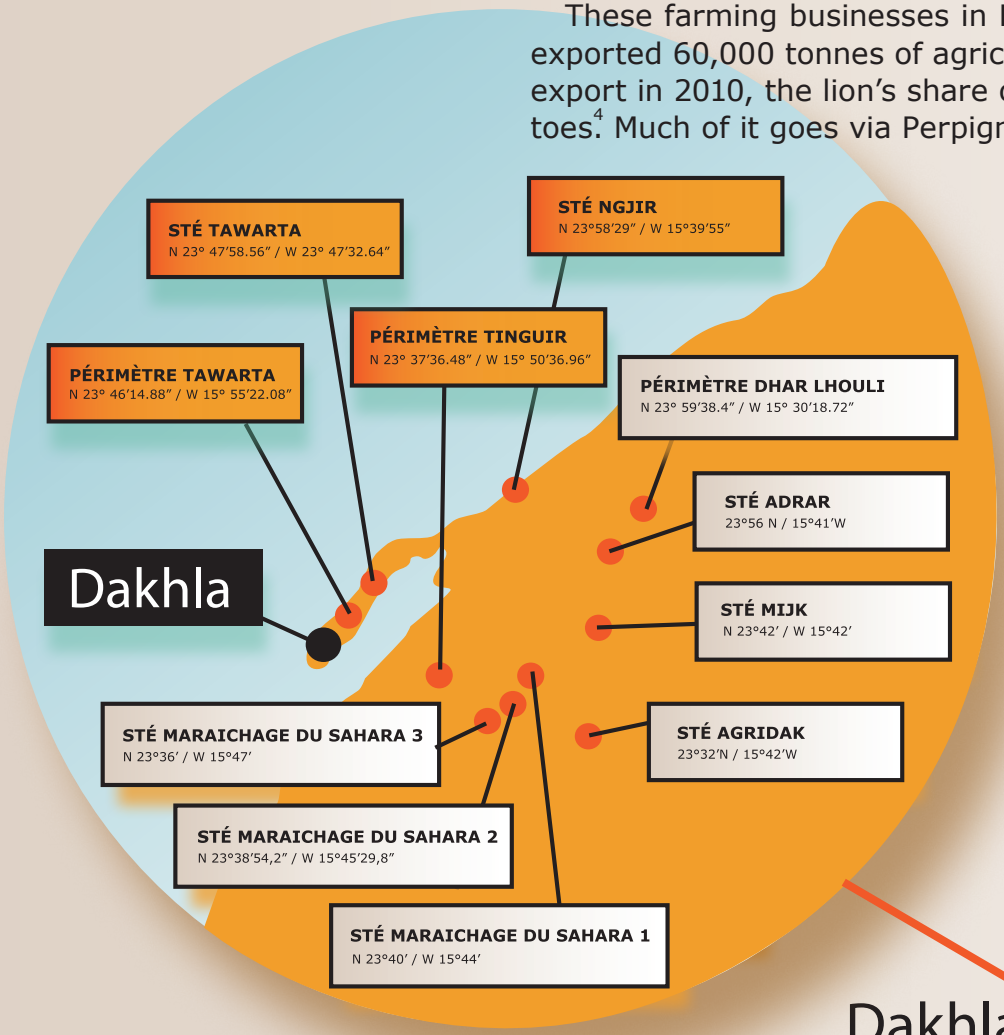
Half of the Western Sahara population lives in refugee camps in Algeria. Many originate from the lands in Dakhla that are now allocated to commercial farming. The UN legal office has concluded that the wishes of the Saharawi people must be respected in matters of natural resources in Western Sahara.

CONTROVERSIAL AGREEMENT

WSRW has identified 11 agricultural sites in the vicinity of Dakhla, in occupied Western Sahara. Our research shows that all sites were either owned by the Moroccan king, powerful Moroccan conglomerates or by French multinational firms. No firms are owned by the local Saharawi and not even by small-scale Moroccan settlers in the territory.

These farming businesses in Dakhla would have exported 60,000 tonnes of agricultural produce for export in 2010, the lion's share of which are tomatoes.[4] Much of it goes via Perpignan, France.

The agriculture is export-oriented: 95% of the tomatoes, cucumbers and melons produced in occupied land reach foreign markets.[5] At the same time, European farmers oppose the EU-Morocco agricultural agreement as they fear that the increase of trade concessions in fruits and vegetables from Morocco will severely damage the EU's own industry.[6] By importing from Western Sahara, the EU undermines international law, and complicates the UN peace efforts in Western Sahara, which include talks on the territory's natural resources.



AGREEMENT ENFORCED

On 1 July 2012, the controversial EU-Morocco trade agreement is expected to enter into force.[7]

The arrangement allows for the liberalisation of trade in agricultural and fishery products. More specifically, it will allow Morocco to immediately liberalise 45% of the value of imports from the European Union, while the Community will liberalise 55% of its imports from Morocco. The agreement also provides for increased concessions in the fruit and vegetable sector, in which Moroccan products account for 80% of the EU's imports.[8]

The new trade regime grants an almost total liberalisation for most products, but contains volume restrictions or tariff quotas for a list of products which are considered "sensitive" to the European Union; tomatoes, cucumbers, strawberries, courgettes, garlic and citrus fruits.[9] However, the new quotas are set much higher than the quotas established in a similar, previous accord. In the case of tomatoes, the basic quota was extended from 185,000 tonnes to 257,000 tonnes, representing an increase of 39 percent. The tomatoes can be exported to the Union anytime between October and May of each year,[10] competing directly with tomato exports from the Canary Islands and southern Spanish regions to Europe.[11]

After 1 July 2012, an increased amount of fruits and vegetables from Morocco will therefore enter the European market. Among them be produce from Western Sahara, as the agreement fails to specify that it applies only to the territory of Morocco proper, and not to the three-quarters of Western Sahara under Moroccan occupation since 1975.

The 'Agreement between the EU and Morocco concerning reciprocal liberalisation measores on agricultural products and fisheries products' will soon enter into force. The agreement is an extension of the 2000 'EU-Morocco Association Agreement'.

BARELY ACCEPTED

The EU-Morocco trade agreement was only concluded after considerable doubt.

Many raised questions over the vague territorial scope of the deal, which leaves it to Morocco to determine the borders of its national territory. Two of the three Parliamentary rapporteurs, of the Committee on Agriculture and Rural Development and the Committee for International Trade, appointed to examine the proposed agreement, recommended that Parliament withhold its consent.[12]

The legal concerns resulting from the possible inclusion of Western Sahara in the territorial scope of the new agreement were part of their concern.[13]

On 16 February 2012, under intense pressure from the European Commission, the European Parliament consented to the new agreement; 369 MEPs voted in favour, 225 against and 31 abstained. The Parliament had only few months before blocked further EU fisheries offshore Western Sahara, mostly out of concern over the conflict.[14]

Many parliamentarians were in fact under the impression that agri-industry doesn't exist in Western Sahara.

"So far there is practically no agricultural activity in Western Sahara", wrote the Commissioner for Neighbourhood Policy to the parliamentarians.[15] The figures from the Commission were later corrected following the publication of the WSRW report 'Conflict Tomatoes'.[16]

The European Commission was pleased with the positive outcome in Parliament. The Commissioner for Agriculture and Rural Development was quoted saying: "this is an important agreement, not only in economic terms, but also in political terms."[17] Catherine Ashton, EU foreign policy chief, added that "the vote also sends a strong message to our partners in the Southern Neighbourhood that we are serious in our promises to respond to their reform efforts. I trust that this is only the beginning of a new phase in EU-Moroccan relations".[18]

Even though political arguments were used to defend the agreement, the EU failed to see the political consequences for the question of Western Sahara.

THE LABELLING OFFICES

In two discrete offices in Western Sahara, a Moroccan agency systematically labels the locally produced goods as of Moroccan origin.

The EU has granted Morocco an 'approved status' to carry out conformity checks with marketing standards applicable to fresh fruits and vegetables, prior to import into the European Union.[19] In 2002, the EU accredited the specially assigned Moroccan export control agency EACCE to undertake this task.[20,21]

The EACCE, an agency under the Moroccan Ministry for Agriculture, is set up to control and coordinate the organisation of the export market of fruits and vegetables.[22] As such, the EACCE is responsible for issuing export and phytosanitary certificates, so that the products comply with Morocco's international and bilateral regulations in terms of quantity and quality. These certificates bear reference to the origin of the products. In essence, it supplies the 'Maroc' label.[23]

The EACCE has today 21 regional offices, located at the heart of production and packaging zones. The offices are spread throughout Morocco - and Western Sahara.[24]

EU regulations state clearly that "the approval [by third countries prior to import to the Union] may only apply to products originating in the third country concerned".[25] The fact that the EACCE operates outside of the internationally recognised borders of Morocco, and has consequently not been presenting the Union correct information on the origins of produce in the certificates, constitutes a serious breach which goes to the root of the delegated conformity checks scheme.

The export of tomatoes is only possible from exporters which are certified by the EACCE and certification must be renewed annually.[26] The procedures employed for managing the quotas tend to benefit large exporter groups.[27] The EACCE also manages export quotas.

The website of the Moroccan agency EACCE shows certification offices in Western Sahara and even indicates the offices' addresses. www.eacce.org.ma

THE LABELLING OFFICES

The EACCE certification office in Dakhla, occupied Western Sahara, is located at the address Bd. El Ouala, hay My Rachid Imm. Al baraka, 1er étage, Appt no. 6, Dakhla.

THE LABELLING OFFICES

Under Moroccan flag:
The EACCE office in El Aaiun is located next to the harbour, across the street from the local police and gendarmerie station.
This local branch is mostly engaged in the certification of fisheries products.
Address: Résidence Jamal, Bd. Abderrahim Bouabid, Al Marsa.

LABELS TO LOOK FOR

'Azura'

With an innocent logo of a ladybird, the brand name 'Azura' has conquered vegetable shelves all over Europe, particularly with their cherry tomatoes. The brand, managed by the Azura Group, is controlled by Moroccan Mohamed Tazi and Frenchmen Jean-Marie Le Gall and Pierrick Puech. Local production in Morocco/Western Sahara is done by their company Maraissa. The produce is in turn imported to their company in Perpignan, Disma International.[28] The group holds four packaging stations in Agadir, Morocco. These also pack the tomatoes and melons from Western Sahara, where their first plantation was constructed in 2006.[29]

Our research reveals that the two French-Moroccan labels Azura and Idyl receive tomatoes from at least 4 of the 11 identified plantations in this report. These cherry tomatoes were bought in the French supermarket Inter Marché.

*** Help us! Do you know anything about these labels? Send us your tips at coordinator@wsrw.org.**

*** Read more about the labels and their owners on www.wsrw.org**

LABELS TO LOOK FOR

'Idyl' and 'Etoile du Sud'

Cluster tomatoes, cherry tomatoes, elongated cherry tomatoes and melons, all produced in Dakhla,[30] are marketed under the brand names 'Etoile du Sud' and 'Idyl' and sold all over Europe.

The company behind it, Idyl, was created in 1996, based on the experience of Pierrick Puech,[31] one of the pioneers behind the Azura Group. Idyl set up its first plant in Dakhla around 2006 with the help of the local businessman, Hassan Derhem.[32] Idyl's export to Europe is coordinated through their distribution platform located at Châteaurenard, France. Idyl's director is Philippe Puech.[33] The company is often referred to as part of 'Groupe Soprofel'.[34]

'Les Domaines'

The plantations owned by Morocco's King Mohammed VI in the occupied territory produce both tomatoes and melons – under the label 'Les Domaines'. The production company, 'Les Domaines Agricoles' (formerly 'Les Domaines Royaux'), has put in place the 'Groupe d'Exportation des Domaines Agricoles' (GEDA), responsible for storing, packaging and shipping the royal production around the globe.[35] This export company has in turn a deal with the French company FRULEXXO in Perpignan, which acts as GEDA's exclusive commercial platform for France. FRULEXXO has a warehouse in Rotterdam for deliveries to northern Europe, as well as a subsidiary in Alicante, 'Eurextra', which markets and distributes its Moroccan products in Spain.[36]

AH... WHERE?

To make the tracing of Western Sahara produce even more difficult: the tomatoes can even be sold under the label of known European grocery chains.

The leading Dutch supermarket Albert Heijn, for instance, labels the tomatoes as if they were their own.

From December to March every year, Albert Heijn imports part of their tomato range from Dakhla, Western Sahara. These specific tomato varieties are being sold under the store brand 'AH', and are labelled as 'from Morocco'.

When first approached by a customer regarding the precise origin of the tomatoes, Albert Heijn replied that all of its Moroccan imports came from Agadir in Morocco. After additional requests to the company on the traceability of these 'Agadir' tomatoes, Albert Heijn acknowledged that a limited part of their tomato assortment was actually imported from the producer Azura in Dakhla. Neither the correct origin of the tomatoes, nor the name or logo of the producer appear anywhere on the packaging of the controversial baby-plum and cherry tomatoes.

Albert Heijn stated to the customer that they would give the issue of Western Sahara "due thought" and would "assess the situation". Later, they concluded that its imports "meet national and international law and regulations".

"We will, as long as the government does not decide to boycott products or countries, leave the choice to our customers", they wrote. The chain stated also that they would "have to provide our customers enough information".

The company fails to explain how the consumers can make informed decisions without being properly informed. With 856 shops around the country[37] and a market share of 33.5% in 2011[38], Albert Heijn is today the biggest supermarket chain in the Netherlands.

No logo, wrong origin. Labelled under its own brand name, Albert Heijn is in fact selling Azura tomatoes made in occupied Western Sahara. The group also controls other chains in Europe, such as the ICA shops in Sweden.

BIG BOOST, BIGGER PLANS

In recent years, the agricultural production of the farms near the town of Dakhla has shown a tremendous boost: vegetable production increased by 2,800% between 2002-2003 and 2008-2009, while the production of fruits went up 500% during the same period.[39]

The Moroccan Ministry of Agriculture and Maritime Fisheries estimates the cultivable area of the southern parts of Western Sahara at about 1,000,000 hectares. The most recent available official data indicate that in mid-2009, 646 hectares had been equipped for agricultural activity, out of which 588 hectares were already being exploited.[40] These cultivated zones all lay within 11 larger irrigated agricultural sites which spanned around 1.894 hectares at the time. All of these farms are located in a radius of 70 kilometres from the town of Dakhla.[41]

The Moroccan government aims to increase agricultural activity in Dakhla in the years to come. The Regional Agricultural Plan foresees the expansion of areas for early season crops from the 588 hectares in 2008 to reach 2,000 hectares by 2020. The plan also stipulates an increase of greenhouse production from 36,000 tons (in 2008) to 80.000 tons in 2013 and 160,000 tons in 2020. That increased production will be destined exclusively for export. The number of people working in the region's agricultural sector is expected to triple by 2020.[42]

To achieve this objective, 11 projects have been identified and evaluated. Ten of these projects focus on the extension of surface areas planted with early season crops. In addition, a packaging station with a capacity of 4 tons/hour will be constructed.[43]

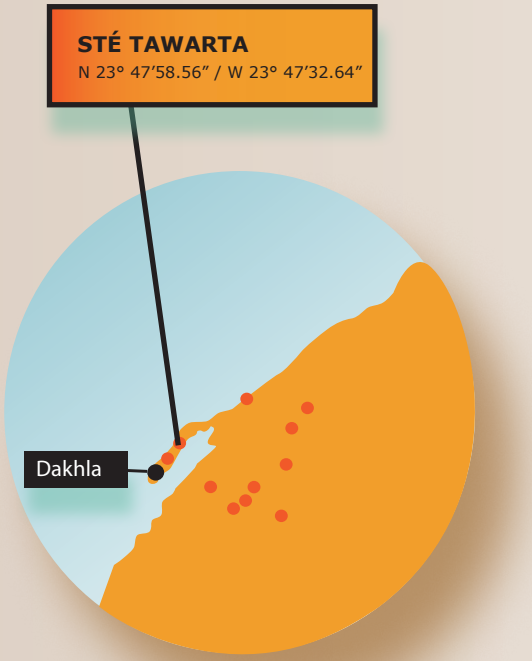
The Moroccan government markets agricultural activities around Dakhla as an investment opportunity. A large part of the people of the Dakhla region that used to inhabit the lands before are now living in the refugee camps in Algerian desert following the Mauritanian-Moroccan invasion. The idle lands are now marketed as reserves available for the industry.[44]

Domain	Exploited area in 2008 (ha)	Equipped area in 2008 (ha)
Perimètre Tawarta	37	37
Dhar El Houli	15*	40
Tiniguir	81	81
Tawarta	57	57
Maraîchage du Sahara	211	229
Mijik	90	90
Negjir	76	76
Adrar	24	24
Agridak	12	12
TOTAL	588	646

Source: The Moroccan Ministry of Agriculture and Maritime Fisheries.

** Estimate based on La Gazette du Maroc*

Commenting on the WSRW report 'Conflict Tomatoes', the European Commission in May 2012 gave updated figures on the acreage, which confirmed our information.



TAWARTA:
the French involvement

Constructed in 2002, the French-Moroccan owned Tawarta is the only farm which is located on the Oued-Eddahab peninsula, at about 11 km from the town of Dakhla. All other farms are located inland, on the other side of the bay. They've been built in so called graras – dales in the Saharan desert's terrain which offer protection from the wind, and which have a richer soil.[45]

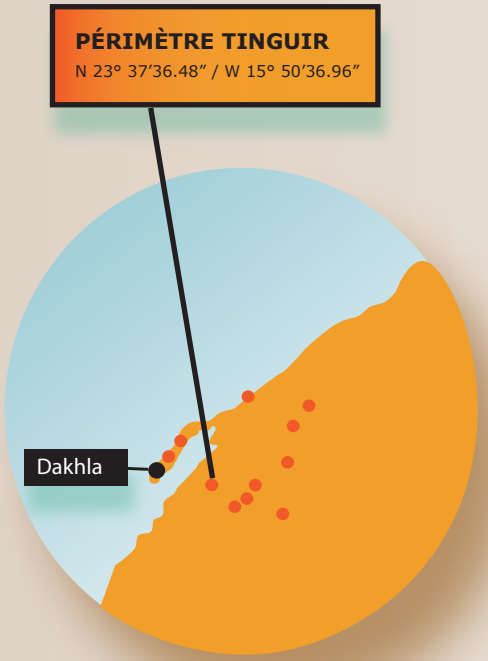
The Tawarta company owns two sites on the peninsula; one for greenhouse crop growing and another for cultivation in the field. The crops grown in the field are mainly forage crops, particularly the alfalfa for intensive dairy farming.

Tawarta's vocation is the production of melons and tomatoes, above ground and in greenhouses.[46] In Dakhla, the company owns one of the largest cherry and cocktail tomato farms in "Morocco".

The zone is equipped with a gravity irrigation system connected to three storage and cooling basins with a capacity of 1,660 m³. The company operates two deep wells, both more than 500 meters deep, pumping up water reserves from non-renewable underground water basins at a speed of 13-14 litres per second.[47] The plant is endowed with a desalination station and a fertigation station.[48]

Once the tomatoes are picked, they are immediately transported to the loading dock, which is at the heart of the farm. From the loading docks, the produce is transferred into refrigerated trucks that transport the produce to Agadir – 1,200 kilometres to the north. After a trip of 20 hours, the produce is stored in Agadir before being exported abroad,[49] labelled as "Moroccan".

Agricultural products form the Tawarta plantations in the occupied territories of Western Sahara find their way to EU supermarkets.



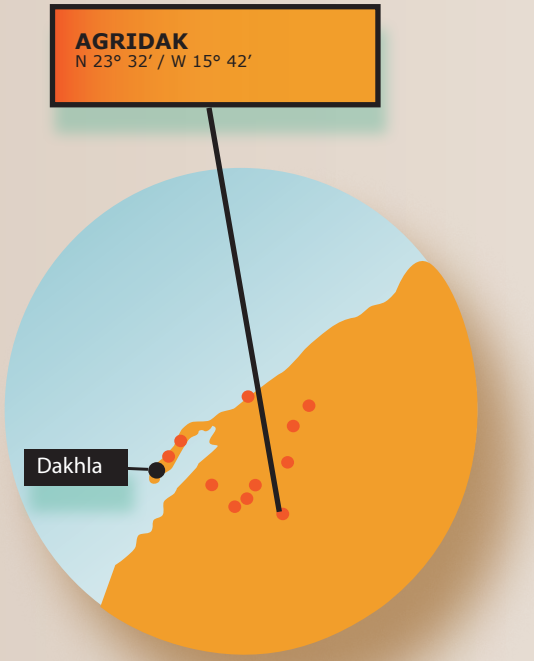
TINIGUIR:
the King's property

At approximately 50 kilometres from Dakhla town, lies Tiniguir, known locally as the Royal Domain. Tiniguir is one of the farms of Domaines Agricoles, a subsidiary of the royal holding company Siger.[50] The farm was created in 1989 at the instruction of the late King Hassan II.[51] Tiniguir was the pilot project for greenhouse agriculture in the Dakhla region, in an attempt to break the city's dependence on the fisheries sector.[52]

The domain spans an area of 2,500 hectares, of which 500 to 600 hectares are suitable for agriculture.[53] According to the Moroccan Ministry of Agriculture, 81 hectares were being exploited in 2008,[54] covered by greenhouses and equipped with a dripping network. The irrigation of the perimeter is assured by wells pumping up in total 153 litres of water per second.[55]

The tomato and the melon are at the centre of the greenhouse cultivations, and assure very high yields (300 tonnes/ha and 60 tonnes/ha, respectively).[56] In addition, Tiniguir focuses on products such as bananas, pineapples and cucumbers.[57]

The Moroccan king is one of the world's wealthiest rulers, and an investor in the plantation industry in the occupied Western Sahara. This is a poster of his portrait in Western Sahara, hanging in front of a police patrol.



AGRIDAK:

Moroccan mayor's dominion

The Agridak site is the smallest and most westward located of all the identified plantations. The farm is owned by the Groupe Kabbage, active in many sectors of the Moroccan economy. One of the Groupe's subsidiaries is Domaines Abbes Kabbage (DAK), the group's agricultural branch. DAK owns 2,000 hectares of farmland in Morocco.[58] In 2009, the Moroccan government estimated the Agridak site in Dakhla at 30 hectares.[59]

Groupe Kabbage is headed by the mayor of Agadir, Tariq Kabbage. Together with his brother Chems, Tariq Kabbage leads a conglomerate active in real estate, fisheries and agricultural projects at home[60] and abroad: he has invested in agricultural projects in Brazil, together with his associate Aziz Akhannouch, Morocco's current Minister for Fisheries and Agriculture.[61]

Groupe Kabbage owns two packaging plants in Morocco proper, Société Kabbage Souss and Sociéte Kabbage Massa, to condition DAK's fruits and vegetables, before they are transported abroad. The company managing the exports and the commercialisation of Groupe Kabbage's produce is GPA.[62] Their main market is the European Union.[63]

The fishing town of Dakhla has experienced a booming agricultural industry, as the Moroccan king wanted to diversify the economy of the region. Main beneficiaries are the Moroccan king himself, French companies - and the mayor of Agadir.

PALESTINE PARADOX

A warehouse complex in Châteaurenard in Southern France, 80 km from Marseille, illustrates the incoherence of the EU's approach to international law.

For pro-Palestinian groups in Europe, the address of 696, Chemin Du Barret has been known as the location of an important en gros facility for commercialisation of products of the Israeli company Mehadrin in France. Much of their production is allegedly made from illegal settlements on occupied Palestinian land.

At the very same address, coincidentally, one can find the French company Idyl, importing agricultural produce from occupied Western Sahara.

The EU refuses to give tariff preference to vegetables from occupied Palestine,[64] but has not yet put in question the imports of the same vegetables from occupied Western Sahara.

In 2005, the EU introduced a so-called 'Technical Arrangement' with Israel. This was designed to stop Israeli settlement goods from being given trade preferences upon entering the EU market. The EU concluded that Israeli settlements were outside Israel's recognised borders and so outside the scope of the EU-Israel Association trade agreement.

The EU will thus not treat Mehadrin goods from occupied territories as if they were Israeli.

But the company Idyl, headquartered at the same address, get their low tariffs the way they want, and as if it all were produced within the borders of Morocco.

Saharawi protesting against French company Idyl, in front of 696, Chemin du Barret, in Châteaurenard, Southern France. The address illustrates an interesting paradox in EU practice: this specific neighbourhood receives agricultural products from both occupied Palestine and Western Sahara. The products from the two occupied territories are treated in different ways by the EU.

LAW AGAINST LYING LABELS

In 2005, the EU passed the Unfair Commercial Practices Directive into law making it an offence to provide information which is false or misleading or to omit material information that might make the consumer buy goods they otherwise would not.[65] This included that the labelling of origin should be correct.[66]

How can a consumer then know that apparently innocent Moroccan produce is in fact grown in occupied Western Sahara?

In December 2011, WSRW wrote a letter to EU Commissioner for Consumer Affairs asking what his office will do to make sure that produce from Western Sahara is not labelled as being Moroccan. Replying that this particular matter did not fall under his remit, the Commissioner forwarded the letter to the EU foreign policy chief assuring that they would promptly reply. Four months later, WSRW is still awaiting an answer.[67]

The same dilemma of false origin is much debated when it comes to Palestine.

In December 2009, the UK government's Food Ministry thus issued consumer labelling guidance for produce originating from illegal Israel's settlements in the West Bank. The government informed retailers that labelling produce from the West Bank as 'Israel' would therefore be unlawful because it was outside Israel's recognised borders. The UK government advised retailers to label the products 'Produce of the West Bank (Israeli settlement produce).'

It was on this basis that one retailer in the UK stopped selling goods from areas "where there is a broad international consensus that the status of a settlement is illegal. There are only two examples of such settlements: the Israeli settlements in the Palestinian Occupied Territories and the Moroccan settlements in Western Sahara."[68] The grocery chain stopped selling tomatoes from Mehadrin.

EU - WORST IN CLASS

"Morocco does not have the right to exploit the area's resources as if they were its own", stated the Norwegian Minister for Foreign Affairs on Western Sahara trade.[69] Norway and the rest of the European EFTA free trade cooperation do not consider Western Sahara produce to be encompassed by their trade agreements with Morocco.

In 2011, a Norwegian company received a 1.2 million Euro fine for having falsely applied the EFTA free trade agreement with Morocco to import products from Western Sahara erroneously declared as "Moroccan".[70]

Even though no state in the world recognises Morocco's claim to Western Sahara, the EU, however, still applies the Moroccan preferential treatment to goods from the territory.

In a case parallel to the the trade agreement, regarding the issue of EU's former fisheries in Western Sahara, the EU has been clearly violating international law in Western Sahara, according to leading experts on international law. The former UN Legal Counsel, who wrote in 2002 a report on the legality of the natural resource activitity, later stated that it is "obvious that an agreement…that does not make a distinction between the waters adjacent to Western Sahara and the waters adjacent to the territory of Morocco would violate international law". Corell added: "As a European I feel embarrassed".[71] EU member states also underlined the same position. On December 14, 2011 the EU Parliament ended fishing by EU member states in the waters of Western Sahara.[72]

Following statements by EU Commissioner for Agriculture Dacian Cioloș on his intention to improve the entrance price regime for imports from third countries, WSRW wrote the Commissioner a letter in April 2012 requesting a specification be considered to differentiate between the territory of Western Sahara and Morocco.[73]

As it stands, products from Western Sahara are entering the European market under the same preferential price regime accorded to Moroccan products through bilateral agreements. But Western Sahara is not Morocco, and therefore another price regime should be employed for products from the occupied zone. To date, no reply has been received.

EU grocery chains taking responsibility

"It turns out that the tomatoes are from Dakhla in occupied Western Sahara, so we are not going to sell them anymore. These things are not supposed to happen", stated media officer Ingmar Kroon at the Swedish grocery chain Axfood.

"I know the Western Sahara issue well. Of course we should not sell products from an occupied territory".

Media officer of Swedish grocery chain Axfood

When Axfood carried out its first control, they were told that the tomatoes were from "Southern Morocco", but when looking further into the issue, they discovered they were from Dakhla. Azura stated to Axfood that EU's agreement with Morocco also covers Western Sahara.

"But we are not of that opinion", stated Mr. Kroon.[74] In 2011, Finnish grocery chain Kesko communicated its decision to refrain from buying any more tomatoes from French firm Azura due to the Western Sahara issue.[75] Similar decisions were made by the large grocery chain Coop in Sweden and Norway.[76] Coinciding, all vaguely labelled fisheries products from Morocco were permanently kicked out of the shelves of Co-operative Group of UK in December 2011.

Saharawis marginalised

"We don't benefit at all from the Moroccan agricultural businesses", stated El Mami Amar Salem, president of the Committee Against Torture in Western Sahara. Mr. Amar Salem lives in Dakhla and has observed the controversial industry developing rapidly over the years. His town is a good place for greenhouses. With more than 300 sunny days a year, Dakhla receives 30% more sunshine than Agadir – one of the agricultural hotspots in Morocco proper.[77]

"The people who work on these farms are Moroccans, not Saharawi. They work on the farms for months on end, and live in government sponsored housing programmes. Meanwhile, the Saharawi population in Dakhla remains unemployed", stated Mr. Amar Salem.

"The only ones who really benefit are the owners of these plantations: they benefit from tax exonerations, etc, so their profits don't even flow back to the Dakhla area", he said.

"The fruits and vegetables are not even consumed locally. All the time, we see big trucks leaving the plantations, heading north of out town", he stated.

RECOMMENDATIONS

Recommendations

To the European Union's Member States:

1. Western Sahara Resource Watch and Emmaus Stockholm call on the Member States to ensure that produce from occupied Western Sahara is banned from entering their markets.
2. EU Directive 2005/29/EC regarding Unfair Commercial Practices bestows the Member States with the duty to enforce compliance with its provisions, in the interest of consumers. In view of Article 6 of the Directive, on misleading actions which include false information on geographical origins, we call upon the Member States to verify if retailers in their national jurisdiction are mislabelling Western Saharan produce as from Morocco, and to take appropriate measures when infringements are established.

To the European Commission:

1. As an immediate action, European Commission should ensure that there are no increases in any imports from Western Sahara under the new EU-Morocco trade agreement after it enters into force on July 1, 2012.
2. The Commission must clarify the territorial scope of the Agreement with Morocco. Any agreement between the EU and Morocco can only apply to the territory which is recognised under international law as "Morocco". As a result, any waiving of import duties can only be applied to Moroccan produce, not to Western Saharan produce. The Commission must inform importers that they cannot claim preference when importing goods from Western Sahara.
3. If Morocco's national authority EACCE proceeds to erroneously label Western Saharan products as Moroccan, the EU must suspend Morocco's approved status to carry out conformity checks of fruits and vegetables prior to their import into the Union, pursuant to Article 16 of Regulation (EU) 543/2011. The Regulation permits the EU to suspend "if it is found that, in a significant number of lots and/or quantities, the goods do not correspond to the information in the certificates of conformity issued by the third country inspection bodies". Any resumption of the EACCE's status should be contingent on a continuing demonstration that it is not dealing in or representing the conformity of any agricultural product subject to the Regulation which has originated in the territory of Western Sahara.

To the retailers:

1. We call upon all retailers to immediately stop all sales of produce from Western Sahara.
2. We ask all retailers to verify whether their agricultural and fisheries products claimed to be 'product of Morocco', do not in reality come from Western Sahara, and stop selling from suppliers that systematically mislabel Western Saharan produce.
3. We urge retailers to comply with the Unfair Commercial Practices Directive (2005/29/EC) by not mislabelling produce from Western Sahara as "Produce of Morocco".

To the consumers:

1. To not purchase products from Western Sahara.
2. To question the grocery stores about the true origin of all products that claim to be "Moroccan".

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1. "Thus the Court has not found legal ties of such a nature as might affect the application of General Assembly resolution 1514 (XV) in the decolonization of Western Sahara and, in particular, of the principle of self-determination through the free and genuine expression of the will of the peoples of the Territory". (International Court of Justice, Advisory Opinion of 16 October 1975, http://www.icj-cij.org/docket/files/61/6197.pdf

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Article 6

Misleading actions

1. A commercial practice shall be regarded as misleading if it contains false information and is therefore untruthful or in any way, including overall presentation, deceives or is likely to deceive the average consumer, even if the information is factually correct, in relation to one or more of the following elements, and in either case causes or is likely to cause him to take a transactional decision that he would not have taken otherwise: [...]

(b) the main characteristics of the product, such as its availability, benefits, risks, execution, composition, accessories, aftersale customer assistance and complaint handling, method and date of manufacture or provision, delivery, fitness for purpose, usage, quantity, specification, ***geographical*** *or commercial* ***origin*** *or the results to be expected from its use, or the results and material features of tests or checks carried out on the product;* [Emphasis added]

EU Directive 2005/29, Unfair Commercial Practices Directive

This report is researched and written by Western Sahara Resource Watch with generous financial support from Emmaus Stockholm.
www.wsrw.org / www.emmausstockholm.se
Published: 18 June 2012
Lay-out: Grete Haukelid, Berit Dalnoki

Photo: Anette Karlsen