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REPORT

containing a motion for a non-legislative resolution on 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
(0481/2018 – C8-0000/2018 – 2018/0256M(NLE))

Committee on International Trade

Rapporteur: Patricia Lalonde

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MOTION FOR A EUROPEAN PARLIAMENT NON-LEGISLATIVE RESOLUTION

**on 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
(0481/2018 – C8-0000/2018– 2018/0256M(NLE))**

The European Parliament,

- having regard to the Euro-Mediterranean Agreement establishing an association between the European Union and its Member States, of the one part, and the Kingdom of Morocco, of the other part,
- having regard to the Agreement between the EU and Morocco concerning reciprocal liberalisation measures on agricultural products and fishery products, also referred to as the Liberalisation Agreement, which entered into force on 1 September 2013,
- having regard to the General Court judgment (Case T-512/12) of 10 December 2015,
- having regard to the CJEU judgment (Case C-104/16 P) of 21 December 2016,
- having regard to the European Commission proposals of 11 June 2018 for conclusion and signature, on behalf of the European Union, 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 (2018/0256 (NLE), 2018/0257 (NLE)),
- having regard to Commission staff working document SWD(2018)0346 of 11 June 2018, which accompanies the proposal for a Council decision,
- having regard to the Vienna Convention on the Law of Treaties of 23 May 1969 and its Articles 34 and 36,
- having regard to the report of the Secretary-General on the situation concerning Western Sahara to the United Nations Security Council (S/2018/277),
- having regard to United Nations Security Council resolution 2414 (2018) on the situation concerning Western Sahara (S/RES/2414 (2018)),
- having regard to the Charter of the United Nations, in particular to its Article 73 in Chapter XI regarding Non-Self-Governing Territories
- having regard to the Treaty on European Union, in particular its Article 21 in Chapter 1, Title V,
- having regard to the Treaty on the Functioning of the European Union, in particular its Article 218(6)(a),

- having regard to its legislative resolution of ...¹ on the draft Council decision,
 - having regard to Rule 99(2) of its Rules of Procedure,
 - having regard to the report of the Committee on International Trade and the opinions of the Committee on Foreign Affairs, the Committee on Agriculture and Rural Development and the Committee on Fisheries (A8-0000/2018),
- A. whereas the European Union and the Kingdom of Morocco keep historical relations, maintain a close cooperation developed through a broad partnership that covers political, economic and social aspects, as strengthened by the Advanced Status and the willingness of both parties to further develop it
 - B. whereas the Liberalisation Agreement between the EU and Morocco entered into force on 1 September 2013; whereas the Front Polisario referred the agreement to the CJEU on 19 November 2012 for violating international law in applying to the territory of Western Sahara;
 - C. whereas on 10 December 2015 the first instance of the Court repealed the Council decision to conclude the Liberalisation Agreement; whereas the Council, unanimously on February 19, 2016, appealed this judgment;
 - D. whereas the CJEU General Court in its judgment of 21 December 2016 determined that the Liberalisation Agreement did not provide a legal basis for Western Sahara to be included, and therefore could not apply to this territory;
 - E. whereas paragraph 106 of the judgment states that the people of Western Sahara must be regarded as a ‘third party’ to the agreement – within the meaning of the principle of the relative effect of treaties – whose consent must be received for the implementation of the agreement to the territory; whereas, therefore, this agreement could not extend its application to the territory of Western Sahara in the absence of a further agreement;

INCORRECT: the consent of the people of Western Sahara must be obtained not only for the implementation of the agreement to the territory, but first and foremost for the conclusion of this agreement.

- F. whereas operators can still export to the European Union from Western Sahara, but since 21 December 2016 tariff preferences do not apply to products originating from this territory;

MISLEADING

This paragraph ignores the fact that the EU cannot recognize Morocco’s legal capacity to deliver sanitary, phytosanitary and traceability certificates for goods originated in Western Sahara, since this would imply EU recognition of Morocco’s sovereignty over Western Sahara. The ruling of the CJEU on the “separate and distinct nature” of Morocco and Western Sahara also applies to EU trade with this territory that may take place before the entry into force of the proposed agreement. Economic operators exporting goods from Western Sahara to the EU with Moroccan certificates are hence at odds with EU requirements and exposed to potential legal action, notably from the POLISARIO Front.

- G. whereas there is insufficient information available that would enable the EU customs authorities to determine whether products exported from Morocco originate in Western Sahara, therefore preventing compliance with the CJEU ruling;

MISLEADING

Morocco has a legal obligation under the EU-Morocco Trade Liberalization Agreement to ensure that goods with a certificate of origin of Morocco effectively originate from Morocco within its internationally recognized borders (ie excluding Western Sahara). The Commission has an obligation to ensure compliance and to take immediate and effective action in case of doubt.

- H. whereas, following the CJEU judgment, the Council gave the Commission a mandate to modify the protocols 1 and 4 of the Euro-Mediterranean Association Agreement in order to allow for the inclusion of Western Saharan products; whereas their inclusion by definition necessitates some form of traceability to identify such products;

INCORRECT

As stated by the Commission (Reply of 28 February 2017 to PETI regarding the labeling of products imported from third countries), EU legislation provides for mandatory labeling covering the geographical origin of food products when the omission of the information “causes or is likely to cause the average consumer to take a transactional decision that he would not have taken otherwise”. The INTA reference to “some form of traceability” is hence at odds with the requirements under EU legislation; instead, “full traceability and correct labeling” is necessary.

- I. whereas ensuring the Agreement complies with the judgment of the Court of Justice of the European Union of 21 December 2016 in Case C-104/16P is essential;
- J. whereas the Commission and the European External Action Service (EEAS) consulted, in Brussels and in Rabat, elected officials and several representatives and associations

¹ Texts adopted, P8_TA(0000)0000.

of the civil society from the non-self-governing territory of Western Sahara;

- K. whereas Parliament considered it necessary to go and assess the situation at first hand and gain an understanding of the different views of the people; and recalled the conclusions of the fact-finding INTA mission to the territory on September 2nd and 3rd, 2018;

MISLEADING

The visit to Western Sahara by the Trade committee (not Parliament as a whole, as erroneously stated) did not allow for the participating MEPs to properly assess the situation on the ground (<https://www.wsrw.org/a106x4281>). It only went to the occupied part of Western Sahara and did not visit the third of the territory under Polisario control and the refugee camps where close to half of the Saharawi people live. Nearly 80% of the INTA visit programme was spent on meeting Moroccan interlocutors or with actors that have a direct (economic or political) interest in having the proposed Protocol approved. The MEPs only included 3 MEPs from the political groups of ALDE, Greens/EFA and EFDD that represent only 20% of the political composition of the EP.

The conclusions of the “fact-finding INTA mission” were under the exclusive responsibility of the former Rapporteur Lalonde; participating MEP Hautala distanced herself from these conclusions (<https://euobserver.com/opinion/143054>). MEP Lalonde subsequently resigned from her rapporteurship after serious allegations of conflict of interest. This would warrant the deletion of any reference to the INTA fact-finding mission in this report.

- L. whereas the modification of the Liberalisation Agreement takes place within a broader political and geopolitical context;
- M. whereas there is a more than forty year-long conflict in the area, following the end of the Spanish colonialization of Western Sahara;

FALSE

The UN (4th Committee) continues to reference Spain as the administrative power responsible for Western Sahara (<https://undocs.org/en/A/73/64>) and hence Spanish colonization has not yet formally been acknowledged as having ended by the UN. In this regard, the subsequent recital refers to Western Sahara as “a non-decolonized territory”. Moreover, Spain continues to be responsible for instance of the airspace over Western Sahara.

- N. whereas Western Sahara is considered by the United Nations as a non-decolonized territory;
- O. whereas the United Nations Security Council resolution 2440 (2018) has prolonged the MINURSO mandate for an additional six month period;
- P. whereas the EU and its Member States do not recognise the sovereignty of Morocco over the territory of Western Sahara; whereas the United Nations and the African Union recognise the Front Polisario as the representative of the people of Western Sahara;
- Q. whereas the United Nations lists Western Sahara as a Non-Self-Governing Territory for the purposes of Article 73 of the Charter;

1. Recalls that Morocco is a privileged EU partner in the Southern Neighbourhood, with which the EU has built up a strong, strategic and long-lasting partnership that covers political, economic and social aspects, as well as security and migration; highlights that Morocco has been granted advanced status within the European Neighbourhood Policy (ENP);

IRRELEVANT: According to the EU Court of Justice, Morocco and Western Sahara are “distinct and separate territories”; the proposed agreement is about the latter not the former. The USA and the EFTA countries have trade agreements with Morocco that do not include Western Sahara yet allow for a close relationship with Morocco nonetheless. The European Investment Bank (an other EU institutions) also refuses to provide funding in occupied Western Sahara (<https://uk.reuters.com/article/morocco-solar-idUKL5N0L92J220140204>).

2. Stresses that it is important for this agreement to give guarantees regarding respect for international law, including human rights, and to comply with the relevant ruling by the Court of Justice of the European Union;

CORRECT: Under the EU Treaty, all EU institutions are obliged to uphold international law, including human rights, in all their external dealings; moreover, rulings of the CJEU apply to all EU institutions including the European Parliament; if the agreement fails to meet these obligations, it will be annulled by the CJEU, and entail further political, financial and reputational costs for the EU as a whole;

3. Recalls the obligation under Article 21 of the Treaty on European Union (TEU) for the EU and its Member States to respect the principles of the United Nations Charter and international law; underlines, in this respect, that Article 2 of the UN Charter includes respect for the principle of the self-determination of peoples;

CORRECT: Under the EU Treaty, all EU institutions are obliged to uphold international law, including human rights, in all their external dealings; the CJEU placed (the EU’s failure to respect) the right to self-determination of the Saharawi people at the heart of its rulings on Western Sahara;

4. Recalls that, according to Article 21 of the TEU, the Union’s action on the international scene shall be guided by the principles of democracy, the rule of law, the universality and indivisibility of human rights and fundamental freedoms and respect for the principles of the United Nation Charter and international law;

CORRECT: Under the EU Treaty, all EU institutions are obliged to uphold international law, including human rights, in all their external dealings; the CJEU placed (the EU’s failure to respect) the right to self-determination of the Saharawi people at the heart of its rulings on Western Sahara; the proposed agreement violates the (human) right to self-determination and the principle of territorial integrity, both are fundamental principles under the UN Charter and international law;

5. Stresses that this agreement does not imply any form of recognition of Morocco’s sovereignty over Western Sahara, presently listed by the United Nations as a non self-governing territory, large parts of which are currently administered by the Kingdom of

Morocco and insists that the EU's position remains that of supporting UN efforts to secure a just, lasting and mutually acceptable solution to the conflict in Western Sahara that will provide for the self-determination of the people of Western Sahara, in

accordance with international law, the UN Charter and the relevant UN resolutions; reiterates therefore, its full support to the UN Secretary-General's Personal Envoy for Western Sahara, Mr Horst Köhler, in helping to bring the parties back to the UN negotiation table in order to achieve this settlement; calls on the parties to resume these negotiations without preconditions and in good faith; emphasises that ratification of the amended Liberalisation Agreement between the EU and Morocco has to be strictly without prejudice to the outcome of the peace process over Western Sahara;

FALSE

1) Contrary to the assertion in the first sentence of this paragraph, the agreement (illegally) recognizes Morocco's sovereignty over Western Sahara. Indeed, the agreement was negotiated by the Commission with the Moroccan authorities and on the basis of data exclusively provided by Morocco; the Commission did not travel to Western Sahara during the negotiations; the agreement assimilates products from Western Sahara to Moroccan ones and these products will be indicated with a certificate of origin from Morocco; it recognizes Moroccan authorities as the sole legitimate bodies to deliver the required certificates for the goods concerned; the EU Delegation in Morocco will be in charge of monitoring the implementation of the agreement.

2) Two thirds of Western Sahara are illegally occupied by Morocco, not "administered" (the CJEU stated that Morocco refuses to be considered as the administrative power of the territory, which it has annexed).

3) According to international law, the duty of non-recognition goes further from merely refraining from formal recognition and includes the obligation to abstain from entering into treaties, diplomatic and consular relations, and economic and other forms of relationship or dealings with Morocco on behalf or concerning Western Sahara "which may entrench its authority over the Territory" (ICJ, Advisory opinion, Namibia case, 21 June 1971). The Advocate General in his opinion in C-104/15 reached the same conclusion : "84. [...] the Council does not explain at all how it might be lawfully possible to apply an agreement concluded with a country in a certain territory without recognising that that country has any legal competence or authority in that territory [...].

85. On the contrary, in my view, **applicability necessarily and inevitably implies recognition.**

4) The EU is undermining not "supporting" UN efforts. Indeed, through this agreement, the EU will further entrench the political and economic interests of Morocco in Western Sahara (the economic sectors to gain from preferential access to the EU market are Moroccan-owned) and hence disincentive Rabat in engaging in earnest in the UN talks. Also, through this agreement which excludes a third of Western Sahara that is under the control of the POLISARIO Front, the EU will further divide the territory and its people, in violation of their right to self-determination, and go against a solution concerning the people of Western Sahara as a whole. Finally, by refusing to acknowledge the UN-recognised representative of the Saharawi people, the Front Polisario, as the prime and sole interlocutor in relation to the agreement and instead by engaging with interlocutors established or elected under Moroccan law, it undermines the Polisario's legitimacy in the UN talks.

6. Points out that a meeting of the parties involved in the conflict was held in Geneva in early December on the initiative of the UN and with the participation of Algeria and Mauritania, and hopes that meeting will help kick-start the peace process;

CORRECT: The first formal round of UN-sponsored talks took place in December. This agreement will be adopted before the UN talks enter substantial discussions. Since it further entrenches the political and economic interests of Morocco in Western Sahara (the economic sectors to gain from preferential access to the EU market are Moroccan-owned), this agreement will disincentive Rabat in engaging in earnest in the future UN talks. Also, by refusing to acknowledge the UN-recognised representative of the Saharawi people, the Front Polisario as the prime and sole interlocutor in relation to the agreement and instead by engaging with interlocutors established or elected under Moroccan law, it undermines the Polisario's legitimacy in the UN talks.

7. Recognises the two conditions set in the CJEU judgment, to explicitly mention Western Sahara in the Agreement text and to obtain the consent of the people, as well as the third criterion added by the Council which is the need to ensure that it benefits the local population;

CORRECT: the CJEU explicitly stated that the issue of benefits was irrelevant.

8. Stresses, as stated in the Commission report, that all reasonable and feasible steps have been taken to inquire about the consent of the population concerned, through these inclusive consultations;

FALSE:

1) The CJEU requirement was to obtain the consent of the Saharawi people, not to "inquire" about the consent of the "population". Consultations cannot replace the mandatory requirement of obtaining the consent.

2) These consultations were not "inclusive". The Commission carried out consultations in Rabat and Brussels, not in Western Sahara. These consultations took place after the agreement was negotiated and initialed with Rabat. Of the 112 'stakeholders' mentioned in the Commission's Staff Working Document, only 18 took part in the consultations. 94 of the mentioned groups were never invited or refused to take part. All 18 that did take part are either officials of the Moroccan government, or supporters of the Moroccan position. Not a single group that is critical to the Moroccan/EU presence in the occupied territory has taken part in the consultation. It is surprising that the INTA Committee, as co-legislator, would simply rubber stamp the Commission's claims of having taken "all reasonable and feasible steps" and that the "majority" of the stakeholders were in favour of the agreement.

9. Underlines that throughout the consultation process the Commission and the EEAS maintained regular contact with the team of the UN Secretary-General's Personal Envoy for Western Sahara to ensure that the proposed agreement supports UN efforts to achieve a lasting settlement;

MISLEADING

The INTA Committee makes an assertion exclusively on the basis of information coming from the Commission/EEAS, not UN sources. This paragraph is misleading since it implies that the agreement is UN-compatible, which is evidently not the case (see comments above on paragraphs 4, 5 and 6). It stands in stark contrast with the long-standing and principled position of the EU in general and the EP in particular, to support the efforts of the United Nations.

10. Takes note of the legitimate interests of the people in the territory and believes that a respected and accepted end to the ongoing conflict is required for the territory's economic development; is, at the same time, convinced that the Sahrawi people has the right to develop while awaiting a political solution;

MISLEADING

1) Due to the Moroccan occupation, the Saharawi people has been scattered between the occupied territory, the so-called liberated territory, the refugee camps and the diaspora. It is now a minority in its own territory as a result of a process of major demographic change by Morocco. The Saharawi people are largely excluded from the economic sectors that stand to gain from the agreement to the benefit of the Moroccan settlers and corporate owners. For instance, the Special Rapporteur on the right to food stated in her report on her mission to Morocco (12 February 2016 - A/HRC/31/51/Add.2) that Saharawi workers suffer systematic discrimination and are excluded from jobs created under the 2006 EU-Morocco Fisheries Partnership Agreement (see paras 56-60).

2) The INTA Committee's statement on what it claims to be the best interest of the Saharawi people (the "right to develop") reveals a disturbing neo-colonialist attitude. In this regard, the Front Polisario as the UN-recognised representative of the Saharawi people, has unequivocally denounced this agreement.

11. Notes in talks with various local actors and civil society representatives, that some parties express their support to the agreement by defending their right to economic development, while others consider that the settlement of the political conflict should precede the granting of trade preferences; notes that during inclusive consultations led by the Commission and the European External Action service (EEAS) with a range of Western Saharan organisations and other organisations and bodies, majority support was expressed, by the parties participating, for the socio-economic benefits the proposed tariff preferences would bring ;

FALSE

1) The INTA visit to Western Sahara did not allow for the participating MEPs to properly assess the positions on the ground. It only went to the occupied part of Western Sahara and ignored the third of the territory under Polisario control and the refugee camps where close to half of the Saharawi people live. Nearly 80% of the INTA visit programme was spent on meeting Moroccan interlocutors or with actors that have a direct (economic or political) interest in having the proposed Protocol approved. The MEPs only included 3 MEPs from ALDE, Greens/EFA and EFDD that represent only 20% of the political composition of the EP. The conclusions of the

“fact-finding INTA mission” were under the exclusive responsibility of the former Rapporteur Lalonde and participating MEP Hautala distanced herself from these conclusions (<https://euobserver.com/opinion/143054>). MEP Lalonde subsequently resigned from her rapporteurship under serious allegations of conflict of interest. This would warrant the deletion of any reference to the INTA fact-finding mission in this report.

2) The EEAS/Commission consultations were not “inclusive”. The Commission carried out consultations in Rabat and Brussels, not in Western Sahara. These consultations took place after the agreement was negotiated and initialed with Rabat. Of the 112 ‘stakeholders’ mentioned in the Commission’s Staff Working Document, only 18 took part in the consultations. 94 of the mentioned groups were never invited or refused to take part. All 18 that did take part are either officials of the Moroccan government, or supporters of the Moroccan position. Not a single group that is critical to the Moroccan/EU presence in the occupied territory has taken part in the consultation. It is rather extraordinary that INTA Committee would simply rubber stamp the Commission’s statements on an alleged “majority support”.

12. Recalls that the CJEU did not specify in its judgment how the people’s consent has to be expressed and considers therefore that some uncertainty remains as regards this criterion;

FALSE

The CJEU recalled the fact that the national liberation movement, Front Polisario is the UN-recognized representative of the Saharawi people. It is the only legitimate interlocutor that may express its people’s consent. The UN peace talks are between Morocco and Front Polisario and any body or elected official from the occupied part of Western Sahara is included within the Moroccan delegation during these talks. Besides, during the proceedings in Case T-512/12, the Commission stated “that it does not challenge the ‘capacity as representative of the Sahrawi people enjoyed by the Front Polisario which was recognised by the UN General Assembly’.” (para. 44).

13. Recognises that the agreement can bring promotion of social and sustainable development which is key to contribute to the present economic, social and environmental development and to the potential for creation of both low- and high-skilled local employment opportunities; notes that about 59 000 jobs are estimated to depend on exports, corresponding to roughly 10% of the population living in the territory;

SPECULATIVE

The INTA committee makes a statement which is purely speculative and cannot be factually backed. The figures provided in this paragraph are exclusively drawn from official Moroccan sources. The Commission itself states that “available data is often fragmentary” or “patchy and disparate” and acknowledges that it is “generally

impossible to distinguish Moroccan imports from Western Saharan imports”. There is no independent UN-commissioned analysis of the benefits of international trade agreements for Western Sahara. Moreover, the Commission stated that the “EU has no competence for or direct means of investigating the territory of Western Sahara”. The Commission also admits that it cannot distinguish between the Saharawi and Moroccan populations in terms of employment benefits, yet recognizes that the share of Saharawi employees in the affected sectors is minimal. Not a word is mentioned by the INTA committee on the overwhelming Moroccan ownership and employment structure of the sectors that stand to benefit from the agreement.

14. Believes that the EU tariff preferences have had a positive impact on the agricultural and fisheries products sectors and their export levels in the non-self-governing territory of Western Sahara; however remains cautious that these must produce local value added, be locally re-invested, and provide decent work to the local population;

SPECULATIVE

The CJEU ruled that the EU tariff preferences were applied illegally to Western Sahara. It is hence rather extraordinary to see the INTA committee praise the reportedly positive impact of an illegal act, denounced by the highest EU court. This reveals contempt by the legislative body for the judicial power.

The “positive impact” assessed by the INTA committee is purely speculative and cannot be factually backed. The figures provided in this paragraph are exclusively from the Moroccan authorities. The Commission itself states that “available data is often fragmentary” or “patchy and disparate” and acknowledges that it is “generally impossible to distinguish Moroccan imports from Western Saharan imports”. There is no independent UN-commissioned analysis of the benefits of international trade agreements for Western Sahara. Moreover, the Commission stated that the “EU has no competence for or direct means of investigating the territory of Western Sahara”. The Commission also admits that it cannot distinguish between the Saharawi and Moroccan populations in terms of employment benefits, yet recognizes that the share of Saharawi employees in the affected sectors is minimal. Not a word is mentioned on the overwhelming Moroccan ownership structure of the sectors that stand to benefit from the agreement. As regards “decent work”, it is to be noted that Morocco has banned independent trade unions from operating in Western Sahara.

The INTA Committee does not address the substantial loss for the EU budget that has resulted from the unfounded application by the Commission of tariff preferences to goods from Western Sahara until the CJEU ruling. This is rather an inexplicable omission from Parliament, who has as its core function the control of EU budget and of the EU executive.

15. Is convinced that, notwithstanding the outcome of the peace process, the local population will profit from economic development and the spill-over effects created in terms of investment in infrastructure, employment, health and education;

MISLEADING

The Saharawi people is a minority within its own territory due to the demographic engineering process by Morocco. The “local population” hence includes a majority of Moroccan settlers and excludes part of the Saharawi people living in the refugee camps. The INTA committee ignores the overwhelming Moroccan ownership and employment structure of the sectors that stand to benefit from the agreement. The INTA Committee’s (speculative) statement on the benefits of investment by the occupying force for the subjected people reveals a disturbing neo-colonialist attitude.

16. Acknowledges the existing investment in several sectors, and the endeavours to develop green technologies such as renewables and the seawater desalination plant; but insists

that further efforts are necessary to ensure increased inclusion in all parts of the local economy;

MISLEADING

The INTA Committee's (speculative) statement on the benefits of investment by the occupying force for the subjected people reveals a disturbing neo-colonialist attitude. It ignores the overwhelming Moroccan ownership and employment structure of the sectors that stand to benefit from the agreement.

17. Recognises business initiatives by Sahrawis, especially those coming from young people, many of whom are women, and highlights their need for extended export opportunities and legal certainty in order to allow for further investment in sectors with high employment demand, such as agriculture, fisheries and infrastructures;

PATRONIZING

1) The INTA Committee's reference to Saharawi youth and women, while ignoring the overwhelming Moroccan ownership and employment structure of the sectors that stand to benefit from the agreement (notably fisheries and agriculture) are deeply patronizing and manipulative.

2) The agreement will add legal uncertainty given that the Front Polisario has announced that it would pursue legal action against it and ultimately have the agreement annulled.

18. Recognises the strategic potential of Western Sahara as an investment hub for the rest of the African continent;

MISLEADING

This statement by the INTA committee is outlandish: Western Sahara is the last territory to be decolonized and faces a repressive occupation, a military stand-off and geopolitical tensions for decades. This raises questions as to the credibility of the INTA Committee's capacity to identify investment priorities worldwide.

19. Warns of the adverse effects of a non-application of tariff preferences on products from the non-self-governing territory of Western Sahara, and the message this sends to the younger generation investing or willing to invest in the territory and its potential to develop it; underlines the risk of activities being relocated to regions where they would benefit from the preferences; notes that, according to the Commission, the non-application of tariff preferences could deteriorate the economic and social situation of the local population in the concerned territories ;

MISLEADING

The past application of tariff preferences by the EU was illegal. The USA and EFTA countries do not grant tariff preferences to Western Sahara in light of the status of the territory and the UN process.

This paragraph ignores the overwhelming Moroccan ownership and employment structure of the sectors that stand to benefit from the agreement. It ignores the demographic engineering process by referring to the "local population" which includes the Saharawi people and Moroccan settlers.

20. Is convinced that an EU presence through, among other ways, this agreement is preferable to withdrawal when it comes to engagement in promoting and monitoring of human rights and individual freedoms, and demands a rigorous assessment and dialogue with Morocco part on these issues;

MISLEADING

- 1) The EU has never been “present” in Western Sahara except within the context of the illegal application of the EU-Morocco agreements therein, through sporadic visits of its EU delegation in Rabat or from headquarters (such as by DG SANCO). There is no permanent EU presence. Reportedly, the EU does not fund development assistance programmes in Western Sahara. It is also the only territory of the world that is not eligible to civil society grants under the European Instrument for Democracy and Human Rights or the CSO/NSA instrument. It is hence odd to see the INTA committee refer to “withdrawal”.
- 2) The CJEU has stated that Morocco and Western Sahara are separate and distinct territories; it is odd to see the INTA committee call on the EU to engage with Morocco in relation to Western Sahara.
- 3) The INTA committee does not refer to the current human rights situation in Western Sahara, which remains deeply problematic. This is surprising from the INTA committee who has traditionally been supportive of incorporating human rights within EU trade policy. Moreover, the INTA committee is totally silent as regards the fact that no Sustainability Impact Assessment has been carried out by the Commission prior to the negotiation and finalization of the agreement, contrary to standard practice (and commitments) of the EU in relation to international trade agreements.
21. Reminds that other parts of the world, taking a less ambitious approach in sustainable development, high labour and social standards as well as human rights are knocking on the door for new trade opportunities and will gain increased influence where the EU withdraws;

BLACKMAIL

- By this weak and unsubstantiated argument, the INTA committee lowers the threshold for the EU’s global engagement. It ignores that over 80% of Morocco’s trade is with the EU and that Morocco has little if any credible alternatives. Also, close partners such as the USA and EFTA countries have excluded trade agreements with Western Sahara precisely on ethical and legal grounds.
- In fact, this agreement will directly violate the core human right of self-determination and ignores the total lack of freedom of association and independent trade unions. Lastly, UN monitoring bodies - ILO or from the UN Office of the High Commissioner for Human Rights - are not allowed into the territory in order to monitor the respect for international standards (same for international human rights NGOs but also MEPS or journalists travelling outside a Moroccan officially sponsored visit).
22. Highlights that the EU’s ongoing engagement in the territory will have a positive leverage effect on its sustainable development;

MISLEADING

There is no “ongoing engagement” of the EU in Western Sahara except within the context of the illegal application of the EU-Morocco agreements. There is no permanent EU presence in the territory. Contrary to its near ubiquitous donor presence worldwide, the EU does not fund development assistance programmes in Western Sahara and hence sustainable development of that territory cannot be considered to constitute a priority for the EU.

23. Underlines that legal certainty is essential to attract sustainable and long-term investment in the territory and hence for the dynamism and diversification of the local economy;

FALSE

The agreement will add legal uncertainty given that the Front Polisario has announced that it would pursue legal action against it and ultimately have the agreement annulled. Any long-term investment, outside that of the occupying power, is highly unlikely in the absence of a political solution, which is further delayed by such trade agreements which benefit exclusively to one side of the conflict.

24. Recalls that, since the CJEU judgment, Member States cannot legally apply trade preferences to products from the non-autonomous territory of Western Sahara and that the legal uncertainty affecting economic operators has to come to an end;

CORRECT

The agreement will add legal uncertainty given that the Front Polisario has announced that it would pursue legal action against it and ultimately have the agreement annulled.

25. Is aware and very concerned that, until now, it has been extremely difficult to identify

which products are exported from the non-self-governing territory of Western Sahara;

CORRECT

The Commission itself states that “available data is often fragmentary” or “patchy and disparate” and acknowledges that it is “generally impossible to distinguish Moroccan imports from Western Saharan imports”.

26. Emphasises that a key criterion for Parliament to give its consent to the Agreement is to ensure that a mechanism will be put in place for Member States customs authorities to have access to reliable information on products originating in Western Sahara and imported to the EU, in full compliance with EU customs legislation; such a mechanism will make available detailed and disaggregated statistical data provided timely on such exports; recognises the efforts by the Commission and Morocco to try to find a solution to this request and calls on them to implement such a mechanism; calls on the Commission to use the corrective measures would the implementation of the agreement not be satisfying ;

FALSE

The INTA committee, and notably the initial Rapporteur Lalonde, has drastically backtracked on its initial firm requirement of a traceability mechanism and provides its backing to a unilateral Moroccan proposal which has no legal value, cannot provide accurate and accessible data and fails to meet requirements under EU consumer and trade legislation.

The Commission itself has stated that Morocco rejected its proposals for such a mechanism (so much for INTA “recognizing the efforts of Morocco”).

The INTA committee ignores that the database proposed by Morocco will not be able to provide accurate statistics since the data from the “southern provinces” corresponds to a territory which is larger than Western Sahara and includes parts of Morocco.

This database will not be accessible to the public nor allow for independent monitoring. It has no legal value since it is not included within the agreement. Finally, the mechanism will fail to respect the obligations under EU legislation on the origin of goods (see Commission’s statement to PETI in 2017). Therefore, the EU consumer and her legitimate right to know which products come from Western Sahara are ignored by the INTA committee.

27. Highlights that, without this agreement in force, including the mechanism allowing identification of products, it will be impossible to know whether, and how many, products originating in the non-self-governing territory of Western Sahara are entering the European market;

MANIPULATIVE

The INTA committee ignores the Treaty-based obligation of the Commission to ensure full compliance of EU trade with EU legislation, this includes adequate monitoring of the origin of products entering the EU. Without an agreement, the Commission is obliged anyway to ensure that Morocco does not export goods from Western Sahara that are indicated as originated from Morocco.

The EU consumer and her legitimate right to know which products come from Western Sahara are thus ignored by the INTA committee.

28. Emphasises that the implementation of the disposition agreed between the EU and Morocco of annual mutual exchange of information and statistics concerning products covered by the Exchange of Letters is necessary to evaluate the scope of the Agreement and its impact over development and local populations;

MISLEADING

The disposition agreed between the EU and Morocco has no legal value. The INTA committee ignores that the database proposed by Morocco will not be able to provide accurate statistics since the data from the “southern provinces” corresponds to a territory which is larger than Western Sahara and includes parts of Morocco. This database will not be accessible to the public nor allow for independent monitoring. Finally, the mechanism will fail to respect the obligations under EU legislation on the origin of goods (see Commission’s statement to PETI in 2017). The EU consumer and her legitimate right to know which products come from Western Sahara are ignored by the INTA committee.

29. Calls on the Commission and the EEAS to closely monitor the implementation and result of the agreement and to regularly report their findings to Parliament;
30. Points out that the EU and Morocco have negotiated, as set out in the initial agreement concluded in 2012, an ambitious and comprehensive agreement on protecting the geographical indications and designations of origin of agricultural products, processed agricultural products, fish and fishery products that provides for the protection by Morocco of the full list of the EU’s geographical indications; points out, furthermore, that the procedure for concluding the agreement, which began in 2015, was suspended following the Court’s judgment of 21 December 2016; Calls on the EU and Morocco to immediately resume that procedure and to return swiftly the negotiations on DCFTA negotiations;

IRRELEVANT

According to the CJEU, Morocco and Western Sahara are separate and distinct territories; this paragraph on geographical indications has no place in an international agreement concerning the latter.

31. Emphasises that the preferential treatment granted for certain Moroccan fruit and vegetable exports to the EU under the agreement of 8 March 2012 concerning reciprocal liberalisation measures on agricultural products, processed agricultural products, fish and fishery products is a particularly sensitive matter for Europe’s horticulture industry;

IRRELEVANT

According to the CJEU, Morocco and Western Sahara are separate and distinct territories; this paragraph has no place in an international agreement concerning the latter.

The INTA Commission recognizes that exports from occupied Western Sahara (and Morocco) represents unfair competition for EU operators, but does not draw the necessary conclusions in relation to the Commission proposals. INTA may thus appear to be more sensitive to the interests of Moroccan exporters in Western Sahara who run the sectors who stand to gain from this agreement than to their own EU-based industry.

32. Emphasises that access to the EU's internal market by all third countries should comply with EU sanitary, phytosanitary, traceability and environmental rules and standards;

CORRECT

This statement is correct, yet it fails to address how such compliance with EU legislation will be guaranteed, since the EU cannot recognize the legitimacy of Moroccan bodies to ensure these standards (including by granting the necessary veterinary certificates) in relation to goods from Western Sahara, over which the EU does not recognize Moroccan sovereignty.

33. Asks the Commission to promote equivalency of measures and controls between Morocco and the European Union in the area of sanitary, phytosanitary, traceability and environmental standards as well as labelling of origin rules, in order to guarantee fair competition between the two markets;

IRRELEVANT

According to the CJEU, Morocco and Western Sahara are separate and distinct territories; the EU cannot recognize the legitimacy of Moroccan bodies to ensure these standards (including by granting the necessary veterinary certificates) in relation to goods from Western Sahara, over which the EU does not recognize Moroccan sovereignty. Moreover, the agreement violates EU labeling of origin rules, since goods from Western Sahara will be indicated as of Moroccan origin (see the EU Commission's statement to PETI in 2017).

34. Recalls that the updated agreement does not alter the tariff rate quotas and the preferential import regime previously established, and only provides European producers with clarification on the geographical scope of the agreement;

FALSE

The agreement will not allow clarification for European producers (nor European consumers who are simply ignored by the INTA committee) since they will not be able to identify the origin of the goods, contrary to requirements under EU legislation: goods from Western Sahara will be indicated as from Morocco.

35. Draws attention to the fact that some of the fruit and vegetables exported preferentially to the EU under the terms of the agreement in question (including tomatoes and melons) come from the territory of Western Sahara, and points out that ambitious plans have been drawn up with a view to further developing such production and exports;

MISLEADING

The Report mistakenly refers to the earlier agreement under which fruit and vegetables were exported preferentially to the EU, without a legal basis. INTA ignores the substantial losses for the EU budget that was entailed by this erroneous application by the Commission. This is rather surprising coming from the Parliament who is the EU institution in charge of monitoring expenditure of the EU budget and the performance of the EU executive.

The “ambitious plans” that are mentioned in this paragraph reveal that INTA is well aware fhta the agreement will contribute to further entrenching Moroccan interests and presence in the occupied territory, including through aggravating the phenomenon of population transfer, a war crime justiciable under the Rome Statute of the International Criminal Court.

36. Takes note, nevertheless, of the clarification that the new agreement provides, and hopes that it will be able henceforth to provide a clear, stable framework between the parties of this agreement and for the economic operators concerned on both sides of the Mediterranean;

FALSE

The agreement does not add “clarification” but will add legal uncertainty given that the Front Polisario has announced that it would pursue legal action against it and ultimately have the agreement annulled. Economic operators will be exposed to additional legal risks.

37. Notes that the monitoring of sensitive agricultural products and the strict application of quotas are fundamental to the balanced functioning of the agreement; points out that Article 7 of Protocol 1 to the 2012 Agreement contains a safeguard clause making it possible for appropriate steps to be taken where imports of large quantities of agricultural products classed as sensitive under the agreement cause serious market distortion and/or serious harm to the industry concerned; hopes that preferential imports into the EU of sensitive agricultural products from Morocco and Western Sahara will be subject to appropriate and broad monitoring by the Commission, and that the Commission will still be ready to activate immediately the aforementioned clause where an established need arises;

MISLEADING

The Commission (nor EU Member States) does not have a permanent presence in Western Sahara. It is therefore highly doubtful that the Commission will be able to carry out “appropriate and broad monitoring”, also since it will continue to rely exclusively on data provided by Morocco and without alternative, independent sources of information. The fact that goods from Western Sahara were illegally exported to the EU with preferential treatment and for a protracted period without the Commission reacting or being able to provide data on the volume concerned, raises serious doubts regarding the capacity and willingness of the Commission to effectively monitor trade under the proposed agreement.

38. Takes note of the fact that EU fishing vessels operating in the waters concerned are legally obliged to have a Vessel Monitoring System (VMS) and that it is mandatory to transmit the position of a vessel to the Moroccan authorities, making it fully possible to track the vessels and to record where their fishing activities take place;
39. Calls on the EU to step up efforts to foster regional cooperation among the Maghreb countries, which can only have tremendous positive implications for the region and beyond;
40. Points to the strategic need for the EU to engage more closely with the countries in the Maghreb region and develop its ties with them; views the extension of the Association Agreement in this context as a logical component of this strategy;
41. Instructs its President to forward this resolution to the Council, the Commission and the European External Action Service.

21.11.2018

OPINION OF THE COMMITTEE ON FOREIGN AFFAIRS

for the Committee on International Trade

on 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
(2018/0256M(NLE))

Rapporteur for opinion: Anders Primdahl Vistisen

SUGGESTIONS

The Committee on Foreign Affairs calls on the Committee on International Trade, as the committee responsible, to incorporate the following suggestions into its motion for a resolution:

1. Recalls that Morocco is a privileged EU partner in the Southern Neighbourhood, with which the EU has built up a strong, strategic and long-lasting partnership that covers political, economic and social aspects, as well as security and migration; highlights that Morocco has been granted advanced status within the European Neighbourhood Policy (ENP);
2. Stresses that it is important for this agreement to give guarantees regarding respect for international law, including human rights, and to comply with the relevant ruling by the Court of Justice of the European Union;
3. Recalls the obligation under Article 21 of the Treaty on European Union (TEU) for the EU and its Member States to respect the principles of the United Nations Charter and international law; underlines, in this respect, that Article 2 of the UN Charter includes respect for the principle of the self-determination of peoples;
4. Stresses that this agreement does not imply any form of recognition of Morocco's sovereignty over Western Sahara, presently listed by the United Nations as a non-self-governing territory, large parts of which are currently administered by the Kingdom of Morocco, and insists that the EU's position remains that of supporting UN efforts to

secure a just, lasting and mutually acceptable solution to the conflict in Western Sahara that will provide for the self-determination of the people of Western Sahara, in accordance with international law, the UN Charter and the relevant UN resolutions; reiterates, therefore, its full support to the UN Secretary-General's Personal Envoy for Western Sahara, Mr Horst Köhler, in helping to bring the parties back to the UN negotiation table in order to achieve this settlement; calls on the parties to resume these negotiations without preconditions and in good faith;

5. Points out that a meeting of the parties involved in the conflict is to be held in Geneva in early December on the initiative of the UN and with the participation of Algeria and Mauritania, and hopes that meeting will help kick-start the peace process;
6. Notes that during inclusive consultations led by the Commission and the European External Action Service (EEAS) with a range of Western Saharan political and socio-economic actors, civil society organisations and other organisations and bodies, majority support was expressed, by the parties participating, for the socio-economic benefits the proposed tariff preferences would bring; notes that, according to the Commission, the non-implementation of tariff preferences could deteriorate the economic and social situation of the local population in the concerned territories;
7. Stresses, as stated in the Commission report, that all reasonable and feasible steps have been taken to inquire about the consent of the population concerned, through these inclusive consultations;
8. Underlines that throughout the consultation process the Commission and the EEAS maintained regular contact with the team of the UN Secretary-General's Personal Envoy for Western Sahara to ensure that the proposed agreement supports UN efforts to achieve a lasting settlement;
9. Calls on the EU to step up efforts to foster regional cooperation among the Maghreb countries, which can only have tremendous positive implications for the region and beyond;
10. Points to the strategic need for the EU to engage more closely with the countries in the Maghreb region and develop its ties with them; views the extension of the Association Agreement in this context as a logical component of this strategy;
11. Takes note of the exchange of letters and acknowledges the efforts of the Commission and the EEAS in trying, within the remit of their competences, to evaluate the benefit for the population and to ascertain their consent to this agreement; notes that the agreement provides for a mutual and regular exchange of information between the EU and Morocco; invites the Commission services to set up, with the Moroccan authorities, the best mechanism to technically collect information on products coming from Western Sahara;
12. Recalls that, according to Article 21 of the TEU, the Union's action on the international scene shall be guided by the principles of democracy, the rule of law, the universality and indivisibility of human rights and fundamental freedoms and respect for the

principles of the United Nation Charter and international law; notes therefore that consent can only be given when a clear intention to improve the human rights situation

is shown.

PROCEDURE – COMMITTEE ASKED FOR OPINION

Title	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
References	2018/0256M(NLE)
Committee responsible	INTA
Opinion by Date announced in plenary	AFET 13.9.2018
Rapporteur Date appointed	Anders Primdahl Vistisen 20.6.2018
Date adopted	21.11.2018
Result of final vote	+: 43 -: 15 0: 2
Members present for the final vote	Michèle Alliot-Marie, Nikos Androulakis, Petras Auštrevičius, Bas Belder, Victor Boștinăru, Elmar Brok, Klaus Buchner, James Carver, Lorenzo Cesa, Georgios Epitideios, Eugen Freund, Michael Gahler, Iveta Grigule-Pēterse, Sandra Kalniete, Tunne Kelam, Wajid Khan, Andrey Kovatchev, Eduard Kukan, Arne Lietz, Sabine Lösing, Andrejs Mamikins, David McAllister, Francisco José Millán Mon, Javier Nart, Pier Antonio Panzeri, Demetris Papadakis, Ioan Mircea Pașcu, Alojz Peterle, Tonino Picula, Kati Piri, Julia Pitera, Cristian Dan Preda, Jozo Radoš, Michel Reimon, Sofia Sakorafa, Jean-Luc Schaffhauser, Anders Sellström, Alyn Smith, Jordi Solé, Dobromir Sośnierz, Jaromír Štětina, Dubravka Šuica, Charles Tannock, László Tőkés, Miguel Urbán Crespo, Ivo Vajgl, Anders Primdahl Vistisen
Substitutes present for the final vote	Doru-Claudian Frunzulică, Ana Gomes, Takis Hadjigeorgiou, Marek Jurek, Antonio López-Istúriz White, David Martin, Gilles Pargneaux, José Ignacio Salafranca Sánchez-Neyra, Marietje Schaake, Eleni Theoharous, Bodil Valero, Mirja Vehkaperä, Željana Zovko

FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

43	+
ALDE	Petras Auštrevičius, Iveta Grigule-Pēterse, Javier Nart, Jozo Radoš, Marietje Schaake, Mirja Vehkaperä
ECR	Bas Belder, Marek Jurek, Charles Tannock, Eleni Theoharous, Anders Primdahl Vistisen
ENF	Jean-Luc Schaffhauser
PPE	Michèle Alliot-Marie, Elmar Brok, Lorenzo Cesa, Michael Gahler, Sandra Kalniete, Tunne Kelam, Andrey Kovatchev, Eduard Kukan, Antonio López-Istúriz White, David McAllister, Francisco José Millán Mon, Alojz Peterle, Julia Pitera, Cristian Dan Preda, José Ignacio Salafranca Sánchez-Neyra, Anders Sellström, Jaromír Štětina, Dubravka Šuica, László Tőkés, Željana Zovko
S&D	Nikos Androulakis, Victor Boștinaru, Doru-Claudian Frunzulică, Wajid Khan, Andrejs Mamikins, David Martin, Pier Antonio Panzeri, Demetris Papadakis, Gilles Pargneaux, Ioan Mircea Pașcu, Tonino Picula

15	-
ALDE	Ivo Vajgl
GUE/NGL	Takis Hadjigeorgiou, Sabine Lösing, Sofia Sakorafa, Miguel Urbán Crespo
NI	Georgios Epitideios, Dobromir Sośnierz
S&D	Eugen Freund, Ana Gomes, Kati Piri
VERTS/ALE	Klaus Buchner, Michel Reimon, Alyn Smith, Jordi Solé, Bodil Valero

2	0
NI	James Carver
S&D	Arne Lietz

Key to symbols:

+ : in favour

- : against

0 : abstention

14.11.2018

OPINION OF THE COMMITTEE ON AGRICULTURE AND RURAL DEVELOPMENT

for the Committee on International Trade

on the draft 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
(2018/0256M(NLE))

Rapporteur for opinion: Michel Dantin

SUGGESTIONS

The Committee on Agriculture and Rural Development calls on the Committee on International Trade, as the committee responsible, to incorporate the following suggestions into its motion for a resolution:

1. Emphasises that the preferential treatment granted for certain Moroccan fruit and vegetable exports to the EU under the agreement of 8 March 2012 concerning reciprocal liberalisation measures on agricultural products, processed agricultural products, fish and fishery products is a particularly sensitive matter for Europe's horticulture industry;
2. Emphasises, furthermore, that in its opinion adopted on 13 July 2011 as part of the consent procedure in Parliament relating to the agreement, the Committee on Agriculture and Rural Development recommended that consent should not be given;
3. Notes that most of the concerns expressed in the opinion voted in 2011 are, from the point of view of the European horticulture industry, still relevant today, in what is a difficult and volatile period for the industry, as a result of, among other things, the ongoing Russian embargo and the continued use of European agriculture as a bargaining chip in international trade negotiations;
4. Emphasises that access to the EU's internal market by all third countries should comply with EU sanitary, phytosanitary, traceability and environmental rules and standards;
5. Emphasises that there are still major competitiveness issues and risks of market

distortions for European producers owing to the wide divergences compared with Moroccan producers in terms of overall production costs, working conditions, and sanitary, phytosanitary and environmental standards;

6. Asks the Commission to promote equivalency of measures and controls between Morocco and the European Union in the area of sanitary, phytosanitary, traceability and environmental standards as well as labelling of origin rules, in order to guarantee fair competition between the two markets;
7. Recalls that the updated agreement does not alter the tariff rate quotas and the preferential import regime previously established, and only provides European producers with clarification on the geographical scope of the agreement;
8. Regrets the fact that the provisions adopted in Regulation (EU) No 1308/2013 (single CMO) with a view to overcoming problems encountered in the correct application of the entry prices of fruit and vegetable imports from Morocco are becoming ineffective for the higher categories, the so-called 'baby' varieties, which have much higher marketing prices but are attributed a standard product value upon entry to the EU, as is the case with cherry tomatoes; calls on the Commission to put an end to this anomaly;
9. Draws attention to the fact that some of the fruit and vegetables exported preferentially to the EU under the terms of the agreement in question (including tomatoes and melons) come from the territory of Western Sahara, and points out that ambitious plans have been drawn up with a view to further developing such production and exports;
10. Regrets the legal uncertainty that has arisen since the Court of Justice judgment of 21 December 2016; is concerned that the Commission has been unable to provide reliable and detailed data on preferential imports of products from Western Sahara that may have been carried out since that date, in spite of the judgment in question; wonders what the cost has been to the EU budget of any preferences granted during the period concerned without a valid legal basis; in the absence of sufficient comparative information, is doubtful whether the Commission is able to assess the impact of the proposed new agreement properly and therefore calls for swift implementation of the exchange of information provided for in the exchange of letters;
11. Takes note, nevertheless, of the clarification that the new agreement provides, and hopes that it will be able henceforth to provide a clear, stable framework between the parties of this agreement and for the economic operators concerned on both sides of the Mediterranean;
12. Is doubtful whether the distinction drawn in the new agreement between products from the Sahara and those from Morocco is relevant from a customs and trade perspective, setting the obvious political aspects aside; notes, in particular, that in the new agreement there is no allocation of the tariff rate quotas laid down in the initial agreement, and that, in terms of access to the preferences granted by the EU, it will therefore not make any difference whatsoever whether or not products are of Sahrawi origin;

13. Notes that the monitoring of sensitive agricultural products and the strict application of quotas are fundamental to the balanced functioning of the agreement; points out that Article 7 of Protocol 1 to the 2012 Agreement contains a safeguard clause making it

possible for appropriate steps to be taken where imports of large quantities of agricultural products classed as sensitive under the agreement cause serious market distortion and/or serious harm to the industry concerned; hopes that preferential imports into the EU of sensitive agricultural products from Morocco and Western Sahara will be subject to appropriate and broad monitoring by the Commission, and that the Commission will still be ready to activate immediately the aforementioned clause where an established need arises;

14. Points out that the EU and Morocco have negotiated, as set out in the initial agreement concluded in 2012, an ambitious and comprehensive agreement on protecting the geographical indications and designations of origin of agricultural products, processed agricultural products, fish and fishery products that provides for the protection by Morocco of the full list of the EU's geographical indications; points out, furthermore, that the procedure for concluding the agreement, which began in 2015, was suspended following the Court's judgment of 21 December 2016; calls for that procedure to be resumed immediately and finalised as soon as possible in conjunction with the conclusion of the agreement considered in this opinion;
15. Calls on the Commission to meet with Parliament's Committee on Agriculture and Rural Development as soon as possible to give a presentation on the current state of play of agricultural trade between the EU and Morocco, including an assessment of the impact of the agreement on European producers, and particularly on farmers' incomes, and a presentation on the forthcoming conclusion of the agreement on geographical indications.

PROCEDURE – COMMITTEE ASKED FOR OPINION

Title	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
References	2018/0256M(NLE)
Committee responsible	INTA
Opinion by Date announced in plenary	AGRI 13.9.2018
Rapporteur Date appointed	Michel Dantin 30.8.2018
Date adopted	12.11.2018
Result of final vote	+: 23 -: 8 0: 2
Members present for the final vote	John Stuart Agnew, Clara Eugenia Aguilera García, Eric Andrieu, José Bové, Daniel Buda, Matt Carthy, Jacques Colombier, Michel Dantin, Paolo De Castro, Albert Deß, Diane Dodds, Norbert Erdős, Luke Ming Flanagan, Karine Gloanec Maurin, Martin Häusling, Peter Jahr, Jarosław Kalinowski, Zbigniew Kuźmiuk, Norbert Lins, Philippe Loiseau, Giulia Moi, Ulrike Müller, Maria Noichl, Marijana Petir, Maria Lidia Senra Rodríguez, Czesław Adam Siekierski, Tibor Szanyi, Maria Gabriela Zoană, Marco Zullo
Substitutes present for the final vote	Franc Bogovič, Angélique Delahaye, Anthea McIntyre, Momchil Nekov, Hilde Vautmans, Miguel Viegas, Thomas Waitz

FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

23	+
ALDE	Ulrike Müller, Hilde Vautmans
ECR	Zbigniew Kuźmiuk, Anthea McIntyre
EFDD	John Stuart Agnew, Marco Zullo
ENF	Jacques Colombier, Philippe Loiseau
NI	Diane Dodds
PPE	Franc Bogovič, Daniel Buda, Michel Dantin, Angélique Delahaye, Albert Deß, Norbert Erdős, Peter Jahr, Norbert Lins, Marijana Petir, Czesław Adam Siekierski
S&D	Clara Eugenia Aguilera García, Paolo De Castro, Karine Gloanec Maurin, Maria Gabriela Zoană

8	-
GUE/NGL	Matt Carthy, Luke Ming Flanagan, Maria Lidia Senra Rodríguez, Miguel Viegas
S&D	Maria Noichl
VERTS/ALE	José Bové, Martin Häusling, Thomas Waitz

2	0
EFDD	Giulia Moi
S&D	Eric Andrieu

Key to symbols:

+ : in favour

- : against

0 : abstention

27.11.2018

POSITION IN THE FORM OF AMENDMENTS OF THE COMMITTEE ON FISHERIES

for the Committee on International Trade

on the motion for a non-legislative resolution on 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 (2018/0256M(NLE))

On behalf of the Committee on Fisheries: Nils Torvalds (rapporteur)

Position

AMENDMENTS

The Committee on Fisheries presents the following amendments to the Committee on International Trade, as the committee responsible:

Amendment 1

Motion for a resolution Paragraph 18

Motion for a resolution

18. Is deeply concerned that it is basically impossible to identify which products are exported from the non-autonomous territory of Western Sahara;

Amendment

18. Is deeply concerned that it is basically impossible to identify which products are exported from the non-autonomous territory of Western Sahara, ***with the exception of fisheries products from the Western Sahara area determined by the Convention on the Law of the Sea rules on territorial and adjacent waters and EEZs, which can be easily traced throughout the chain;***

Amendment 2

RR621771526EN00ocx

20/25

RRPE621771526EN03e00

**Motion for a resolution
Paragraph (new)**

Motion for a resolution

Amendment

Recalls the CJEU judgment of 27 February 2018 (Case C-266/16) on the Fisheries Agreement and the Protocol – which was in force from 15 July 2014 to 14 July 2018 – between the EU and Morocco, stating that the Agreement is valid with regard to Moroccan waters but that it cannot include Western Sahara and its adjacent waters;

Amendment 3

**Motion for a resolution
Paragraph (new)**

Motion for a resolution

Amendment

Takes note of the fact that EU fishing vessels operating in the waters concerned are legally obliged to have a Vessel Monitoring System (VMS) and that it is mandatory to transmit the position of a vessel to the Moroccan authorities, making it fully possible to track the vessels and to record where their fishing activities take place;

Amendment 4

**Motion for a resolution
Paragraph (new)**

Motion for a resolution

Amendment

Invites the customs authorities of the Member States to implement all the administrative cooperation mechanisms provided for in Title V of Protocol No 4 in the event of doubts as to the actual source (Saharawi or Moroccan) of the goods presented for import;

Amendment 5

**Motion for a resolution
Paragraph (new)**

Motion for a resolution

Amendment

Emphasises that a precondition for Parliament to give its consent to the agreement is to ensure that there will be a mechanism in place to trace products, including fisheries products, from Western Sahara or its adjacent waters, so that Member States' customs authorities, as well as consumers, have a clear indication of their origin; calls for the EU and Morocco to swiftly present a viable solution to this end; expects the Commission to present proposals to achieve this objective;

Amendment 6

**Motion for a resolution
Paragraph (new)**

Motion for a resolution

Amendment

Notes that under the agreement, 'products originating in Western Sahara subject to controls by the Moroccan customs authorities' benefit from the trade preferences under this agreement, and therefore that fishery products processed in the part of Western Sahara outside Moroccan control may not benefit from tariff preferences; expects the Commission to clarify the territorial scope of the agreement and to ensure that fishing sector operators in, and fishery products from, the part of Western Sahara outside Moroccan control are not discriminated against as a result of this agreement;

Amendment 7

**Motion for a resolution
Paragraph (new)**

Motion for a resolution

Amendment

Deplores the legal uncertainty that has resulted from the judgment of the Court of Justice of 21 December 2016; is concerned about the Commission's inability to provide reliable data on preferential imports of fishery products from Western Sahara that may have occurred since that date despite the judgment in question; questions the extent of the damage to the Union budget of any preferences granted without a valid legal basis during this period;

PROCEDURE – COMMITTEE RESPONSIBLE

Title	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		
References	2018/0256M(NLE)		
Date of consultation / request for consent	6.9.2018		
Committee responsible Date announced in plenary	INTA 13.9.2018		
Committees asked for opinions Date announced in plenary	AFET 13.9.2018	AGRI 13.9.2018	PECH 13.9.2018
Rapporteurs Date appointed	Marietje Schaake 10.12.2018		
Previous rapporteurs	Patricia Lalonde		
Discussed in committee	5.11.2018		
Date adopted	10.12.2018		
Result of final vote	+: 24 –: 9 0: 3		
Members present for the final vote	Laima Liucija Andrikienė, Maria Arena, Tiziana Beghin, David Borrelli, Daniel Caspary, Salvatore Cicu, Karoline Graswander-Hainz, Christophe Hansen, France Jamet, Elsi Katainen, Jude Kirton-Darling, Bernd Lange, Anne-Marie Mineur, Sorin Moisă, Alessia Maria Mosca, Franck Proust, Godelieve Quisthoudt-Rowohl, Inmaculada Rodríguez-Piñero Fernández, Tokia Saïfi, Marietje Schaake, Helmut Scholz, Joachim Schuster, Joachim Starbatty, Adam Szejnfeld, Iuliu Winkler		
Substitutes present for the final vote	Sajjad Karim, Gabriel Mato, Georg Mayer, Ralph Packet, Johannes Cornelis van Baalen, Jarosław Wałęsa		
Substitutes under Rule 200(2) present for the final vote	Paloma López Bermejo, Javier Nart, Anders Sellström, Miguel Urbán Crespo, Marco Zullo		

FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

24	+
ALDE	Johannes Cornelis van Baalen, Elsi Katainen, Javier Nart, Marietje Schaake
ECR	Sajjad Karim, Ralph Packet, Joachim Starbatty
EFDD	Tiziana Beghin, Marco Zullo
PPE	Laima Liucija Andrikienė, Daniel Caspary, Salvatore Cicu, Christophe Hansen, Gabriel Mato, Sorin Moisă, Franck Proust, Godelieve Quisthoudt-Rowohl, Tokia Saïfi, Adam Szejnfeld, Jarosław Wałęsa, Iuliu Winkler
S&D	Bernd Lange, Alessia Maria Mosca, Inmaculada Rodríguez-Piñero Fernández

9	-
ENF	France Jamet
GUE/NGL	Paloma López Bermejo, Anne-Marie Mineur, Helmut Scholz, Miguel Urbán Crespo
S&D	Maria Arena, Karoline Graswander-Hainz, Jude Kirton-Darling, Joachim Schuster

3	0
ENF	Georg Mayer
NI	David Borrelli
PPE	Anders Sellström

Key to symbols:

+ : in favour

- : against

0 : abstention