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## CONTRIBUTION OF THE LEGAL SERVICE<sup>1</sup>

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To: Delegations

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Subject: Draft amended Fisheries Agreement and draft new Fisheries Protocol with Morocco - compatibility with the case-law of the Court

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### **DOCUMENT PARTIALLY ACCESSIBLE TO THE PUBLIC (19.12.2018)**

#### **I. INTRODUCTION**

1. On 8 October 2018, the Commission submitted proposals to the Council for decisions on the signing and conclusion of a new Fisheries Agreement, including an Exchange of Letters, and a new Protocol with Morocco (hereinafter respectively referred to as draft Agreement, draft Exchange of Letters and draft Protocol).<sup>2</sup> These proposals were accompanied by a Commission Staff Working Document containing a report assessing the benefits for the population of Western Sahara as well as the consultation of that population.<sup>3</sup>

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<sup>1</sup> This document contains legal advice protected under Article 4(2) of Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents, and not released by the Council of the European Union to the public. The Council reserves all its rights in law as regards any unauthorised publication.

<sup>2</sup> Doc. 12863/18 (decision on signing) and ADD 1 (text of the draft Exchange of Letters, Agreement and Protocol) and 12864/18 (decision on conclusion) and ADD 1 (text of the draft Exchange of Letters, Agreement and Protocol).

<sup>3</sup> Doc. 12863/18 ADD 2.

2. During the presentation and discussion of these proposals in the Working Party on Internal and External Fisheries and the Mashreq/Maghreb Working Party on respectively 11 and 16 October 2018, delegations asked the Legal Service to assess, in writing, whether these proposals are consistent with the case-law of the Court of Justice. This contribution responds to that request.

## **II. LEGAL BACKGROUND**

3. There is a Fisheries Agreement between the EU and Morocco,<sup>4</sup> which has been in force since 28 February 2007.<sup>5</sup> The most recent Protocol to that Agreement<sup>6</sup> entered into force on 15 July 2014<sup>7</sup> and expired on 14 July 2018.

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<sup>4</sup> Fisheries Partnership Agreement between the European Communities and the Kingdom of Morocco, OJ L 141, 29.5.2006, p. 4.

<sup>5</sup> OJ L 78, 17 March 2007, p. 31.

<sup>6</sup> Protocol between the European Union and the Kingdom of Morocco setting out the fishing opportunities and financial contribution provided for in the Fisheries Partnership Agreement between the European Union and the Kingdom of Morocco, OJ L 328, 7.12.2013, p. 2.

<sup>7</sup> OJ L 228, 31.7.2014, p. 1.