

To the attention of Karel De Gucht  
European Commissioner for Trade  
European Commission  
B-1049 Brussels

26 June 2012

Dear Commissioner De Gucht,

We, a coalition of Saharawi human rights and grassroots organisations from Western Sahara, wish to express our views and suggestions on the European Union's intention to negotiate a 'Deep and Comprehensive Free Trade Agreement' (DCFTA) with Morocco.

We have received with concern the information regarding the European Commission's current 'scoping exercise', aimed at assessing Morocco's readiness to start negotiations towards establishing a DCFTA.

It is encouraging to hear that the European Commission has announced that a Structural Impact Assessment will be carried out concerning the planned new EU-Morocco cooperation, which will take the form of a consultation process, allowing civil society - representing those who will be affected by the envisioned changes - to be heard. We, the Saharawi people, are indeed already seriously affected by the EU's existing trade relations with Morocco, and fear that this will not change in the near future. To date, we continue to suffer the negative consequences of the EU's trade accords with Morocco which fail to explicitly exclude our country from their scope.

The United Nations considers Western Sahara to be a Non-Self Governing Territory, a territory pending decolonisation, without a *de jure* administering power. In 1975, when Spain left, our land was invaded by Morocco. Many Saharawi fled to the Algerian desert to avoid the napalm and white phosphorus of the Moroccan army. There, over 30 years later, they remain, living as refugees in inhumane conditions. Those who did not flee in 1975, live today under the yoke of a brutal Moroccan occupation. They are subjected to grave human rights violations, which have been documented by the Office of the High-Commissioner for Human Rights, as by many International NGOs, including Amnesty International and Human Rights Watch. The European Parliament has condemned the ongoing repression of the Saharawi people in the occupied territories and underlined their right to self-determination.

The International Court of Justice Advisory Opinion, the UN Charter and numerous UN Security Council and UN General Assembly Resolutions have all stressed the current international status of Western Sahara as a Non Self-Governing Territory and the right of the Saharawi people to a self-determination referendum. By claiming Western Sahara as part of its territory, Morocco blatantly ignores international law.

This has a direct relevance to the European Union's trade relations with Morocco. Entering into trade deals with an occupying power of a Non-Self Governing Territory, which implicitly cover the latter's territory, is in violation of international law. The European Parliament's lawyers called for an immediate halt to EU fisheries in Western Sahara occurring through the Fisheries Partnership Agreement with Morocco, as it could not be demonstrated such was in accordance with the Saharawi people's wishes and interests – two legal requirements for economic activities in Western Sahara, as

established by the UN Legal Counsel in 2002. Furthermore, by failing to specify that Western Sahara is not part of Morocco, the EU appears to support Morocco's untenable claims over our country, thereby undermining its self-proclaimed neutrality vis-à-vis the conflict.

Given the political, legal and ethical sensitivity of the issue, we cannot understand why the EU does not simply preclude Western Sahara from its agreements with Morocco. This needn't be a precedent. The United States government has clearly stated that it does not consider Western Sahara to be part of Morocco, in relation to its USA-Morocco Free Trade Agreement in 2004. Both the Norwegian and the Swiss governments have clarified that the EFTA-Morocco Free Trade Agreement does not cover Western Sahara.

Thus far, the European Union has never consulted any of the undersigned organisations on any of its trade agreements with Morocco. No representatives, neither of the EU nor Morocco, have asked whether we want these trade accords or not, despite the fact that the agreements were and are being implemented in a territory which belongs to our people.

Those who undertake economic activities in our land through an agreement with Morocco, often state that we, the Saharawi people, benefit from the trade in our resources. As a coalition of Saharawi human rights and grassroots organisations, we feel that we are qualified to comment on the extent to which Morocco's implementation of the Agreement has benefited our people: the interests of the Saharawis have been totally ignored.

Denouncing the social and economic marginalisation we face in our own country, while the ongoing plunder of our abundant natural resources creates jobs for others, around 20.000 Saharawi traded their homes for a protest camp in the desert, known as Gdeim Izik. On 8 November 2010, the camp was violently destroyed by the Moroccan army, killing several Saharawi in the process. Numerous people were arrested for having participated in the protest; 19 months later, 23 of them are still in jail, facing a military trial. These people have all been strong opponents of the EU-Moroccan trade ties covering Western Sahara.

Within this context, the undersigned organisations would like to share the following views with you.

1. In all future trade deals between the EU and Morocco, we would urge that the territory of Western Sahara is clearly and explicitly excluded.
2. No Trade Agreement should be signed with the occupying power Morocco, for economic activities to take place in the occupied territories of Western Sahara, in disregard of the wishes and interests of the Saharawi people.
3. If entering into an Agreement covering the illegally occupied Non-Self Governing Territory of Western Sahara, all measures must be taken to consult the Saharawi people and respect their interests. A transparent strategy must be presented to ensure that the Saharawi people are genuinely consulted and that they give their consent to the process. In addition, a full assessment of human rights implications must precede the take-off of those negotiations.
4. The EU should encourage Morocco to show respect for human rights both inside its internationally recognised borders and in its extra-territorial behaviour, notably in Western Sahara.

In the EU-Morocco Association Agreement of 2000, both parties note that respect for democratic principles and fundamental human rights, established by the Universal Declaration of Human Rights, shall inspire both parties' external and internal policies, and constitute an essential element of the Agreement. We ask the European Union to do nothing more than demonstrate genuine respect for the most fundamental right of all, the right to self-determination, through explicitly excluding Western Sahara from all future trade agreements with Morocco.

Sincerely,

Aminatou Haidar, President of the Collective of Saharawi Human Rights Defenders (CODESA)

El Mami Amar Salem, President of the Committee against Torture in Western Sahara

Brahim Dahane, President of the Saharawi Association of Victims of Serious Human Rights Abuses Committed by the Moroccan State (ASVDH)

El Mahjoub Maliha, President of the Saharawi Committee for the Defence of Human Rights in Glaimim, South Morocco

Abba El Hassan Salek, Secretary-General of the Saharawi Jurists Union (UJS)

Sidi Mohamed Daddach, President of the Committee for the Defence of the Right to Self-Determination for the People of Western Sahara (CODAPSO)

Soukaina Elidrissi, President of the Forum for the Future of Saharawi Women (FAFESA)

Bachri Bentaleb, Representative of the Saharawi Association for the Protection of the Saharawi Culture

Houssein Mahmoud, Representative of the Syndicate for Saharawi Artisanal Fishermen

Sultana Khaya, Representative of the Saharawi Association for the Protection of Human Rights and Natural Resources in Boujdour

Sidahmed Lemjeid, President of the Committee for the Protection of the Natural Resources of Western Sahara (CSPRON)

Fatimatou Bara, Representative of the Saharawi Association for the Protection of Children and Women

Aziz Haidar, Representative of the Saharawi Association for the Victims of Landmines (ASAVIM)

Gaici Nah, Representative of the Research Network on Mines and Walls in Western Sahara (REMMSO)

Sidi Ahmed Eddia, Secretary-General of the Confederation of Saharawi Workers (CSTS)

Mohamed Lamine Elidrissi, Representative of the Coordination Gdeim Izik

Mohamed Laarousi Lemghaymad, Representative of the Coordination of Families of Saharawi prisoners, arrested after Gdeim Izik

Abdeslam Omar Lahcen, Association for the Families of Saharawi Prisoners and the Disappeared (AFAPREDESA)

Ahmed Lehbib Abdi, Secretary-General of the Saharawi Student Union (UESARIO)

Moustapha Tamek, President of the Saharawi Committee for the Defense of Human Rights in Assa, South Morocco

Moustapha Lahouidi, Representative of the Group of Saharawi discharged from Inaach

Laarousi Zoubair, Representative of the Group of retired Spanish-colonial Saharawi workers, not receiving pensions

Zeina Chtouki, Representative of the Group of Saharawi Graduated Technicians

Elwaabane Mahjoub, Representative of the Group of Saharawi from Gneidlf (near El Aaiun)

Fakou Lebeih, President of the Saharawi Committee for the Defence of Human Rights in Smara

Ahmed Naciri, Representative of Freedom Sun

Um El Moumnin Swayah, Representative of the Committee of the Mothers of the 15 Disappeared Saharawi

Elhaiba Elmeh, President of the Saharawi Committee for the Defense of Human Rights in Tan Tan, South Morocco

Mohamed Meyara, Representative of the Equipe Media Sahara Occidental

Mohamed Cheikh Lehbib, Secretary-General of the Saharawi General Trade Union (UGTSARIO)

Malainin Lakhel, Secretary-General of the Saharawi Journalists and Writers' (UPES)

A copy of this letter was sent to:

- The High Representative of the Union for Foreign Affairs and Security Policy, Baroness Catherine Ashton
- The European Commissioner for Enlargement and Neighbourhood Policy, Stefan Füle