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## WSC Newsletter September 2016



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**"Neither the EU-Morocco Association Agreement nor the EU-Morocco Agreement on the liberalisation of trade in agricultural and fishery products apply to Western Sahara", says the EU Court's Advocate-General in his Opinion.**

On 13 Sept 2016 the Advocate General of the Court of Justice of the EU (CJEU), published his Opinion on the case of EU-Morocco free trade extending into Western Sahara. The Advocate-General Melchior Wathelet considers that Western Sahara is not part of Morocco's territory and, therefore, neither the EU-Morocco Association Agreement, nor the Liberalisation Agreement are applicable to it.

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Download the [press release](#) from the Advocate General and the [complete opinion](#).

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### Another step for justice for the Saharawi people: Recent events in the European Court of Justice

In 2012 the Polisario Front made a bold move to challenge the European Union free trade agreement with Morocco. It did so with a case in the European Court of Justice (the ECJ, now the CJEU) which sought to set aside a decision of the European Council extending free trade to occupied Western Sahara. After a first level decision last December quashed the "extension decision", the case was appealed by the EU Council and Commission to the full court.

The appeal was heard July 19. A number of European countries, but not the united Kingdom, intervened to express concern about the first level of the Court having considered 'diplomatic matters' and allowing the Polisario Front to bring the case. The CJEU has the unique feature of specialist experts – Advocates-General – who can be called on to offer opinions before a decision is delivered. On September 13, the Advocate-General in the appeal (a Belgian law professor, Melchoir Wathelet) gave an opinion in the case. It can be expected the opinion will be adopted by the Court.

The Advocate-General took a "back to the basics approach" about how the EU – and member countries – deal with Morocco over the "question" of Western Sahara. Two such "basics" are: (i) Morocco does not have sovereignty or a recognized status in Western Sahara, and (ii) Spain continues to have responsibility under international law to safeguard resources (and human rights) in Western Sahara. The result of the first is that no free trade arrangement between the EU and its member countries with Morocco can extend to Western Sahara. In turn, the EU-Morocco Fisheries Partnership Agreement (something the Polisario Front was pursuing in a parallel case) will no longer – should the appeal decision adopt the September 13 opinion – operate in Western Sahara's waters.

The Advocate-General also gave alternative reasons in his opinion. He noted that, if the CJEU does review the free trade extension and accept that Morocco has some foundation for agreements with the EU and other countries (and companies, too) to apply in Western Sahara, there must be an accounting for human rights impacts of such agreements. In a second matter, the Advocate-General concluded that the Polisario Front did not have the legal "standing" to bring the case. Here, the Advocate-General suggests the "better party" to have pursued the case was Spain. However, the case has been brought and appeal is now pending, and therefore such reasoning is a paradox.

The full Court's decision is likely to be issued in October or November.

- Jeffrey Smith, Montreal

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### WESTERN SAHARA CAMPAIGN UK

The Western Sahara Campaign works in solidarity with the Saharawi people to generate political support in order to advance their right to self-determination and to promote their human rights. Our role is to lobby the UK Government and the EU. You can help us to ensure the UK does not ignore the voice of the Saharawi people.



### Follow the news about EU's illegal fisheries in Western Sahara



The EU pays Morocco to fish in occupied Western Sahara.

[Read the full article](#)

### **Fish Oil Imported to France**



*Tanker Key Bay arriving Fécamp*

On 16 September 2016 the Gibraltar-registered chemical tanker 'Key Bay' yesterday arrived in the town of Fécamp, France, with a controversial cargo: tonnes of fish oil from Western Sahara. When asked about the import, French customs refused "to comment while the court case is still ongoing".

However the Court of Justice of the EU ruled, on 10 December 2015, that goods from Western Sahara cannot be included in the EU-Morocco trade agreement. In its appeal, the EU institutions did not ask for a temporary suspension of that decision while the appeal is under process.

[EU Observer](#) wrote on 13 September 2016 that French customs had "decided that the shipment is not liable for tariffs, in line with the EU-Morocco trade treaties, because, the EU says, those accords remain in force despite the December 2015 ECJ ruling".

[Read more](#)

### **Open Letter: Spain: Do Not Interfere With The ECJ Ruling At The Expense Of The Western Sahara Cause!**

*Association For the Monitoring of Resources and for the Protection of the Environment in Western Sahara. (AMRPENWS).*

"AMRPENS calls upon the EU to stop ignoring the rights of the Saharawis. EU claims it is promoting human rights while it is " pampering "Morocco and legitimizing its presence in Western Sahara at the expense of the rights of the Saharawis and in contradiction with the international law."

[Read the full letter](#)

### **Lobbying the EU**

In 2014, the Polisario spent US \$19,975 on lobbying and Public Relations. Algeria spent US \$420,000. Both peanuts compared to Morocco's spending US \$3,100,000.

<http://www.al-monitor.com/lobbying/western-sahara>

### **Arrested for Photography**

Nazha El Khalidi was detained on 21 August 2016 on Fem Lwad beach in the West of the Western Saharan capital by members of the Royal Moroccan police force and taken to a detention centre at its headquarters. She was at a protest, with her small camera trying to cover the events and the abuses committed by the Moroccan security forces against the Saharawi population, who demand respect for their legitimate right to self-determination.

'They came to arrest the protestors who were there, but later they detained everyone including the journalist Nezha. They pushed them into a van, hitting them too. We realised the whole area was surrounded by security agents, as if they had come to arrest a group of terrorists' recounts a witness.

[Read about Nazha-el-Khalid's experience in custody](#)

### **An Open letter to the UN Secretary General - His Excellency Ban Ki-moon**

Africa Solidarity for Sahrawi (AFRISOSA)

Dear Sir,

With the most honor and respectful of your position in the highest office of the UN, we at Africa Solidarity for Sahrawi hereby send this open letter in solidarity to address the most recent 'Violation of the 1991 Cease-fire Agreement' by the government of the Kingdom of Morocco.

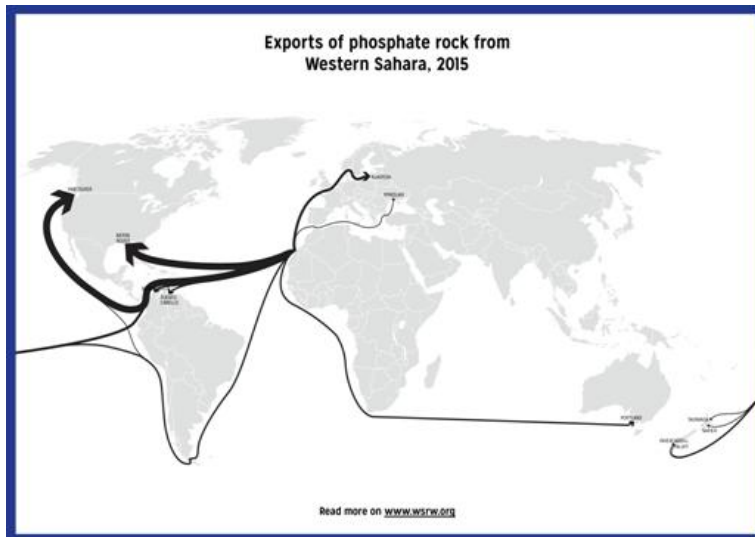
It is our deepest onus to remind both the UN and the International Community that the government of Morocco has for a very long time been undermining relevant mechanism and structures put in place for international governance and peace.

In conclusion, we urged you, (Your Excellency) that, let the top priority of every talk on Western Sahara be no other issue than planning and setting a date for the 'REFERENDUM'.

Africa Solidarity for Sahrawi (AFRISOSA) is a Pretoria based Non - Profit-Organization which is a part of the Africa Solidarity Projects. AFRISOSA focuses its work on the Independence of the Sahrawi Arab Democratic Republic (SADR) and the unconditional unity of the African continent.

### Phosphate Plunder

So far this year 28 Vessels have docked at As Aaiun and exported a Total of 1,248,000 tonnes of phosphate rock in 2016.



[Read the WSRW report P for Plunder](#)

### McDonald's to Open in El Aaiún

"For us, the Sahrawis, it is bloody money, and such a project is sending the wrong message and a powerful statement whereby it legitimizes the Moroccan occupation of Western Sahara. It will also contribute to the prolongation of the suffering of its people whether in the occupied territory, in the refugees' camps or elsewhere."

[Read the letter from the Saharawi Committee in the USA](#)

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