

<p style="text-align: center;">DRAFT AGREEMENT TO EXTEND TRADE PREFERENCES TO PRODUCTS FROM WESTERN SAHARA MAIN ELEMENTS OF THE COMMISSION PROPOSAL</p>
--

The draft Agreement proposes to create the legal basis for granting preferential tariffs to products from Western Sahara that are comparable to those granted to Moroccan products under the EU-Morocco Association Agreement. It also aims to contribute to the economic development of Western Sahara by ensuring that exports to the EU originating there will benefit from wide-ranging trade preferences. By contributing to the socio-economic development of Western Sahara such a measure will also foster the overall stability of the Maghreb region.

1. Respect of European and international law

The draft agreement is fully *consistent with the requirements set by the EU Court of Justice* in its 21 December 2016 ruling (case C-104/16 P). It is based on a consultation process involving a wide spectrum of Western Saharan local representatives, stake-holders, civil society and other organisations, which showed a broad support for the draft agreement. Moreover, this consultation process had been preceded by a thorough analysis of the socio-economic benefits arising from the proposed tariff preferences for the Western Saharan population and economy. The EEAS also met with Polisario Front, who expressed their rejection to the proposal, considering that the EU should negotiate with them and not with Morocco.

2. The status of Western Sahara and the UN process

The draft agreement is *without prejudice to the EU's position on Western Sahara*, and does not constitute any implicit recognition by the EU of the sovereignty of Morocco over the Western Sahara territory.

It is *supportive of the UN process* aimed at reaching a definitive political solution with respect to Western Sahara. In the perspective of the possible resumption of UN-led talks on Western Sahara, the EU supports the renewed efforts of the United Nations Secretary-General to find a political solution to this protracted dispute. HRVP Mogherini met with the UNSG Personal Envoy for Western Sahara on two occasions this year to support his endeavours.

3. Benefits for the local population

The analysis conducted shows that *the draft agreement should benefit the population and economy of Western Sahara*: goods produced in Western Sahara will benefit from the same tariff preferences as those granted to products from Morocco. All industrial and most agricultural goods will be imported duty free, within the quantities foreseen in the Association Agreement for certain agricultural products. In the absence of such preferences, imports from Western Sahara would be disadvantaged as compared to exports from countries in the region which benefit from preferential treatment under free trade agreements or the Generalised System of Preferences; this would also affect the socio-economic development and compromise the business climate and future investments in Western Sahara.

The report attached to the proposal for a Council Decision on the conclusion of the Agreement is based on an analysis of existing data and on a projection for the future. In general, there is evidence that the granting of tariff preferences to products from Western Sahara should have a substantial positive impact on the socio-economic development of that territory. Conversely, denying such tariff preferences would soon lead to economic uncertainty. The consultations held with Western Saharan organisations showed, on balance, a strong grass-root interest in benefitting from such preferential treatment.

4. Consultation of the people concerned by the draft agreement

The widest possible spectrum of Western Saharan representative socio-economic stakeholders and political forces were consulted, among which the Polisario Front. On balance, *the consultation showed a broad support for the draft agreement and the socio-economic benefits arising from the proposed tariff preference*. Most often, the reasons invoked by those objecting to the draft agreement were not directly related to the draft agreement itself and its socio-economic impact but reflected their own views about the future political status of Western Sahara, which remains for the UN-led process to decide. Those groups who rejected the extension of the tariff preferences to Western Sahara were not in a position to identify adverse development effects on Western Sahara. For the EU there is no contradiction between supporting socio-economic development in Western Sahara and the free determination of its future status through the UN-led process, and the EU also endeavours to increase its political support and commitment to further the UN peace process for Western Sahara.

On 5 February 2018, a meeting took place between the European External Action Service and the Front Polisario, following previous contacts at technical level that have taken place over recent years. A number of topics were discussed. Besides the humanitarian aid provided by the EU to the refugees in the Tindouf camps (Algeria) and the EU support to the UN led peace process in Western Sahara, the follow up given by the EU to the December 2016 ruling of the Court of Justice on the EU-Morocco Association Agreement was the main topic of discussion. Although no specific disadvantages have been invoked, the Polisario Front opposed the draft agreement for general political reasons.

5. No change in market conditions

The draft agreement *will not alter the market conditions prevailing before the judgement of 21/12/2016*, as no new preference will be created as compared with that situation. Currently products from Western Sahara are subject to custom duties. The draft agreement would create a level playing field for Western Sahara products with products from all countries in the region, which benefit from duty elimination or other duty reductions (under free trade agreements or under the Generalised System of Preferences).

6. EU-Morocco partnership

The draft agreement is also *important for the EU-Morocco partnership in its current form and for its future development*. Morocco is a key partner in the EU's Southern Neighbourhood with which the EU has developed a lasting and valuable partnership over many years, and involving a wide variety of subjects of common interest in the economic, political and social and migration areas. This draft agreement will play a major role in relaunching the relationship with Morocco.

7. Other elements and timing

The draft agreement will be concluded with the Kingdom of Morocco as this is the only practicable way to grant preferential treatment to products from Western Sahara. In the current circumstances, there are no other institutions or bodies in Western Sahara that could ensure the implementation of the provisions necessary to grant preferential treatment, such as control and verification of the origin of products and cooperation between customs authorities.

The draft agreement includes a commitment from both Parties to exchange information in the framework of the Association Committee at least once a year. This will enable to assess regularly, and as needed to improve, the impact of the draft agreement for the Western Saharan population.

A favourable outcome about the proposed agreement is needed to deal with the situation created by the termination of trade preferences for imports from Western Sahara arising from the Court's ruling, and to help the economic development of its population. Despite the urgency to address the issue, the Commission has not proposed that the draft agreement should apply provisionally upon its signature, but only after the consent of the European Parliament, in the expectation that the draft agreement will be examined and adopted speedily.