



Federico Petrangeli

## › EU–Morocco Trade and the Western Sahara: A Prolonged Struggle between Law and Realpolitik

- › On 2 October 2025, the EU and Morocco approved a revised version of their trade liberalisation agreement, to address the comments made by the CJEU one year before.
- › The revised agreement remains legally fragile, as it only partially complies with CJEU rulings on the need for Sahrawi consent and proper labelling of products from Western Sahara.
- › The EU's approach prioritises strategic interests over international law, reflecting a broader pattern of realpolitik driven by migration control and security cooperation with regional partners.

The EU has long grappled with the complex challenge of navigating its trade relations with Morocco, seeking to balance its strategic interests with its obligations under international law. While Rabat is among the EU's top trading partners in the Neighbourhood, the EU's interests extend far beyond economic considerations. Morocco is increasingly regarded as a key strategic partner on the southern shore of the Mediterranean, particularly in areas such as counter-terrorism and migration control. However, the Court of Justice of the EU (CJEU) has repeatedly emphasised that, according to international law, agreements with Rabat cannot automatically be applied to the Western Sahara, as its people (the Sahrawi) must be considered a 'third party'.<sup>1</sup>

The latest stage of this ongoing saga unfolded on 2 October 2025 – though it is unlikely to be the last. Following a swift and discreet round of negotiations, the EU and Morocco approved a revised version of their trade liberalisation agreement, narrowly avoiding its annulment by the CJEU. The Court had previously declared the agreement unlawful in October 2024, but granted a 12-month compliance period, which was about to expire.<sup>2</sup>

<sup>1</sup> CJEU, *Judgement of the General Court of 29 September 2021 in Case T279/19*, <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=celex:62019TJ0279>.

<sup>2</sup> Petrangeli, Federico, "International Law versus Realpolitik? The European Union Court of Justice and the Western Sahara", in *IAI Commentaries*, No. 24|68 (November 2024), <https://www.iai.it/en/node/19179>.



The Commission aimed to make minimal modifications to the existing agreement, in part due to limited cooperation from Rabat, which from the outset insisted that the problem lay entirely with Brussels. Regarding the agreement's two most controversial issues – the involvement of the Sahrawi people and the labelling of products originating from Western Sahara – the revised deal, as will be discussed, does not appear to fully comply with the somewhat ambiguous requirements established by the CJEU.

This process unfolds at a time when the issue of Western Sahara seems to be receiving some new attention from the international community, with the UN Security Council (UNSC) due to assess the future of the UN peacekeeping mission deployed in the region.

## The Western Sahara question

Western Sahara is a sparsely populated territory largely composed of desert plains. Formerly a Spanish colony, in 1963 Western Sahara was listed by the UN General Assembly (UNGA) among the “non-self-governing territories”, a status it still holds today. In 1973, the Polisario Front – a Sahrawi nationalist liberation movement – was established, initiating a struggle for independence. In November 1975, after a UN mission reported that the majority of Sahrawis wanted independence, King Hassan of Morocco responded by sending 200,000 unarmed volunteers across the border to claim the territory, in what became known as the ‘Green March’.<sup>3</sup> To avoid confrontation, Spain put an end to its presence in Western Sahara. Morocco and Mauritania divided the territory between themselves, and an armed conflict broke out between the two States, on the one hand, and the Polisario Front, on the other. The latter proclaimed the Sahrawi Arab Democratic Republic (SADR) and was subsequently recognised by the UNGA as the legitimate representative of the people of Western Sahara. After Mauritania renounced its claims in 1979, Morocco quickly occupied its former territory, prompting many civilians to flee to refugee camps in Algeria.

Over the years, various UN bodies have recognised and reaffirmed the “inalienable right of the people of Western Sahara to self-determination”.<sup>4</sup> In 1991, Morocco and the Polisario Front agreed in principle on an UN-mediated settlement plan, which included a ceasefire and a proposed referendum on the future status of the territory. Despite the deployment of a dedicated UN mission (MINURSO), the referendum never took place, mainly due to disagreements over voter eligibility. Subsequently, Morocco’s policy of settling large numbers of Moroccans in the territory intensified and the new king, Mohammed VI, publicly ruled out independence for Western Sahara.

In recent years, Morocco has consolidated its control and administrative authority over nearly three-quarters of Western Sahara, supported by a separation wall that isolates the region from Mauritania and Algeria. Rabat

<sup>3</sup> The march was “deplored” by UN Security Council Resolution 380/1975.

<sup>4</sup> CJEU, *Judgement of the General Court of 29 September 2021 in Case T279/19*, cit. In 1963 Western Sahara was included in the “preliminary list of territories to which the Declaration on the Granting of Independence to Colonial Countries and Peoples applies [General Assembly resolution 1514 (XV)]”. To this day, it remains in the list of non-self-governing territories. In October 1975, the International Court of Justice affirmed, for the Western Sahara, “the principle of self-determination through the free and genuine expression of the will of the peoples of the Territory”. Ibid.

**»» Over the years, various UN bodies have recognised and reaffirmed the “inalienable right of the people of Western Sahara to self-determination”.**

»» **The long-standing diplomatic stalemate with the Polisario Front shifted dramatically in 2020, when the US recognised Moroccan sovereignty over Western Sahara.**

has also expanded international support for its claims, leveraging a range of strategic interests. Indeed, the long-standing diplomatic stalemate with the Polisario Front shifted dramatically in 2020, when the US recognised Moroccan sovereignty over Western Sahara in exchange for Rabat's normalisation of relations with Israel under the Abraham Accords. Low-intensity armed conflict resumed and has escalated more recently. Polisario has carried out occasional strikes inside Moroccan-controlled Western Sahara, including rocket attacks, to show its continued military capabilities, while Morocco relies primarily on drones to hit the Front's units after each attack, taking advantage of its air superiority.<sup>5</sup> Meanwhile, after the Biden presidency recalibrated the US position but did not revoke the recognition of Moroccan sovereignty over the territory, the second Trump administration has restarted from where the first left.

Following the US move, several states have taken similar steps in support of Rabat's position, although stopping short of formally recognising Moroccan sovereignty – among them, EU member states (Spain and France in particular), the UK, African countries (including Kenya and Ghana) and current UNSC members Panama and Guyana.

Against this backdrop, on 31 October, the Security Council adopted Resolution 2797/2025, renewing the mandate of the MINURSO peacekeeping mission for another year, thus avoiding its feared closure. The UNSC also called upon the parties to engage in negotiation to achieve “a just, lasting and mutually acceptable resolution to the dispute”. The resolution, for the first time, called on the discussions to be based on Morocco's Autonomy Plan of 2007, recognising that a “genuine autonomy could represent a most feasible outcome”.<sup>6</sup>

<sup>5</sup> Security Council Report, *October 2025 Forecast. Western Sahara*, 30 September 2025, <https://www.securitycouncilreport.org/monthly-forecast/2025-10/western-sahara-15.php>. In October 2024, just days after the CJEU rulings, the UNSC held closed consultations during which the Secretary-General's Personal Envoy, Staffan de Mistura, unexpectedly reintroduced an old proposal to resolve the longstanding Western Sahara conflict. The plan suggested partitioning the territory between Rabat and the Polisario Front, creating an independent state in the southern portion while integrating the remainder into Morocco with internationally recognised sovereignty. Despite touching on various sensitive issues, it may have represented the simplest solution. In any case, and perhaps unsurprisingly, both parties promptly rejected it. See Armstrong, Hannah Rae, “The Case for Partition in Western Sahara”, in *Foreign Affairs*, 4 March 2025, <https://www.foreignaffairs.com/node/1132861>.

<sup>6</sup> For the resolution and the debate within the UNSC see UN News, *With 11 Members Voting in Favour, 3 Abstaining, Security Council Adopts Resolution 2797 (2025), Renewing Mandate of UN Mission in Western Sahara for One Year*, 31 October 2025, <https://press.un.org/en/2025/sc16208.doc.htm>. The resolution received 11 votes in favour and none against, with 3 abstentions (China, Russia and Pakistan), while Algeria did not participate in the vote. Reasons for this vote of abstention are explained by the Russian government: Russian Ministry of Foreign Affairs, *Press Release on the Renewal by the UN Security Council of the Mandated of the UN Mission for the Referendum in Western Sahara*, 2 November 2025, [https://mid.ru/en/foreign\\_policy/news/2057093](https://mid.ru/en/foreign_policy/news/2057093). Previous drafts considered Rabat's plan “the only basis” for future agreements and renewed the MINURSO missions for a shorter period (3 to 6 months). For a meaningful insight into the diplomatic backdrop of the resolution, see International Crisis Group, “A Window for Diplomacy in Western Sahara”, in *Crisis Group Middle East and North Africa Briefings*, No. 96 (20 October 2025), <https://www.crisisgroup.org/node/26784>. Rabat's “autonomy proposal” was presented here: UNSC, *Letter Dated 11 April 2007 from the Permanent Representative of Morocco of the United Nations Addressed to the President of the Security Council (S/2007/206)*, 13 April 2007, <https://docs.un.org/en/S/2007/206>. In his April briefing before the UNSC, Staffan de Mistura underlined that the plan “needs to be explained in much greater details”. See “Security Council: Briefing of UN Personal Envoy for Western Sahara Staffan de Mistura”, in *Maghreb Online*, 16 April 2025, <https://moroccomail.fr/?p=421076>.



**»» In October 2024, in a ruling that in some ways echoes its 2019 verdict on products originating from territories illegally occupied by Israel, the Court clarified that Western Sahara must be considered as a separate “customs territory”.**

## The 2024 CJEU rulings

Under their Euro-Mediterranean Association Agreement (2000), the EU and Morocco established several sectoral agreements, including one on the liberalisation of agricultural and fisheries products in 2012. This agreement, however, has become subject of legal dispute as it was also applied to the Western Sahara. In 2016, the CJEU ruled that this extension was unlawful, noting that Western Sahara is a “non-self-governing territory” with a “separate and distinct” status from Morocco.<sup>7</sup>

The agreement was revised in 2019 but again rejected by the CJEU in 2024.<sup>8</sup> On the fundamental issue of self-determination the judgment is quite contradictory. On the one hand, the Court reaffirmed that any agreement between the EU and Morocco can only be applied to Western Sahara with the consent of the Sahrawi people. It further clarified that the current population of Western Sahara cannot provide such consent, as many are not part of the Sahrawi people – the only group entitled to self-determination – most of whom are largely displaced abroad. Therefore, any consultation that excludes the Polisario Front, the recognised representative of the Sahrawi people, cannot be considered to constitute valid consent. On the other hand, the Court unexpectedly weakens the very right of self-determination that it broadly recognised by affirming that international customary law does not exclude “the possibility that such consent may be granted implicitly”. This notion of ‘implicit consent’ – a highly tenuous concept in international law<sup>9</sup> – is said by the Court to require two conditions: first, the agreement “must not give rise to an obligation for that people”; and, second, it must confer “a specific, tangible, substantial and verifiable benefit” to the people from the exploitation of a territory’s natural resources, “proportional to the degree of that exploitation”. The Court adds that the agreement must provide a control mechanism to verify that these benefits reach the people concerned and that resource exploitation complies with the principle of sustainable development.

In October 2024, in a ruling that in some ways echoes its 2019 verdict on products originating from territories illegally occupied by Israel,<sup>10</sup> the Court clarified that Western Sahara must be considered as a separate “customs territory”.<sup>11</sup> Consequently, products originating from Western Sahara must be labelled as such and not as products from Morocco. Despite this clarification, the ruling – issued in a preliminary procedure – has, in practice, not yet been applied.

<sup>7</sup> CJEU, *Judgment of the Court (Grand Chamber) of 21 December 2016 in Case C-104/16 P*, <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=celex:62016CJ0104>.

<sup>8</sup> CJEU, *Judgment of the Court (Grand Chamber) of 4 October 2024 in joined Cases C 779/21 P and C 799/21 P*, <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=celex:62021CJ0779>.

<sup>9</sup> See Brunnée, Jutta, “Consent”, in *Max Planck Encyclopedia of Public International Law*, January 2022, <https://opil.ouplaw.com/display/10.1093/law:epil/9780199231690/law-9780199231690-e1388?prd=OPIIL>.

<sup>10</sup> CJEU, *Judgment of the Court (Grand Chamber) of 12 November 2019 in Case C-363/18*, <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=celex:62018CJ0363>. See the Special Section “What’s in a Name? The Psagot Judgment and Questions of Labelling of Settlement Products”, in *European Papers*, Vol. 4, No. 3 (2019), [https://www.europeanpapers.eu/e-journal/EP\\_ej\\_2019\\_3](https://www.europeanpapers.eu/e-journal/EP_ej_2019_3).

<sup>11</sup> CJEU, *Judgment of the Court (Grand Chamber) of 4 October 2024 in Case-399/22*, <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=celex:62022CJ0399>.



**»» Revising the Euro-Mediterranean Association Agreement was necessary for two main reasons: first, to demonstrate that the agreement provides tangible ‘advantages’ to the people of Western Sahara; and second, to address the issue of product labelling.**

## The ‘new’ trade agreement

From the EU’s perspective, revising the Euro-Mediterranean Association Agreement was necessary for two main reasons: first, to demonstrate that the agreement provides tangible ‘advantages’ to the people of Western Sahara thereby allowing their consent to be regarded as ‘implicit’ under the criteria set by the CJEU ruling; and second, to address the issue of product labelling.

To fulfil the first objective, the new agreement includes several provisions: (i) the Union commits to funding for the ‘region’, focusing on key sectors such as water, energy and combating desertification, “in line with the principle of sustainable development”; (ii) a joint assessment mechanism will be implemented to monitor the impact; (iii) the Union will increase humanitarian aid to the Tindouf camps, where the majority of Saharawi remain displaced.

This provision, however, raises several criticisms. The EU funding for the region (point i) is likely to benefit the current population of Western Sahara, but not primarily the Sahrawi people, considering that nearly two-thirds of the population are “settlers of Moroccan origin”.<sup>12</sup> Moreover, these benefits are neither “precise” nor “proportional” to the exploitation of the territories’ natural resources as required by the CJEU ruling. In addition, the principle of sustainable development applies only to EU-funded, not to the broader exploitation of natural resources. The verification system (point ii) does not include any representatives of the Sahrawi people, undermining its credibility. Finally, increased support for the Tindouf camps (point iii), while undeniably constituting an ‘advantage’ for the Saharawi people, remains strictly humanitarian in nature and does not involve their benefit from the exploitation of resources from the lands they had to flee.

Similar doubts apply to the labelling issue. The CJEU’s guidance clearly stated that products from the Western Sahara must be labelled as solely originating from that territory – not from Morocco. Yet, the revised agreement allows such products, which remain subject to Moroccan customs control, to be labelled as coming from “Laâyoune-Sakia El Hamra” or from “Dakhla Oued Ed-Dahab” – the names of the administrative regions into which Morocco has incorporated Western Sahara.<sup>13</sup> These names not only reaffirm Rabat’s territorial claims but are also obscure and potentially misleading for consumers.

## Looking ahead

The EU’s official position on the issue is clear and was reiterated in the new agreement itself: “The Union supports the efforts of the United Nations to find a fair, lasting and mutually acceptable political solution that would *allow the self-*

<sup>12</sup> Security Council Report, *April 2025 Forecast. Western Sahara*, 31 March 2025, <https://www.securitycouncilreport.org/monthly-forecast/2025-04/western-sahara-14.php>.

<sup>13</sup> Council of the EU, *Council Decision (EU) 2025/2023 of 2 October 2025 on the Position to be Taken, on Behalf of the European Union, within the Association Council Established by 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, as Regards the Amendment of Protocol 4 to that Agreement Concerning the Definition of the Concept of ‘Originating Products’ and Methods of Administrative Cooperation*, <http://data.europa.eu/eli/dec/2025/2023/oj>.



»» **The new deal provisionally entered into force on 3 October but still awaits the approval of the European Parliament.**

determination of the people of Western Sahara under agreements aligned with the principles and objectives enshrined in the Charter of the United Nations (italics added).<sup>14</sup> In practice, however, the EU has struggled to translate its principled stance into concrete political action, partly because several member states – such as Germany, the Netherlands, Portugal, Malta, Finland and, most importantly, Spain and France – in recent years have explicitly supported Rabat’s claims over Western Sahara.<sup>15</sup> Most recently, EU members of Security Council voted Resolution 2797/2025, but their respective positions reflected relevant differences.<sup>16</sup>

In October 2024, the CJEU offered an opportunity to rebalance its relations with Morocco, providing the Council a convenient political alibi – the need to comply with the Court’s ruling.<sup>17</sup> Yet that opportunity was once again missed. Rabat’s strategic importance coupled with its leverage – particularly its control over migration flows – proved too significant to counter. Under the new agreement, the EU has committed to providing funding, infrastructure and development projects in Western Sahara. These initiatives, meant to ‘buy’ the ‘implicit consent’ of the Saharawi people, will nonetheless amount to little more than continued humanitarian assistance.

Indeed, whatever consequences the UNSC Resolution 2797 will have on the desirable peace process, until a mutual agreement is reached the matter remains unresolved. Several member states complained about the speed of negotiations and the limited time to evaluate the agreement – despite the 12-months compliance period given by the CJEU – yet ultimately approved it without significant resistance. The new deal provisionally entered into force on 3 October but still awaits the approval of the European Parliament. During its first discussion on 6 October, the European Parliament’s International Trade Committee expressed regret – across all political groups – that the Parliament had not been consulted prior to the agreement’s provisional application, describing the move as “violating the interinstitutional agreement with the Commission”.<sup>18</sup> Some MEPs called on President Roberta Metsola to oppose a deal that would allow Morocco “to economically benefit from an occupation which is illegal under international law”.<sup>19</sup> A parliamentary question to the European Commission has been tabled asking whether “the consent of

<sup>14</sup> See point 16: Council of the EU, *Council Decision (EU) 2025/2022 of 2 October 2025 on the Signing, on behalf of the Union, and Provisional Application 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*, <http://data.europa.eu/eli/dec/2025/2022/oj>.

<sup>15</sup> Italy is a partial exception among European countries, as it did not change its language on the autonomy plan and so far is keeping a more balanced position on the matter, also because Algeria is a strategic exporter of gas, even more so after Russia’s invasion of Ukraine.

<sup>16</sup> The French representative declared that “the present and future” of Western Sahara fall within the framework of Morocco, while Denmark underlined that its positive vote “does not constitute a recognition of Moroccan sovereignty”, and Slovenia and Greece kept a middle-ground position. See UN News, *With 11 Members Voting in Favour, 3 Abstaining, Security Council Adopts Resolution 2797 (2025)*, cit.

<sup>17</sup> Lovatt, Hugh, “Western Sahara, Morocco, and the EU: How Good Law Makes Good Politics”, in *ECFR Commentaries*, 30 September 2021, <https://ecfr.eu/?p=78120>.

<sup>18</sup> Agence Europe, “MEPs Deplore Provisional Application of EU-Morocco Agreement Without Consent of European Parliament”, in *Europe Daily Bulletin*, No. 13725 (8 October 2025), <https://agenceurope.eu/en/bulletin/article/13725/2>.

<sup>19</sup> Geertsen, Pelle Christy, “MEPs Urge European Parliament to Act on Controversial Trade Agreement with Morocco”, in *Enhedslisten.EU*, 21 October 2025, <https://enedslisten.eu/?p=12561>.



**»» Trading with occupied territories remains a delicate matter and the agreement will probably be brought back before the CJEU in the near future.**

the people of Western Sahara [has] been sought” and “which parties were consulted”.<sup>20</sup> Nevertheless, it appears unlikely that the European Parliament will ultimately reject the agreement, as most centre- and right-leaning political groups – including EPP, Renew Europe, P/E and ECR – praised the continuity of exchanges with Morocco.

Nevertheless, trading with occupied territories remains a delicate matter and the agreement will probably be brought back before the CJEU in the near future – opening yet another chapter in this long and painful saga. The CJEU will have to assess whether its previous instructions have been respected, a determination that is far from straightforward. Once again, the Court will also need to determine whether the Sahrawi people have genuinely given their consent to the agreement – an increasingly complex question given that the Polisario Front, recognised as the legitimate representative of the Sahrawi people, has been challenging EU-Morocco trade agreements before the Court since 2012. Should the Polisario Front file a fresh complaint against the revised trade deal, it will be even harder to argue that the people of the Western Sahara have granted their implicit consent, assuming that international law – at least in court – still matters.

<sup>20</sup> Agirregoitia Martínez, Oihane, “Provisional EU-Morocco Agreement and Consultation of Western Sahara”, in *Parliamentary Questions*, No. E-003920/2025 (7 October 2025), [https://www.europarl.europa.eu/doceo/document/E-10-2025-003920\\_EN.html](https://www.europarl.europa.eu/doceo/document/E-10-2025-003920_EN.html).



The Istituto Affari Internazionali (IAI) is a private, independent non-profit think tank, founded in 1965 on the initiative of Altiero Spinelli. IAI seeks to promote awareness of international politics and to contribute to the advancement of European integration and multilateral cooperation. Its focus embraces topics of strategic relevance such as European integration, security and defence, international economics and global governance, energy, climate and Italian foreign policy; as well as the dynamics of cooperation and conflict in key geographical regions such as the Mediterranean and Middle East, Asia, Eurasia, Africa and the Americas. IAI publishes an English-language quarterly (*The International Spectator*), an online webzine (*AffarInternazionali*), two book series (*Trends and Perspectives in International Politics* and *IAI Research Studies*) and some papers' series related to IAI research projects (*Documenti IAI*, *IAI Papers*, etc.).

Via dei Montecatini, 17  
I-00186 Rome, Italy  
T +39 06 6976831  
[www.iai.it](http://www.iai.it)



## Latest IAI Briefs

Editor: **Leo Goretti** ([l.goretti@iai.it](mailto:l.goretti@iai.it))

25|04 Federico Petrangeli, *EU-Morocco Trade and the Western Sahara: A Prolonged Struggle between Law and Realpolitik*

25|03 Maria Luisa Fantappiè, *How Italy and the Gulf Can Help Achieve Durable Peace in Gaza*

25|02 Denis Cenusă, *Moldova's EU Accession Prospects after the Elections: A 'New' Power Dynamic and the Return of Euroscepticism*

25|01 Simone Urbani Grecchi, *How to Tackle Ageing Societies*