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Committee on Fisheries

2010/0248(NLE)

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DRAFT OPINION

of the Committee on Fisheries

for the Committee on International Trade

on the draft Council decision on the conclusion of an Agreement in the form of an Exchange of Letters between the European Union and the Kingdom of Morocco concerning reciprocal liberalisation measures on agricultural products, processed agricultural products, fish and fishery products, the replacement of Protocols 1, 2 and 3 and their Annexes and amendments 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
(15975/2010 – C7-0432/2010 – 2010/0248(NLE))

Rapporteur: Raül Romeva i Rueda

PA_Leg_Consent

SHORT JUSTIFICATION

Under the current provisions of the Association Agreement with Morocco, tariffs have been eliminated for some, but not all, fish and fishery products. The current proposal would eliminate tariffs on all fish and fishery products.

The draft agreement will allow Morocco to immediately liberalise 45% of the value of imports from the European Union while the Community will liberalise 55% of its imports from Morocco.

A number of concerns have been raised about this agreement:

Of particular concern is the EU's ability to monitor and enforce time frames and tariff quotas, which are often ignored by Moroccan operators, as reported by a number of trade associations between 2009 and 2010. Essentially, there is an objective imbalance in the tariff reductions agreed upon by the two parties.

High Community standards in environmental protection, working conditions, trade union protection, anti-dumping rules and food safety are not reciprocated in Moroccan products imported into the EU. Moroccan products imported into the EU must meet the same standards as products produced in the EU. Article 8 covers sanitary standards but nothing is included about environmental and social standards. Non-respect of such standards, allowing the import of products that meet less strict standards than apply to EU producers, can lead to dumping.

Many fish stocks in Moroccan waters are depleted, according to the COM's own evaluation. The EU market should not be open to fish from depleted stocks, as that will only encourage their further depletion. The entry of such products should not be encouraged by the elimination exacerbate the situation, especially duty-free.

The draft agreement does not settle the issues relating to geographical indications (GI), which have been postponed to future negotiations to be opened after the agreement enters into force. Clear and reliable identification of the geographical origin of the products is essential to allow consumers to make informed choices.

Doubtless the most controversial aspect of the proposed agreement is its inclusion of the Western Sahara. When asked by the Parliament if products from the Western Sahara were to be included in the scope of the Agreement, the Commission replied that:

"To the extent that exports of products from Western Sahara are de facto benefitting from the trade preferences ..."

The EP Legal Service states:

"However, all economic activities in Western Sahara must be taken in accordance with the wishes and interests of the people of those territories and must benefit the socio-economic development of those territories."

Further, the Legal Service notes that it lacks information on:

- "whether and how the proposed Agreement will be applied to the territories of the Western Sahara",
- "how it will actually benefit the local people",
- "whether the further liberalization of those goods is in accordance with the wishes and interests of the people of the Western Sahara."

Since the Commission seems unwilling to ask whether the Agreement is in line with the wishes of the people of the Western Sahara, I took the liberty of asking Polisario for their opinion. Their reply was:

"The proposed Agreement between the European Union and the Kingdom of Morocco concerning reciprocal liberalization measures on agricultural products, processed agricultural products, processed agricultural products, fish and fishery products consists of amendments to the existing EU-Morocco Association Agreement and its Protocols. These Agreements and its Protocols, including the Exchange of Notes in question here, reaffirm in several places that they are intended to apply to products originating in Morocco.¹

"As a matter of international law, an Agreement intended to apply to "products originating in Morocco" cannot apply to goods originating in Western Sahara for the simple reason that Western Sahara is not part of Morocco. As noted by the European Parliament's Legal Service, "the territory of Western Sahara cannot under international law be considered as forming part of the territory of the Kingdom of Morocco"². On the contrary, Western Sahara is a Non-Self-Governing Territory within the meaning of the Charter of the United Nations, and there is no single country anywhere in the world that recognizes Moroccan sovereignty in Western Sahara. (In similar situations, the Governments of both the United States and Norway have indicated that the USA-Morocco Free Trade Agreement³ and the Morocco-EFTA free trade agreement⁴, respectively, are not applicable to goods originating from Western Sahara.

¹ See, for example, the title and Article 2 of new Protocol 1 concerning the arrangements applicable to the importation into the European Union of agricultural products, processed agricultural products, fish and fishery products originating in the Kingdom of Morocco, available at:

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2010:0485:FIN:EN:PDF>

² Legal Service of the European Parliament, Document SJ/0699/10, Paragraph 19.

³ In a letter of 20 July 2004, the US Trade Representative Robert Zoellick clarified that the USA-Morocco Free Trade Agreement does not include Western Sahara as the United States does not recognize Moroccan sovereignty over Western Sahara, and that therefore "the United States treats imports from Western Sahara and Morocco differently." See: <http://www.gpo.gov/fdsys/pkg/CREC-2004-07-22/html/CREC-2004-07-22-pt2-PgH6615-4.htm>

⁴ In a speech to the Norwegian Parliament on 11 May 2010, Norwegian Foreign Minister Jonas Støre confirmed that the Morocco-EFTA Free Trade Agreement is not applicable to goods originating in Western Sahara. See: <http://www.fishelsewhere.eu/index.php?cat=198&art=1130>

"Should the European Union wish to engage in the liberalization of trade in goods originating in Western Sahara, it must do so through direct consultation with the people of Western Sahara, preferably through their internationally recognized political representation, the Frente POLISARIO.)⁵ Any attempt to do otherwise would amount to a violation of the permanent sovereignty of the people of Western Sahara over their natural resources, and in doing so, the European Union would find itself in breach of the requirement in Article 21(1) of the Treaty on the European Union that "the Union's actions on the international scene shall respect the principles of the UN Charter and international law".

Parliament should also be put in a position – as provided for in the Lisbon Treaty – to offer the Commission greater input, based on synergy, collaboration, problem sharing and exchange of good practices throughout the entire legislative process. In this case, the agreement could be given greater balance by incorporating it into the reform of the entry price regime, by ironing out the sanitary, phytosanitary and environmental differences and by inserting the necessary social and anti-dumping clauses.

The Committee on Fisheries calls on the Committee on International Trade, as the committee responsible, to propose that Parliament refuse its consent.

⁵ In a similar vein, the EU pursued a free trade agreement with the PLO to cover goods originating in the occupied territories of Gaza and the West Bank, as confirmed by certificates of origin issued by the Palestinian Authorities. See: <http://europa.eu/rapid/pressReleasesAction.do?reference=CJE/09/97&format=HTML&aged=0&language=EN&guiLanguage=en>