



Ms. Mogherini, High Representative of the European Union
Ms. Malmström, European Commissioner for Trade
Mr. Moscovici, Commissioner for Economic and Financial Affairs

16th January 2017

Dear Commissioners Mogherini, Malmström and Moscovici,

We wish to draw to your immediate attention an urgent matter that potentially implies a serious breach of EU legislation, ECJ case-law and public international law, in relation to EU trade in goods originated in Western Sahara.

On 14 January 2016, a vessel (the "Key Bay") reported to be carrying products from the occupied territories of Western Sahara with shipping documents and certificates of origin delivered by the Moroccan authorities, made a stopover in the Spanish port of Las Palmas de Gran Canaria and is currently en route to the French port of Fécamp. We are gravely concerned about this development, that could imply a direct violation of the recent ECJ judgement on the EU-Morocco Agreements of 21 December 2016 (Council v. Front POLISARIO, C-104/16).

As you will know, the ECJ judgement stated in no ambiguous terms, that the EU-Morocco Association agreement, as well as the Liberalisation agreement, do not apply to the territory of Western Sahara; that the Sahrawi people has the right to self-determination, which includes the right to permanent sovereignty over their natural resources; and the Sahrawi people must be regarded as a third party, that must give its consent in order for other parties to export from their territory. It follows that any import into the EU from occupied Western Sahara has no legal basis.

The *Key Bay* vessel entered Spanish and European territorial waters on the morning of the 14 January, with the intention to refuel at the port of Las Palmas de Gran Canaria, Canary Islands. After being alerted about the possible shipment of the vessel, the City Councillor of Las Palmas, María del Pilar Álvarez León, seized the local authorities, provided them with information about the ECJ judgement and its consequences, and requested them to take the necessary measures. Subsequently, the port authorities of Las Palmas, jointly with the "Guardia Civil", proceeded with an investigation of the alleged facts. According to different sources, this inquiry confirmed that the *Key Bay* loaded fish oil in the port of Laayoune, which is in the occupied territories of Western Saharan and that the Moroccan authorities had delivered the shipping documents and certificates of origin pertaining to this shipment. After refuelling, the *Key Bay* was authorized to depart from Las Palmas, and is now heading to the French port of Fécamp, where it is estimated to arrive on Friday, 20 January.

In light of the above, we believe that the failure of the Spanish authorities to stop the cargo at Las Palmas, knowing that the vessel transported fish oil from Laayoune, might constitute a breach of the



ECJ judgement and EU legislation. The French authorities will now have to address this issue upon arrival of the *Key Bay* in the coming days.

We call on the Commission, as the guardian of the European legal norm, to consider this matter with utmost urgency and to seize the relevant French and Spanish authorities with a view to taking the appropriate measures, before the vessel arrives to the French port of Fécamp on 20 January.

Yours sincerely,

Florent Marcellesi, MEP (Greens/EFA)

A handwritten signature in black ink, appearing to read 'Florent Marcellesi', written over a horizontal line.

José Bové, MEP (Greens/EFA)

A handwritten signature in black ink, appearing to read 'José Bové', written over a horizontal line.

A handwritten signature in black ink, appearing to read 'Bodil Valero', written over a horizontal line.

Bodil Valero, MEP (Greens/EFA)