

Poseidon Aquatic Resource Management Ltd.

Att: Vincent Defaux, Director

6 rue Victor Hugo, Appartement D3

28100 Dreux, France

Brussels, 13.01.2023

RE. INVITATION TO TAKE PART IN A CONSULTATION ON THE 2019-2023 EU-MOROCCO SUSTAINABLE FISHERIES PARTNERSHIP AGREEMENT

Dear Mr Defaux,

Thank you very much for your email of 16 December 2022, inviting Western Sahara Resource Watch to take part in a consultation “on the technical, economic and scientific aspects” related to the activities implemented under the 2019-2023 EU-Morocco Fisheries Agreement.

We respectfully decline your invitation, as we do not see the value of discussing the technical, economic and scientific aspects of an agreement that is found to be illegal in its application in Western Sahara. We trust that you have taken note of the 2021 ruling of the General Court of the EU Court of Justice, nullifying the application of the agreement in Western Sahara as it had not been consented to by the UN-recognised representation of the people of the territory.

While we understand that the effects of the agreement have been maintained for the time of the appeal process, we consider its legal validity to be of paramount importance, overshadowing the aspects that you enlist as topics for the consultation. As the legal proceedings are still ongoing, we find it most concerning that the European Commission's Directorate-General for Maritime Affairs and Fisheries (DG MARE) has contracted Poseidon to already assess a possible future protocol. It is particularly worrisome because it is *the agreement* that defines the scope of application of such a *protocol*. In other words, the future protocol will have the same geographic scope of application as the current one: including the waters of occupied Western Sahara, over which Morocco has no sovereignty or jurisdiction (see case C-266/16) according to international law and the law of the sea.

We would be grateful if you could provide clarifications to the following questions:

1. As the future protocol will include the waters offshore Western Sahara, how do you consider the risk that Poseidon is now laying the grounds for something that undermines the UN peace process in the territory, the rulings of the CJEU and the rights of the Saharawi people?
2. Has Poseidon sought the consent of the people of Western Sahara, *via* the Polisario Front, prior to undertaking a study for a Fisheries protocol to an Agreement that has been found illegal for violating their right to self-determination?
3. How does Poseidon assess the reputational risk of undertaking such a study without having the permission from the Saharawi authorities?
4. How does Poseidon assess the risk for your study to be contributing to legitimizing something that is already found illegal by the European Court of Justice?
5. Will Poseidon carry out physical visits into the occupied territory and, if yes, authorized by whom?
6. Will your study on the current protocol assess the scientific, economic and technical aspects of the agreement relating to Western Sahara and Morocco in a separate and distinct manner?
7. In your report, will you use the administrative division imposed by Morocco to refer to locations in Western Sahara (i.e., regions, provinces, prefectures imposed by the Moroccan authorities in the territory)?

Given the past practice of the European Commission - deliberately representing our organisation as having taken part in a consultation exercise on trade with Western Sahara when we have never participated - we

request that you represent our declination in a correct manner: Poseidon invited us, and we declined. Under no circumstance and in no way do we want our association's name to be associated with a consultation exercise that fails to respect the rights of the people of Western Sahara to self-determination and, as such, their right to consent to bilateral agreements affecting their land. Should the EU Commission consider following an approach that is in line with the aforementioned rights and EU case-law, you could count on our full cooperation.

For the sake of transparency, we wish to inform you that your invitation to take part in a consultation in relation to the illegal EU-Morocco fisheries agreement, and this response letter, will be published on our website www.wsrw.org. Poseidon's answers to our questions will be published on the same site.

Sincerely,

Sara Eyckmans

Coordinator

Western Sahara Resource Watch

coordinator@wsrw.org