

Water Stewardship Assurance Services Ltd. (WSAS)

Brussels, 01.07.2025

2 Quality Street, North Berwick

Scotland, EH39 4HW

United Kingdom

Att: Adrian Sym, director

## REGARDING WSAS AND OCCUPIED WESTERN SAHARA

Dear Mr. Sym

Western Sahara Resource Watch (WSRW) is privileged to present you with our compliments. We are writing to inquire about WSAS's certification of Azura under the AWS Standard.

Our association sent you a letter on 6 December 2024 in your capacity as CEO of the Alliance for Water Stewardship (AWS)<sup>1</sup>, but we do not appear to have received a response. As you are also listed as a director of the conformity assessment body WSAS - responsible for ensuring adherence to the AWS Standard - we are now writing to you in that capacity.

The background for our request is that we are publishing a report on the certification schemes involved in the problematic trade of products from Western Sahara on the websites [www.vest-sahara.no](http://www.vest-sahara.no) and [www.wsrw.org](http://www.wsrw.org), and we are going to include references to WSAS/AWS in the report. We are also going to write a story about the erroneous certificate on our website.

We have some questions that we look forward to seeing responded to, outlined further below.

We are disappointed to read the incorrect information that is included in all certificates and information pertaining to Azura, published by WSAS and AWS. The geographical error - failing to relate to the UN maps and rulings of international courts on the matter of Western Sahara - as we see it, constitutes an act of gross negligence. Through the false country designation, WSAS/AWS risk facilitate or legitimise food fraud on the EU market and a business practice that is not taking into account the Saharawi people's rights.

Allow us to first contextualise our query. The United Nations consider Western Sahara to be a non-self-governing territory without an administering power in place. The International Court of Justice has confirmed that Morocco has no sovereignty over the territory, and that the people of Western Sahara have a right to self-determination – the right to determine the future status of the territory.<sup>2</sup> In 1988, the UN was able to broker a ceasefire arrangement between Morocco and the Western Sahara liberation movement, Polisario, in which both parties agreed to hold a referendum on self-determination.<sup>3</sup> To that goal, a UN mission (MINURSO) has been deployed to the territory, but it has not been able to organise a referendum as Morocco continues to block any effort that offers a choice beyond integration. In November 2020, the ceasefire collapsed after the Moroccan army seized a section of the UN buffer zone to break up a Saharawi protest.<sup>4</sup>

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<sup>1</sup> WSRW letter to AWS, 06.12.2024, [https://vest-sahara.s3.amazonaws.com/wsrw/feature-images/File/2478/68612fbc131e9\\_20241206WSRW-AWS.pdf](https://vest-sahara.s3.amazonaws.com/wsrw/feature-images/File/2478/68612fbc131e9_20241206WSRW-AWS.pdf)

<sup>2</sup> International Court of Justice, Western Sahara, <https://www.icj-cij.org/case/61>

<sup>3</sup> The "settlement proposals" are included in the Report of the UN Secretary General on Western Sahara of June 1990, available here: [https://minurso.unmissions.org/sites/default/files/uns\\_g\\_report\\_18\\_june\\_1990.pdf](https://minurso.unmissions.org/sites/default/files/uns_g_report_18_june_1990.pdf)

<sup>4</sup> WSRW, 19.11.2020, Saharawi gov calls for halt of all activity in Western Sahara over war, <https://wsrw.org/en/news/saharawi-gov-calls-for-halt-of-all-activity-in-western-sahara-over-war>

While well over a hundred of UN Resolutions, and rulings by the International Court of Justice, the European Court of Justice<sup>5</sup> and the African Court on Human and People's Rights<sup>6</sup>, all underline that Morocco has no sovereignty or administering mandate over Western Sahara, Morocco continues to militarily control about three-quarters of the territory. Incentivized by its exploitation of the territory's resources, Morocco has little interest to genuinely take part in the UN-mediated peace process. Meanwhile, the lingering conflict continues to have a high human and humanitarian cost: over 170,000 Saharawis are stuck in refugee camps in neighbouring Algeria, surviving in harsh desert conditions and dwindling humanitarian aid. Saharawis who live under the yoke of Morocco's occupation are victims of serious human rights violations that have been reported by the UN Human Rights Committee, UN Working Group on Arbitrary Detention, the UN Special Rapporteur on Human Rights Defenders, in addition to credible international organisations such as Human Rights Watch, Amnesty International, and others. In 2023, the UN High Commissioner for Human Rights lamented the fact that his Office has not been allowed to visit Western Sahara for the last eight years.<sup>7</sup> Year after year, Western Sahara is ranked among the worst countries and territories in terms of political rights and civil liberties, on par with countries and territories like North Korea, Syria, Afghanistan and Crimea.<sup>8</sup>

The status of the territory comes with repercussions for business activities. As established in 2002 by the UN Legal Counsel at the request of the Security Council, any economic activity in the territory would be in violation of international law if not undertaken in accordance with the wishes and the interests of the people of the territory.<sup>9</sup> We also refer to the conclusions of the UN Treaty Body on Economic, Social and Cultural Rights<sup>10</sup> and of the UN Human Rights Committee<sup>11</sup>, which have both emphasized the need of obtaining the Saharawi people's "consent to the realization of developmental projects and [resource] extraction operations". In this context, it is important to stress that the rights of the people of Western Sahara should not be viewed through the concept of FPIC, as they are not an indigenous people with a certain rights to a part of a territory in a state that they recognise as such - the people of Western Sahara are the holders of the sovereign rights to Western Sahara as a whole. Their homeland is in part under foreign occupation, but the right to self-determination - the right to decide the status of the territory as a whole, and of the resources harboured therein - lies with the Saharawi people. The UN treats the unresolved conflict in Western Sahara through the right to self-determination as the cornerstone principle, and does not regard this as an indigenous peoples issue.

Recent years have witnessed an emerging body of law pertaining to Morocco's claim to the territory. Since 2015, in ten (!) consecutive rulings, the Court of Justice of the European Union (CJEU) has concluded on the following points as settled:

- The territory of Western Sahara constitutes a territory distinct from that of the Kingdom of Morocco.<sup>12</sup>
- Morocco has no sovereignty<sup>13</sup> or administering mandate<sup>14</sup> over Western Sahara.
- Consequently, the waters adjacent to Western Sahara cannot be regarded as part of the Moroccan fishing zone, territorial waters, exclusive economic zone, or any other notion used to describe Morocco's role vis-à-vis the waters off Western Sahara.<sup>15</sup>
- The people of Western Sahara are to be regarded as a third party to the EU's agreements with Morocco, and that as such, no agreement can affect their territory without their consent, as a corollary of the right to self-determination.<sup>16</sup>

<sup>5</sup> The Rulings for cases T-512/12, T-180/14, C-266/16, T-275/18 and combined cases T-344/19, T-356/19 and T-279/19 can be accessed at the site of the EU Court of Justice, <http://curia.europa.eu>.

<sup>6</sup> African Court on Human and People's Rights, 22.09.2022, Ruling on Application N° 028/2018 <https://www.african-court.org/cpmt/storage/app/uploads/public/632e0f3ad632e0f3ad580e748464681.pdf>

<sup>7</sup> OHCHR, 07.03.2023, Global update: High Commissioner outlines concerns in over 40 countries, <https://www.ohchr.org/en/statements-and-speeches/2023/03/global-update-high-commissioner-outlines-concerns-over-40-countries>

<sup>8</sup> <https://freedomhouse.org/countries/freedom-world/scores?sort=asc&order=Total%20Score%20and%20Status>

<sup>9</sup> UN Security Council, 12.02.2002, Letter dated 29 January 2002 from the Under-Secretary-General for Legal Affairs, the Legal Counsel, addressed to the President of the Security Council, S/2002/161, <https://undocs.org/S/2002/161>

<sup>10</sup> UN Economic and Social Council, 22.10.2015, Concluding Observations on the fourth periodic report of Morocco, E/C.12/MAR/CO/4\*, §6, [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fMAR%2fCO%2f4&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fMAR%2fCO%2f4&Lang=en)

<sup>11</sup> UN Human Rights Committee, 01.12.2016, Concluding Observations on the sixth periodic report of Morocco, §10, [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR/C/MAR/CO/6&Lang=En](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR/C/MAR/CO/6&Lang=En)

<sup>12</sup> Judgment of 21 December 2016, EU:C:2016:973, §92, and reiterated in the Judgment of 27 February 2018, EU:C:2018:118, §62, Judgment of 4 October 2024, EU:C:2024:833, §163, Judgment of 4 October 2024, EU:C:2024:839, §85 and Judgment of 4 October, EU:C:2024:835, §134.

<sup>13</sup> Judgment of 10 December 2015, EU:T:2015:953, §241. Considered a settled matter in subsequent rulings.

<sup>14</sup> "Account must also be taken of the fact that the Kingdom of Morocco does not have any mandate granted by the UN or by another international body for the administration of that territory, and it is common ground that it does not transmit to the UN information relating to that territory, such as those provided for by Article 73(e) of the UN Charter." Judgment of 10 December 2015, EU:T:2015:953, §233. Considered a settled matter in subsequent rulings.

<sup>15</sup> Judgment of 27 February 2018, EU:C:2018:118, §67-85. Considered settled in subsequent rulings.

<sup>16</sup> Judgment of 21 December 2016, EU:C:2016:973, §104. Reiterated and refined in subsequent rulings.

- The Court is clear that the right to consent resides with the people of Western Sahara, and not with the population of the territory.<sup>17</sup> The Court stipulates that “a majority of the population of Western Sahara is not part of the people holding the right to self-determination, namely the people of Western Sahara. That people, which for the most part has been displaced, is the sole holder of the right to self-determination with regard to the territory of Western Sahara.”<sup>18</sup> The Court adds that “there is a difference in that regard between the concept of the ‘population’ of a non-self-governing territory and of the ‘people’ of that territory. The latter refers to a political unit which holds the right to self-determination, whereas the concept of ‘population’ refers to the inhabitants of a territory.”<sup>19</sup>
- The Court has firmly established the position of Front Polisario, the UN-recognised representation of the people of Western Sahara to be able to bring cases before EU Courts on behalf of the Saharawi people, and that it has access to the Court to defend their right to self-determination.<sup>20</sup>
- In Case C-399/22, which specifically dealt with the labelling of products from Western Sahara, the Court again emphasised the separate and distinct status of the territory in relation to Morocco, and concluded that at the stages of import and sale to the consumer, the labelling of the goods from Western Sahara must indicate Western Sahara alone as the country of origin of those goods.<sup>21</sup>

Against that backdrop, we have some questions about the decision to certify Azura.

*Regarding WSAS and international law:*

1. Does WSAS agree with the ICJ, CJEU, UN and the African Court on Peoples’ and Human Rights that Western Sahara is not part of Morocco?
2. Does WSAS agree with the ICJ<sup>22</sup> that the right to self-determination of a people of a non-self-governing territory constitutes a fundamental human right?
3. The erroneous country designation is to be found throughout all the documents/statements that WSAS/AWS have published regarding the Azura certificate. The most severe statements are found in the certification report written by WSAS in May 2024.<sup>23</sup> Why has WSAS chosen to systematically refer to the location of the Azura establishment as in “Morocco”? On what legal basis does WSAS believe Dakhla to be part of Morocco?
4. With reference to the water that Azura is currently using, the report writes that “the strategic management of the resource is led by the government”. Based on the way the report is formulated, we expect WSAS here to refer to the government of neighbouring Morocco.
  - a. Which country does the ground water of Western Sahara belong to, according to WSAS?
  - b. If WSAS believes the Moroccan government to have the responsibility or right of managing the water reserves of the non-self-governing territory of Western Sahara, including for the purpose of export oriented industrial agriculture production, on what legal basis has WSAS come to this conclusion?

*Regarding the certification:*

5. The certification report outlines a system that is set up “for local legal requirements and also the requirements for exporting to Europe.”
  - a. Is a certified company obliged to inform WSAS about legal developments in the EU that may challenge the legitimacy/legality of the production or export practices, including to the EU?

<sup>17</sup> Judgment of 4 October 2024, EU:C:2024:833, §180-181. Judgment of 4 October 2024, EU:C:2024:835, §152-153.

<sup>18</sup> Judgment of 4 October 2024, EU:C:2024:833, §157. Judgment of 4 October 2024, EU:C:2024:835, §128.

<sup>19</sup> Judgment of 4 October 2024, EU:C:2024:833, §158. Judgment of 4 October 2024, EU:C:2024:835, §129.

<sup>20</sup> Judgment of 4 October 2024, EU:C:2024:833, §96-138, Judgment of 4 October 2024, EU:C:2024:835, §70-109.

<sup>21</sup> Judgment of 4 October 2024, EU:C:2024:839, §89.

<sup>22</sup> <https://www.icj-cij.org/sites/default/files/case-related/169/169-20190225-ADV-01-00-EN.pdf>

<sup>23</sup> [https://vest-sahara.s3.amazonaws.com/wsrw/feature-images/File/2481/6862248100394\\_AWS-000544-Azura-Maraissa-Dakhla-Certification-Report-27-May-2024.pdf](https://vest-sahara.s3.amazonaws.com/wsrw/feature-images/File/2481/6862248100394_AWS-000544-Azura-Maraissa-Dakhla-Certification-Report-27-May-2024.pdf)

- b. If yes, did Azura brief WSAS about the 4 October 2024 rulings of the CJEU, that provide strict instructions on the correct country-of-origin labelling of the products entering the EU market?
  - c. If nothing is done by Azura vis-à-vis the EU legal requirements and nothing is done to respect the Saharawi people's right to self-determination, does WSAS consider that your organisation risks facilitating food fraud and undermining human rights?
  - d. What has WSAS done, if anything, to ensure that Azura respects the EU legal requirements by not exporting products into the EU labelled as "Moroccan"?
6. The May 2024 certification report notices that "Azura is a private Franco-Moroccan family group created in 1988". How, and from whom, did this French-Moroccan family group get access to the land in Western Sahara, which is located on a territory that is neither part of France nor of Morocco?
7. Has WSAS sought permission from the Saharawi people prior to undertaking certification work for this foreign enterprise on the occupied territory?
8. Most of the original inhabitants of Dakhla sought refuge abroad after Mauritanian and later Moroccan military forces occupied the peninsula in 1975 and 1979, respectively. Today, this population lives in refugee camps in Algeria. On 23 June 2025, UN agencies operating in the camps issued a press release highlighting the alarming rise in severe malnutrition. Meanwhile, the maps shown on page 15 of your certification report indicate that the Sahara Aquifer remains insufficiently mapped. Notably, parts of the aquifer's eastern boundary align closely with the 2,000+ km landmine barrier constructed by Morocco in the 1980s. Given that some of Dakhla's original inhabitants continue to rely on pastures east of this barrier, on land not under foreign occupation, what safeguards exist to ensure they are not deprived of vital water resources as a result of Morocco's and Azura's water management activities?
9. The May 2024 certification report makes the following statement: "Attached is a presentation describing the project of the desalination plant." Are attachments of the Certification report supposed to be public? Can you send this attachment to us?

*Regarding credibility of the standard and WSAS:*

10. Does WSAS consider it important that its certificates accurately state the country in which the certified establishments are located, and that the laws and regulations of the correct country are taken into account during the certification process?
11. Has the management of WSAS been guided by the management of AWS in relation to how the Standard must be understood on illegally occupied lands? (ref. UNGA resolution 34/37, calling for the halt of Morocco's illegal occupation of the Dakhla area).
12. We do notice that WSAS and AWS are different legal entities. However, the two are overlapping in many regards: Overlapping board composition, AWS is wholly owned<sup>24</sup> by WSAS, AWS has right to appoint or approve WSAS directors, they are based on the same physical address, data sharing under the privacy policy etc. We do read on the WSAS website<sup>25</sup> a claim that its board is "majority independent".
  - a. In the letter sent to CEO of AWS, Adrian Sym, on 6 December 2024, a letter that to this date remain unanswered, we asked what steps would be taken vis-à-vis the certificate, Water Stewardship Assurance Services and Azura Group as a consequence of our request. We do notice that the CEO of AWS is also on the board of WSAS. Have any WSAS board member, other than Adrian Sym, seen the letter that we sent to AWS CEO Adrian Sym?
  - b. AWS informs that its conformity checks are carried out by "independent CABs". Which other CABs than WSAS can undertake such conformity checks for the AWS standard?
  - c. Why are no operational heads/management of WSAS presented on its website?
  - d. Who is the CEO of WSAS?

<sup>24</sup> <https://watersas.org/wp-content/uploads/2024/04/Recruitment-Notice-WSAS-Auditors-Vietnam.pdf>

<sup>25</sup> <https://watersas.org/about/>

- e. Was our 6 December 2024 letter shared with the technical committee of AWS?
13. If a certified company refuses to comply with CJEU rulings - such as by disregarding correct country-of-origin labelling requirements - are there mechanisms in place that allow WSAS/AWS to withdraw the certificate? Or does WSAS consider it acceptable for certified companies to disregard applicable laws or regulations?
  14. Will WSAS reach out to AWS in relation to this request, and do you know whether AWS is working on a response to our unanswered letter of 6 December 2024?
  15. Will WSAS inform AWS about the errors in the certificate, and suggest a correction of the erroneous geographical references on AWS's website?

We'd be grateful for your response. Any answer from your company will be included in the report.

A copy of this letter is sent to Western Sahara Campaign UK.

Looking forward to hearing from you,

Sincerely,

**Erik Hagen,**

**Western Sahara Resource Watch**

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