

Köster Marine Proteins GmbH
Richardstrasse 45
D-22081 Hamburg
Germany
Att: Mr. Thomas Rogall, managing director

Brussels,
09.07.2025

REGARDING KMP IMPORTS FROM OCCUPIED WESTERN SAHARA

Dear Mr. Rogall

Western Sahara Resource Watch (WSRW) is privileged to present you with its compliments. We write as we are about to write a larger report about imports of fisheries products from occupied Western Sahara into Europe and its related certificates. We have some questions for your company, that we hope we will see responded to.

We refer to earlier letters sent to your company, none of which were responded to, on 19 July 2018¹, 21 September 2018², 1 May 2019³, 14 September 2019⁴, 16 October 2020⁵, 21 July 2023⁶.

Our request to you today is twofold.

- 1) To understand more about KMP's reflections relating to the sourcing of fishmeal from Western Sahara.
- 2) To understand more about the relevance of your company's public mentioning of various standards/certificates.

We are sure that you have noticed the latest conclusions from the EU Court of Justice over the matter of imports of fisheries products from occupied territory since our last correspondence to your company.

Allow us to summarise. 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.⁷ 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.⁸ 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.⁹

¹ https://vest-sahara.s3.amazonaws.com/wsrw/feature-images/File/2000/674383cf5dc22_WSRW-KMP_19.07.2018.pdf

² https://vest-sahara.s3.amazonaws.com/wsrw/feature-images/File/2005/67438531ef529_WSRW-KMP_21.09.2018.pdf

³ https://wsrw.org/files/dated/2019-05-01/20190501wsrw-kmp_fischmehl_naja.pdf

⁴ https://vest-sahara.s3.amazonaws.com/wsrw/feature-images/File/2004/674385063ac97_WSRW-KMP_14.09.2019.pdf

⁵ https://vest-sahara.s3.amazonaws.com/wsrw/feature-images/File/2003/674384b4d6209_WSRW-KMP_16.10.2020_wrongdateinPDF.pdf (PDF dated wrongly 2010)

⁶ https://vest-sahara.s3.amazonaws.com/wsrw/feature-images/File/2001/67438401ea219_WSRW-KMP_21.07.2023.pdf

⁷ International Court of Justice, Western Sahara, <https://www.icj-cij.org/case/61>

⁸ 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/unsg_report_18_june_1990.pdf

⁹ 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 Justice¹⁰ and the African Court on Human and People's Rights¹¹, 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.¹² 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.¹³

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.¹⁴ We also refer to the conclusions of the UN Treaty Body on Economic, Social and Cultural Rights¹⁵ and of the UN Human Rights Committee¹⁶, 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 has concluded on the following points as settled:

- The territory of Western Sahara constitutes a territory distinct from that of the Kingdom of Morocco.¹⁷
- Morocco has no sovereignty¹⁸ or administering mandate¹⁹ 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.²⁰

¹⁰ 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>.

¹¹ 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/632/eOf/3ad/632eOf3ad580e748464681.pdf>

¹² 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>

¹³ <https://freedomhouse.org/countries/freedom-world/scores?sort=asc&order=Total%20Score%20and%20Status>

¹⁴ 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>

¹⁵ 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

¹⁶ 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

¹⁷ 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.

¹⁸ Judgment of 10 December 2015, EU:T:2015:953, §241. Considered a settled matter in subsequent rulings.

¹⁹ "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.

²⁰ Judgment of 27 February 2018, EU:C:2018:118, §67-85. Considered settled in subsequent rulings.

- 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.²¹
- The Court is clear that the right to consent resides with the people of Western Sahara, and not with the population of the territory.²² 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."²³ 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."²⁴
- 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.²⁵
- 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.²⁶

Against that backdrop, we have several questions about the decision to certify companies operating in the territory.

For the purpose of our public reporting, WSRW seeks your comment to the following questions.

Regarding KMP and international law:

1. Does KMP 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 KMP agree with the CJEU that the waters offshore Western Sahara do not belong to Morocco's EEZ?²⁷
3. Does KMP agree with the ICJ²⁸ that the right to self-determination of a people of a non-self-governing territory constitutes a fundamental human right?

Regarding KMP and imports from Western Sahara:

4. Does KMP still import fishmeal or fish oil from Western Sahara to its facility in Germany, Belgium or elsewhere?
5. Which are KMP's suppliers in Western Sahara?
6. Has KMP ever sought to obtain the consent of the Saharawi people for purchases of fishmeal or fish oil from occupied Western Sahara?
7. When importing goods originating from Western Sahara into Germany, does KMP declare their origin as Western Sahara to German customs authorities?

Regarding KMP and GMP+:

²¹ Judgment of 21 December 2016, EU:C:2016:973, §104. Reiterated and refined in subsequent rulings.

²² Judgment of 4 October 2024, EU:C:2024:833, §180-181. Judgment of 4 October 2024, EU:C:2024:835, §152-153.

²³ Judgment of 4 October 2024, EU:C:2024:833, §157. Judgment of 4 October 2024, EU:C:2024:835, §128.

²⁴ Judgment of 4 October 2024, EU:C:2024:833, §158. Judgment of 4 October 2024, EU:C:2024:835, §129.

²⁵ Judgment of 4 October 2024, EU:C:2024:833, §96-138, Judgment of 4 October 2024, EU:C:2024:835, §70-109.

²⁶ Judgment of 4 October 2024, EU:C:2024:839, §89.

²⁷ Judgment of the Court (Grand Chamber) of 27 February 2018, ECLI:EU:C:2018:118, §67-69, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A62016CJ0266>

²⁸ <https://www.icj-cij.org/sites/default/files/case-related/169/169-20190225-ADV-01-00-EN.pdf>

8. KMP currently holds two certificates are the GMP+ Feed Safety Assurance Module 2020, for scope of "Affreightment of sea transport" and "Trade in feed", both expiring in May 2026. KMP mentions the GMP+ certificates on its website. WSRW wrote GMP+ about the matter of these KMP certificates, but they stated that they are not in a position to answer further. Can you forward us copies of the actual, signed, GMP+ certificates?
9. Which certification body certified the KMP entities under the GMP+ standard?
10. GMP+ standard 8.5. Hazard Control. 8.5.1.1. Description of ingredients mentions that "The GMP+ certified company must keep documented information up-to-date about all feed materials, feed additives and processing aids as far as needed for identifying hazards and do a risk assessment (see §8.5.2.2). The following information must be documented: [...] d. place of origin (provenance); [...] k. legal requirements (see §4.1)..." Has the certifying body checked whether fish products from Western Sahara at KMP premises are correctly filed with the correct country of origin?
11. Has KMP discussed the CJEU decisions of 4 October 2024 with the certification bodies or with GMP+, as the rulings have a direct effect on the understanding of the legality of the fisheries in the territory?
12. The "F0.0 Introduction on the GMP+ FC scheme 2020", under paragraph 3, establishes a set of key principles of the GMP+ Feed Certification scheme. It is noted that "The GMP+ Feed Certification scheme is based on the following six key principles which are applicable to any of the members of the GMP+ Community: [...] e) Encouraging transparency and involvement with multiple stakeholders". Has GMP+ been in contact with KMP regarding your company's unwillingness or inability to engage with WSRW since 2018?
13. Based on this call for transparency, has GMP+ or the certifying bodies ever inquired as to why KMP is systematically failing to inform the public that it imports from occupied Western Sahara, whereas it is seemingly transparent about the imports from other countries?
14. Has there been any talks about sanctioning your company's lack of respect for the key principles, for instance by not issuing further certificates?
15. We notice that KMP has a representative in the GMP+ "focus group" tasked with developing the new GMP+ Compound Feed Manufacturing standard. <https://www.globalgap.org/about/focus-groups/compound-feed-manufacturing-fg/>. Is the representative of your company in this group used to advocate for the corporate practice of your company in importing fish products caught by Moroccan industries in the occupied territory?

Regarding KMP and SGS:

16. According to your website, KMP uses SGS for certification of fishmeal from Latin America, both at the source as well as upon entry to Bremen.²⁹ Does SGS also take part in the certification of the products from Western Sahara?

Regarding KMP and MarinTrust:

17. Your website makes reference to the MarinTrust certification of your sites in Germany and Belgium³⁰. Your sites are allegedly in compliance with the "Marine Ingredients Responsibly Supplied Chain of Custody Standard Issue 2.0", certified by GlobalTrust.
18. Can you send us MarinTrust certificates provided to you by the supplying companies?
19. The MarinTrust Standard Version 3 mentions in its introduction that it "draws upon the following normative documents: • United Nations Convention on the Law of the Sea. 1982"³¹ If Morocco is neither the sovereignty power nor the administering power over the non-self-governing territory of Western Sahara, and in light of the 2018 CJEU ruling on fisheries in the territory (paragraph 67-69), how can Morocco's issuing of fishing licences for the waters off Western Sahara be seen as in line with the MarinTrust Standard, namely that the Standard draws upon the UNCLOS, according to KMP?

²⁹ <https://www.kmp-fischmehl.de/en/logistics>

³⁰ <https://kmp-fischmehl.de/content/02-qm/mtcoc140-koester-marine-proteins-gmbh-certificate-2024-2027..pdf>

³¹ <https://www.marin-trust.com/sites/marintrust/files/2023-11/STG-001%20-%20MarinTrust%20Global%20Standard%20for%20Responsible%20Supply%20of%20Marine%20Ingredients%20V3.0.pdf>

20. On several certificates issued to Moroccan exporting companies in Western Sahara and in Morocco, MarinTrust refers to Moroccan EEZ being applicable Western Sahara waters. Does KMP agree or disagree with MarinTrust that the Moroccan EEZ extends to waters off Western Sahara?
21. MarinTrust has, during the years 2019-2024 finalised a series of reports assessing sustainability of the stocks in “Morocco”:
- “By-product Fishery Assessment Sardine in the Eastern-Central Atlantic, Zones A&B”³², September 2022
 - “By-product Fishery Assessment MAR003 – Sardine in FAO 34, Morocco Zones A + B”³³, August 2024
 - “By-product Fishery Assessment MAR005 – Atlantic chub mackerel in FAO 34”³⁴, October 2024
 - “By-product Fishery Assessment MAR003 – European pilchard (*Sardina pilchardus*), FAO 34 Central zone, Zones A and B”³⁵, September 2023.
 - “By-product Fishery Assessment Round sardinella (*Sardinella aurita*) in FAO 34, Atlantic eastern central”³⁶, February 2024.
 - Report on Chub Mackerel (*Scomber japonicus/colias*), FAO 34 Morocco, October 2019³⁷. These reports make no distinction between the waters of Morocco and Western Sahara, and state that the “Country of origin of the product” is Morocco. Around half of the establishments mentioned in the documents are in Western Sahara. Why is stock data from Western Sahara presented as being of Morocco, according to KMP?
22. All MarinTrust certified facilities in Western Sahara that we have observed refer to the location of the establishments as to being in “Morocco”. Does KMP agree with MarinTrust that Western Sahara is part of Morocco? If yes, why does KMP have a political opinion of the matter on this that is contrary to the one of the international courts? If no, how can KMP credibly be certified based on fraudulent country of origin information of its suppliers?
23. Which government has allowed the certifying bodies to carry out inspections of Moroccan enterprises in the occupied territories under the MarinTrust standards? Why is that a relevant government, according to KMP?
24. In the MarinTrust Global Standard for Responsible Supply of Marine Ingredients version 3.0³⁸, under the point “Eligibility criteria” it is established that: “To be eligible to apply for certification, facilities shall: [...] • be legally licenced in the country of operation • meet the legal obligations that are in place for the jurisdiction(s) where marine ingredients are produced and supplied”
- a. Does KMP consider the “country of operation” of the establishments in El Aaiún and Dakhla to be Morocco? Or Western Sahara?
 - b. If it considers it as Western Sahara, how can it be seen as in line with the Standard that the place where marine ingredients are produced and supplied is located outside of the internationally recognised borders of the country that issued the licence to operate?

³² https://www.marin-trust.com/sites/marintrust/files/approved-raw-materials/MAR003%20European%20sardine%20Eastern%20central%20Atlantic%20Zones%20A%20B%20byproduct%20re-approval%20Sep%2022_Final.pdf

³³ https://www.marin-trust.com/sites/marintrust/files/approved-raw-materials/MAR003_Sardine_Morocco%20FAO%2034%20Zones%20A%20B%20B_Surveillance%20_August%202024_Final.pdf

³⁴ https://www.marin-trust.com/sites/marintrust/files/approved-raw-materials/MAR005%20Atlantic%20chub%20mackerel%20FAO%2034%20byproduct%20surveillance%20October%202024_Final.pdf

³⁵ <https://www.marin-trust.com/sites/marintrust/files/approved-raw-materials/MAR003-%20European%20pilchard-%20Byproduct%20fishery%20assessment%20Final.pdf>

³⁶ https://www.marin-trust.com/sites/marintrust/files/approved-raw-materials/MAR001_Morocco_Round%20sardinella_FAO%2034_Surveillance%20_February_2024.pdf

³⁷ https://www.marin-trust.com/sites/marintrust/files/approved-raw-materials/Chub%20Mackerel%20%28Scomber%20japonicus%29_FAO%2034_Morocco_Re-approval_2019_Final.pdf

³⁸ <https://www.marin-trust.com/sites/marintrust/files/2023-11/STG-001%20-%20MarinTrust%20Global%20Standard%20for%20Responsible%20Supply%20of%20Marine%20Ingredients%20V3.0.pdf>

25. In terms of social accountability, the Responsible Supply of Marine Ingredients version 2 requires applicants to “have a documented policy that demonstrates compliance with their national legislation to ensure that their marine ingredient products are manufactured in compliance to all relevant employment, welfare and safety requirements as stated in this sector”. Which national legislation does KMP consider to be applicable in Western Sahara?
26. In terms of reporting and recording of material, the Standard requires that recording of raw material includes proof of authorisation to engage in the specific fishing activity. Does KMP accept authorisations accorded by the government of Morocco to be legally valid in occupied Western Sahara?
27. The Standard for Responsible Supply of Marine Ingredients, version 2, contains provisions on “responsible sourcing of legal, regulated and reported fishery material and avoidance of material sourced from IUU fishing activity”. The Standard defines illegal fishing as “operating in a country’s waters without permission”. The people of Western Sahara, through their government in exile, have not permitted any of the current fishing activities in their land’s waters. All fishing in the waters offshore Western Sahara takes place on the basis of licences accorded by the Moroccan government, which has no sovereignty, jurisdiction of administering mandate over Western Sahara or its waters. The provisions on responsible traceability further emphasize the importance that MarinTrust attaches to legally sourced material, in containing requirements that compliant marine ingredients are to be traced back to an approved fishery material, and that avoidance of IUU fishing should be demonstrated.
 - a. If not IUU, how does KMP qualify *the legal nature* of the Moroccan fisheries operations in Western Sahara?
 - b. On what legal basis, according to KMP, does the supplier of raw materials in Western Sahara sell fish caught in Western Sahara to the certified establishments?
28. The provisions on responsible manufacturing practices require packaging and labelling to display the country of production. Does KMP accept that certified companies located outside of Morocco refer to “Morocco” as the country of production on packaging and labelling?
29. The MarinTrust Global Standard for Responsible Supply of Marine Ingredients Version 3.0, paragraph 2.11.2.1, establishes that facilities that are sourcing whole fish, need to ascertain that the “facility shall complete and document the results of the MarinTrust Social Responsibility Risk Assessment for all vessels”. From what we understand, this is done based on data from the “Social risk assessment guidance for facilities”, and, particularly, the Country Risk Ratings of Annex 2.³⁹
 - a. As long as the territory of Western Sahara - which according to the CJEU, ICJ, African Court of Human and Peoples Rights - is not enlisted with a Country Risk rating, how is this measured?
 - b. If applying the risk data for Morocco on Western Sahara, why is that done that way?
30. The Standard contains requirements on community engagement. It expects the applicant to have a written evaluation of the potential impacts of direct operations on the local community.
 - a. How does KMP view a written application by an applicant in occupied Western Sahara, that concludes a positive impact on “the local community” (which in Western Sahara are in majority Moroccan settlers) against the wider impacts of certifying a business operation that runs on the back of illegal fishery in a territory under occupation, against the will of the people of the territory?
 - b. Would KMP consider the impact of a business on the local community to be of higher importance than the impact on the rights of the people of the territory in which the business operates?
 - c. In terms of community engagement, “regular engagement with local community representatives and organizations” is expected. What relevance does this have in Western Sahara, where the denial of the right to freedom of assembly for Saharawis is well documented (there are no registered Saharawi organisations, as this is considered treason),

³⁹ <https://www.marin-trust.com/sites/marintrust/files/2024-08/STG%20-%200006%20MarinTrust%20V3%20factory%20standard%20-%20social%20risk%20assessment%20-%20whole%20fish%20vessels%201.1.pdf>

and where the local community representatives are likely to be Moroccan, and not Saharawi (as Saharawis are a minority in their own land, and openly identifying yourself as Saharawi puts you under police surveillance)?

31. Does KMP consider it relevant whether the MarinTrust certificates issued to your suppliers are correct, and not fraudulently claiming to be based in another country?
32. Does KMP qualify incorrect country-of-origin as a matter of Food Fraud?

We'd be grateful for your response.

Looking forward to hearing from you,

Sincerely,

Tim Sauer

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