

Gümüşdoğa A.S.

Brussels, 01.08.2025

REGARDING GUMUSDOGA AND THE OCCUPATION OF WESTERN SAHARA

Dear Sir or Madam

Western Sahara Resource Watch (WSRW) is privileged to present you with its compliments. We are writing to inquire about some aspects in relation to Gumusdoga's participation in trade with products from occupied Western Sahara. WSRW wrote about this matter to you in a letter 8 November 2019, but we cannot see having obtained a response.¹

The background for our request is that we are publishing a report on the certification schemes involved in the problematic trade from occupied Western Sahara on our websites www.vest-sahara.no and www.wsrw.org.

Our visual checks in Güllük has proven that your company bases its operations on imports of fishmeal from occupied Western Sahara.²

We note that your company Gümüşdoğa Su Ürünleri has obtained several ASC certificates, including in conformity with ASC Seabass, Seabream and Meagre Standard v1.1.³

Our request to you today is to understand more about your imports from Western Sahara, your interpretation of international law and of your assessment of requirements as adhering to the ASC standard.

Allow us to contextualise our query further.

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.⁴ 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.⁵ 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.⁶

¹ https://vest-sahara.s3.amazonaws.com/wsrw/feature-images/File/2531/688c97f8b609c_WSRW-Gumusdoga_08.11.2019.pdf

² <https://www.wsrw.org/en/archive/4567>

³ <https://asc-aqua.org/find-a-farm/ASC02524/>

https://vest-sahara.s3.amazonaws.com/wsrw/feature-images/File/1996/67406cf5dbcc0_ASC_Certif_Gumusdoga2024.pdf

⁴ International Court of Justice, Western Sahara, <https://www.icj-cij.org/case/61>

⁵ 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/unsq_report_18_june_1990.pdf

⁶ 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 Justice⁷ and the African Court on Human and People's Rights⁸, 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.⁹ 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.¹⁰

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.¹¹ We also refer to the conclusions of the UN Treaty Body on Economic, Social and Cultural Rights¹² and of the UN Human Rights Committee¹³, 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.¹⁴
- Morocco has no sovereignty¹⁵ or administering mandate¹⁶ 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.¹⁷
- 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.¹⁸

⁷ 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>.

⁸ 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>

⁹ 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>

¹⁰ <https://freedomhouse.org/countries/freedom-world/scores?sort=asc&order=Total%20Score%20and%20Status>

¹¹ 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>

¹² 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

¹³ 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

¹⁴ 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.

¹⁵ Judgment of 10 December 2015, EU:T:2015:953, §241. Considered a settled matter in subsequent rulings.

¹⁶ "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.

¹⁷ Judgment of 27 February 2018, EU:C:2018:118, §67-85. Considered settled in subsequent rulings.

¹⁸ 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.¹⁹ 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.”²⁰ 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.”²¹
- 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.²²
- 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.²³

We have the following questions which we would appreciate your comments to:

Regarding Gumusdoga and international law:

1. Does Gumusdoga 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 Gumusdoga agree with the CJEU that the waters offshore Western Sahara do not belong to Morocco’s EEZ?²⁴
3. Does Gumusdoga agree with the ICJ²⁵ that the right to self-determination of a people of a non-self-governing territory constitutes a fundamental human right?

Regarding Gumusdoga and imports from Western Sahara:

4. Is it still the case that Gumusdoga is importing from Western Sahara?
5. Which are Gumusdoga’s suppliers in Western Sahara?
6. Has Gumusdoga ever sought to obtain the consent of the Saharawi people for purchases of fishmeal from occupied Western Sahara?

¹⁹ Judgment of 4 October 2024, EU:C:2024:833, §180-181. Judgment of 4 October 2024, EU:C:2024:835, §152-153.

²⁰ Judgment of 4 October 2024, EU:C:2024:833, §157. Judgment of 4 October 2024, EU:C:2024:835, §128.

²¹ Judgment of 4 October 2024, EU:C:2024:833, §158. Judgment of 4 October 2024, EU:C:2024:835, §129.

²² Judgment of 4 October 2024, EU:C:2024:833, §96-138, Judgment of 4 October 2024, EU:C:2024:835, §70-109.

²³ Judgment of 4 October 2024, EU:C:2024:839, §89.

²⁴ 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>

²⁵ <https://www.icj-cij.org/sites/default/files/case-related/169/169-20190225-ADV-01-00-EN.pdf>

Regarding Gumusdoga and ASC

The ASC Seabass, Seabream and Meagre Standard v1.1.²⁶, which your company is set to adhere to notes in Principle 1 that "It is important that aquaculture operations demonstrate a traceable pattern of legal and responsible behavior."

7. What has Gumusdoga done to ascertain that the Moroccan exporting companies in Western Sahara are legally exporting FMFO from the non-self-governing territory of Western Sahara?
8. Which countries' laws it believes to apply in terms of exports of FMFO from occupied Western Sahara into Turkey?
9. Which set of laws constitute the basis on which the Western Sahara fisheries take place, through which the FMFO has been produced?

We'd be grateful for your response.

Looking forward to hearing from you,

Sincerely,

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²⁶ <https://asc-aqua.org/find-a-farm/ASC02524/>
https://vest-sahara.s3.amazonaws.com/wsrw/feature-images/File/1996/67406cf5dbcc0_ASC_Certif_Gumusdoga2024.pdf