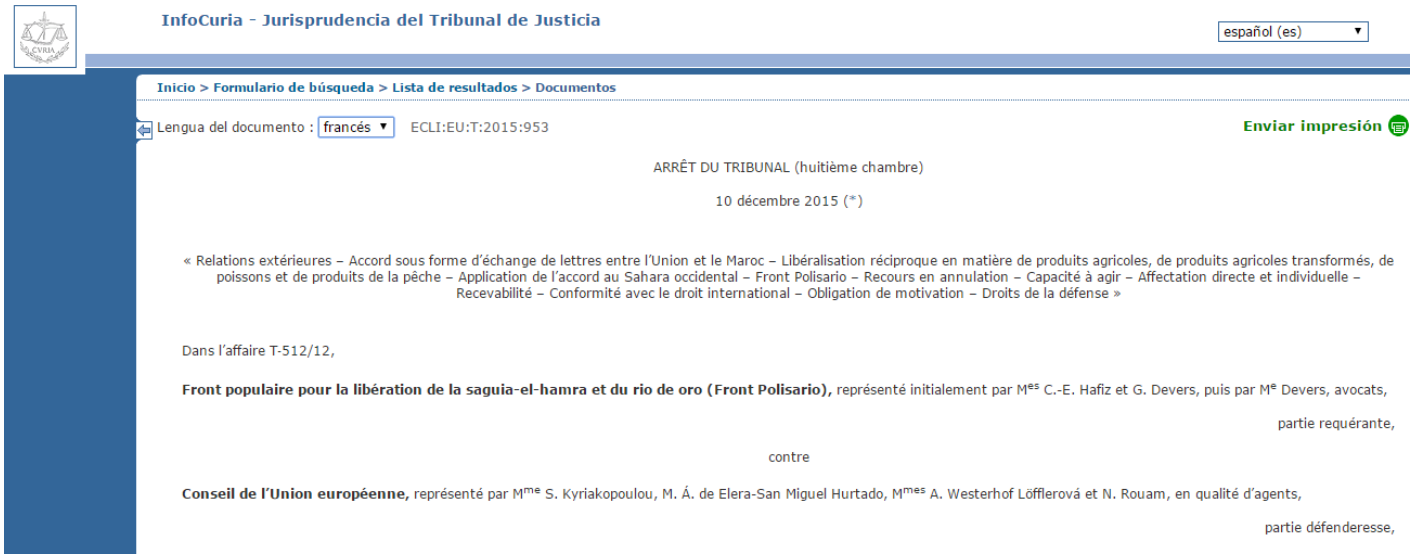
The EU Court annuls the agricultural agreement with Morocco to include illegally Western Sahara



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ARRÊT DU TRIBUNAL (huitième chambre)

10 décembre 2015 (*)

« Relations extérieures – Accord sous forme d'échange de lettres entre l'Union et le Maroc – Libéralisation réciproque en matière de produits agricoles, de produits agricoles transformés, de poissons et de produits de la pêche – Application de l'accord au Sahara occidental – Front Polisario – Recours en annulation – Capacité à agir – Affectation directe et individuelle – Recevabilité – Conformité avec le droit international – Obligation de motivation – Droits de la défense »

Dans l'affaire T-512/12,

Front populaire pour la libération de la saguia-el-hamra et du rio de oro (Front Polisario), représenté initialement par Mes C.-E. Hafiz et G. Devers, puis par Me Devers, avocats,

partie requérante,

contre

Conseil de l'Union européenne, représenté par Mme S. Kyriakopoulou, M. Á. de Elera-San Miguel Hurtado, Mmes A. Westerhof Löfflerová et N. Rouam, en qualité d'agents,

partie défenderesse,

The judgment of the General Court of the European Union made public yesterday, December 10, annuls the agreement between the EU and Morocco, which includes measures of liberalization of agricultural trade. In this area the global nature of the concessions made in the sector of fruit and vegetables is included, which can have a strong impact on EU imports from Morocco, according to FEPEX.

[See here the judgment]

The cancellation of the agreement in the form of an exchange of letters between the EU and the Kingdom of Morocco includes Protocol No. 1 concerning the arrangements applicable to imports into the EU of agricultural products, processed agricultural products, fish and fishery products originating from Morocco. Article 2 of the Protocol includes the elimination of customs duties for the majority of fruits and vegetables and flowers and plants, as well as concessions on entry prices for tomatoes, cucumbers, courgettes, artichokes, oranges, clementines, grapes table, apricots, peaches and nectarines. Article 3 provides monthly quotas agreed entry price for tomato or reduced price. Article 7 provides for the safeguard and the Annex to this Protocol it includes quotas and tariffs are maintained at certain times, or reduced for the following products: tomatoes, garlic, cucumbers, courgettes, clementines and strawberries.

The ruling, pending the assessment of the legal services of the European Commission, limiting the cancellation of trade concessions to agricultural products originating in the Western Sahara, which Morocco has pursued a policy of intensive development of horticultural products, weighing FEPEX considers that increased their exports to the European Union. If the sentence is under appeal, for which a two-month period opens, the court may suspend its execution.

In 2015, until September, EU imports of fruit and vegetables from Morocco totaled 757,200 tonnes, 3% more than in the same period of 2014, amounting to 910.8 million euros (+ 18%) maintaining its upward trend, despite the foreseeable diversion of a significant volume of exports to Russia, according to Eurostat data, processed by FEPEX.

COAG requires the immediate application of the judgment

The Coordinator of Organizations of Farmers and Ranchers (COAG) requires the EC authorities the immediate implementation of the judgment annulling the agricultural free trade agreement between the EU and Morocco to include Western Sahara illegally form, territories on the UN It does not recognize the sovereignty of the Alawite country.

COAG notes that the Court of Justice of the EU collects literally "..the Decision of the Council of 8 March 2012 on the conclusion of the Agreement in the form of an exchange of letters between the European Union and the Kingdom of Morocco concerning reciprocal liberalization measures on agricultural products, processed agricultural products, fish and fishery products, the replacement of Protocols 1, 2 and 3 and Annexes of these Protocols and Mediterranean Agreement on the Establishment an association between the European Communities and their Member States, on the one hand, and the Kingdom of Morocco, on the other, is canceled because it includes the application of that agreement to the Western Sahara. "

COAG and reported in November 2010 this situation based on a letter, dated 2004, in which the then Secretary of State for Trade of the White House, Robert Zoellick, clarified a member of the US House of Representatives that the trade liberalization agreement between the US and Morocco did not include the territories of Western Sahara is not recognized because its sovereignty over them. As detailed in the letter, "the United States and many other countries do not recognize Moroccan sovereignty over Western Sahara". This position was adopted by other countries like Switzerland and Norway.

In addition, COAG reported in November 2012 that the agreement EU-Morocco free trade in agriculture breach, in turn, European legislation on the marketing of fresh fruit and vegetables to limit the ability of consumers to discern clearly whether a product labeled as originating Morocco comes from this Kingdom, or come from Western Sahara. The European fruit and vegetable legislation provides that products intended to be sold fresh to the consumer may be marketed only if they mention the name of the country of origin. On this issue, there pending a ruling by the Court of Justice of the EU to a lawsuit filed by the Polisario Front.

Impact of free trade EU-Morocco agreement on fruit and vegetable sector, Spain

COAG rejected the terms of the approved agreement that seriously damaged the economy of the production areas of fruits and vegetables. The fruit and vegetable sector in Spain generates half the agricultural employment, over a third of final agricultural production and has a significant weight

in the trade balance (last year, the export value amounted to 10,500 million euros). In these times of crisis and unemployment, particularly serious problems in many areas of horticultural production, the renewal of the agreement represented a hard blow to the economy and employment. Only tomato quota increase led to a loss of 350,000 annual wages in Spain.