ENE-007241/2017Answer given by Mr Moscovicion behalf of the Commission(8.2.2018)

The Court of Justice of the European Union judgement of 21 December 2016[[1]](#footnote-1) does not imply that the EU cannot trade with Western Sahara. As a consequence of the present wording of the EU-Morocco Association Agreement and its protocols (which are not applicable to the territory of Western Sahara), imports to the EU of goods originating from the Western Sahara are subject to general (i.e. non-preferential) import rules applicable to imports from other non-preferential countries or territories, and there are no trade restrictions or a ban on such imports.

As the Commission pointed out in its answers to written questions E-001869/2017 and E-002035/2017, it has provided guidelines to the customs authorities of the Member States on the implications of the ruling of the Court of Justice of the European Union. These guidelines include that, in case of reasonable questions about the origin of goods, customs authorities should make inquiries in accordance with the arrangements for administrative cooperation laid down in Title VI of Protocol 4 to the EU-Morocco Association Agreement.

It is important to point out that in the EU legislation origin labelling of products is, as a rule, voluntary. At the same time, EU regulations, such as Regulation (EU) No 1169/2011 of the European Parliament and of the Council on the provision of food information to consumers, require that information provided to consumers is clear, factual, and not misleading. In the case of fresh fruit and vegetables subject to marketing standards, Commission Implementing Regulation (EU) No 543/2011 foresees the indication of the country of origin. Regulation (EU) No 1379/2013 of the European Parliament and of the Council on the common organisation of the markets in fishery and aquaculture products requires the indication of the catch or production area. Member States are in charge of enforcing these requirements and thus shall take action in case products include incorrect or misleading origin labelling.

Finally, it should be pointed out that the Court's ruling on the validity of the Council's decisions on the conclusion of the fisheries agreement and its protocol[[2]](#footnote-2), which may provide further guidance, is expected for 27 February 2018.

1. Case C-104/16P, Council/Polisario, ECLI:EU:C:2016:973 [↑](#footnote-ref-1)
2. Case C-266/16, Western Sahara Campaign, OJ C 260, 18.07.2016, p.31 [↑](#footnote-ref-2)