

NSF

789 N. Dixboro Road Ann Arbor,

MI 48105

USA

Att: Mr. Pedro Sancha, President and CEO

Dublin/Brussels, 29.11.2024

## REGARDING NSF/GLOBAL TRUST CERTIFICATION OF ESTABLISHMENTS IN OCCUPIED WESTERN SAHARA

Dear Mr. Sancha

Western Sahara Resource Watch (WSRW) and its partner in Ireland, Western Sahara Action Ireland, are privileged to present you with our compliments. We are writing to inquire about NSF/Global Trust's certification of companies that operate in occupied Western Sahara.

The background for our request is that we are publishing a report on the certification schemes involved in the problematic trade of fisheries products from Western Sahara on the websites [www.vest-sahara.no](http://www.vest-sahara.no) and [www.wsrw.org](http://www.wsrw.org) in approximately a month from now, and we are going to include references to your company in the report. The request may also at a later stage be followed up by the Irish documentary production company Bang Bang Teo, associated to Western Sahara Campaign Ireland.

Specifically, we are reaching out in relation to the following cases:

- The 2019 certification of **Azura Aquaculture** (ASC02202) as complying with the ASC Bivalve Standard (version 1.1), by Global Trust Certification.<sup>1</sup> Azura Aquaculture is registered at an address in Dakhla, which the Certificate of Conformity locates in "Morocco". Dakhla is however located in the part of Western Sahara that is under Moroccan occupation.
- The 2021 certification of **Laayoune Proteine** as complying with the MarinTrust Standard for Responsible Supply of Marine Ingredients Version 2.0.<sup>2</sup> Laayoune Proteine is registered at an address in El Marsa, which the Certificate of Conformity locates in "Morocco", whereas El Marsa is actually located in occupied Western Sahara.
- The 2019 certification of **Copelit S.A.R.L.** as complying with the MarinTrust Standard for Responsible Supply of Marine Ingredients Version 2.0.<sup>3</sup> The certification has since expired (in May 2022). The certificate reads that Copelit S.A.R.L. is located in Laayoune Port, Morocco, whereas Laayoune - or El Aaiún - is the capital city of Western Sahara.
- The 2022 certification of **Copelit S.A.R.L.** as complying with the MarinTrust Standard for Responsible Supply of Marine Ingredients Version 2.0.<sup>4</sup> The certificate also erroneously puts Copelit in Morocco.
- The 2023 certification of **Tiscop Trading**, as complying with the MarinTrust's Marine Ingredients Responsibly Supplied Chain of Custody Standard Issue 2.<sup>5</sup> The certificate lists Tiscop Trading's address as in Morocco, whereas "Laayoune" - or El Aaiún - is the capital city of Western Sahara
- The 2022 certification of **Atlantic Tank**, as complying with the Marine Ingredients Responsibly Supplied Chain of Custody Standard Issue 1.1.<sup>6</sup>

<sup>1</sup> <https://myasc.asc-aqua.org/netapp/FileHandler.ashx?id=3AC00D98-D59F-4917-9F4E-3ECC563CEC5>

<sup>2</sup> <https://www.marin-trust.com/sites/marintrust/files/2021-10/173%20Laayoune%20Proteine%20Certificate.pdf>

<sup>3</sup> <https://www.marin-trust.com/sites/marintrust/files/2022-05/205%20COPELIT%20s.a.r.l.%20Certificate.pdf>

<sup>4</sup> <https://www.marin-trust.com/sites/marintrust/files/2022-05/205%20COPELIT%20s.a.r.l.%20Certificate.pdf>

<sup>5</sup> [https://www.marin-trust.com/sites/marintrust/files/2023-07/MTCC175%20TISCOP%20TRADING%20s.a.r.l.%20Certificate%202023-2026\\_.pdf](https://www.marin-trust.com/sites/marintrust/files/2023-07/MTCC175%20TISCOP%20TRADING%20s.a.r.l.%20Certificate%202023-2026_.pdf)

<sup>6</sup> [https://www.marin-trust.com/sites/marintrust/files/2022-02/MTCC164%20ATLANTIC%20TANK%20TERMINAL%20Certificate%202022-2025\\_.pdf](https://www.marin-trust.com/sites/marintrust/files/2022-02/MTCC164%20ATLANTIC%20TANK%20TERMINAL%20Certificate%202022-2025_.pdf)

- The 2020 certification of Seafoodia's supplier **DIPROMER**, in accordance the requirements of MarinTrust - Marine Ingredients Responsibly Supplied Chain of Custody Standard Issue 1.1. The certificate lists the location in "Laayoune Port BP 84, Morocco"<sup>7</sup>
- Lastly, the German fishmeal importer **Köster Marine Proteins** in 2022 obtained a MarinTrust - Marine Ingredients Responsibly Supplied Chain of Custody Standard Issue 1.1, issued by NSF/Global Trust.<sup>8</sup> KMP states on its website that it is certified by "IFFO RS", which is MarinTrust, with the old certificate from 2018.<sup>9</sup>

We notice that the certification is done via your subsidiary in Ireland, Global Trust Certification Limited. As such, we expect that the issuing of certificates are properly taking into account the CJEU case-law relating to Western Sahara and products from the territory.

On that basis, we fail to understand how NSF/Global Trust came to the conclusion that companies in the occupied territory could go through a compliance check at all. Secondly, we are surprised to see that the geographical location of establishments is «Laayoune, Morocco» and «Dakhla, Morocco». The cities of El Aaiún (also spelled 'Laayoune') and Dakhla are not located in Morocco.

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, could constitute an act of gross negligence.

We have some questions for your company that we look forward to seeing responded to, outlined further below, prior to 15 December 2024.

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>10</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>11</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>12</sup>

While well over a hundred of UN Resolutions, and rulings by the International Court of Justice, the European Court of Justice<sup>13</sup> and the African Court on Human and People's Rights<sup>14</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

<sup>7</sup> [https://www.marin-trust.com/sites/marintrust/files/2022-06/MTCCOC133%20Seafoodia%20Certificate%202020-2023\\_.pdf](https://www.marin-trust.com/sites/marintrust/files/2022-06/MTCCOC133%20Seafoodia%20Certificate%202020-2023_.pdf)

<sup>8</sup> [https://www.marin-trust.com/sites/marintrust/files/2022-02/MTCCOC140%20K%C3%B6ster%20Marine%20Proteins%20GmbH%20Certificate%202021-2024\\_.pdf](https://www.marin-trust.com/sites/marintrust/files/2022-02/MTCCOC140%20K%C3%B6ster%20Marine%20Proteins%20GmbH%20Certificate%202021-2024_.pdf)

<sup>9</sup> <https://www.kmp-fischmehl.de/content/02-qm/cociffo140-koester-marine-proteins-gmbh-certificate-2018-2021.pdf>

<sup>10</sup> International Court of Justice, Western Sahara, <https://www.icj-cij.org/case/61>

<sup>11</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/unsrg\\_report\\_18\\_june\\_1990.pdf](https://minurso.unmissions.org/sites/default/files/unsrg_report_18_june_1990.pdf)

<sup>12</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>

<sup>13</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>14</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>

has not been allowed to visit Western Sahara for the last eight years.<sup>15</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>16</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>17</sup> We also refer to the conclusions of the UN Treaty Body on Economic, Social and Cultural Rights<sup>18</sup> and of the UN Human Rights Committee<sup>19</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 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>20</sup>
- Morocco has no sovereignty<sup>21</sup> or administering mandate<sup>22</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>23</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>24</sup>
- 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>25</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>26</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>27</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>28</sup>

<sup>15</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>16</sup> <https://freedomhouse.org/countries/freedom-world/scores?sort=asc&order=Total%20Score%20and%20Status>

<sup>17</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>18</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>19</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>20</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>21</sup> Judgment of 10 December 2015, EU:T:2015:953, §241. Considered a settled matter in subsequent rulings.

<sup>22</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>23</sup> Judgment of 27 February 2018, EU:C:2018:118, §67-85. Considered settled in subsequent rulings.

<sup>24</sup> Judgment of 21 December 2016, EU:C:2016:973, §104. Reiterated and refined in subsequent rulings.

<sup>25</sup> Judgment of 4 October 2024, EU:C:2024:833, §180-181. Judgment of 4 October 2024, EU:C:2024:835, §152-153.

<sup>26</sup> Judgment of 4 October 2024, EU:C:2024:833, §157. Judgment of 4 October 2024, EU:C:2024:835, §128.

<sup>27</sup> Judgment of 4 October 2024, EU:C:2024:833, §158. Judgment of 4 October 2024, EU:C:2024:835, §129.

<sup>28</sup> Judgment of 4 October 2024, EU:C:2024:833, §96-138, Judgment of 4 October 2024, EU:C:2024:835, §70-109.

- 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>29</sup>

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

*Regarding NSF and international law:*

1. Does NSF agree with the ICJ, CJEU, UN, African Court on Peoples' and Human Rights that Western Sahara is not part of Morocco?
2. Does NSF agree with the CJEU that the waters offshore Western Sahara do not belong to Morocco's EEZ?<sup>30</sup>
3. Does NSF agree with the ICJ<sup>31</sup> that the right to self-determination of a people of a non-self-governing territory constitutes a fundamental human right?
4. 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"<sup>32</sup> 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?

*Regarding the certification:*

5. Has NSF ever informed ASC or MarinTrust that the physical addresses of the above-mentioned establishments is incorrect, through placing the city of Dakhla and El Aaiún (also: Laayoune) within the country of "Morocco"?
6. Which countries' laws regulate the contract between Global Trust and the certified organisations in Western Sahara in relation to the certifications in question?
7. Did NSF physically travel into the occupied territory as part of the ASC/MarinTrust certifications?

*Regarding the standard:*

8. The first principle of the ASC Bivalve Standard (version 1.1), for which Azura Aquaculture was certified, expects certificate holders to "obey the law and comply with all applicable legal requirements and regulations where farming is located". In the MarinTrust Global Standard for Responsible Supply of Marine Ingredients version 3.0<sup>33</sup>, 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. In terms of social accountability, the MarinTrust 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".
  - a. Does NSF agree that the country of operation of the establishments in El Aaiún and Dakhla is in fact not Morocco?

<sup>29</sup> Judgment of 4 October 2024, EU:C:2024:839, §89.

<sup>30</sup> 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>

<sup>31</sup> <https://www.icj-cij.org/sites/default/files/case-related/169/169-20190225-ADV-01-00-EN.pdf>

<sup>32</sup> <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>

<sup>33</sup> <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>

- b. If that is the case, how can it be seen as in line with the MarinTrust 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?
  - c. Which laws does NSF International consider to be applicable in Western Sahara? Moroccan law? International law?
  - d. As Azura Aquaculture has been ASC certified, it is considered to be complying with the first principle of the ASC Bivalve Standard. What relevance does that first principle on legal compliance have, when the legal framework that is applicable to Western Sahara has been disregarded through the certification of a farm operating on occupied land?
9. In terms of reporting and recording of material, the MarinTrust Standard requires that recording of raw material includes proof of authorisation to engage in the specific fishing activity. Does NSF accept authorisations accorded by the government of Morocco to be legally valid in occupied Western Sahara?
10. According to NSF, what country's legislation applies in the shallow waters in which the Azura production takes place, right off land near Dakhla in Western Sahara?
11. The MarinTrust 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 NSF qualify *the legal nature* of the Moroccan fisheries operations in Western Sahara?
  - b. On what legal basis, according to NSF, does the supplier of raw materials in Western Sahara sell fish caught in Western Sahara to the certified establishments?
12. ASC's supplementary checklist<sup>34</sup> for the Chain of Custody certification requires certificate holders to have an effective process in place to inform CAB within two days, if a "court case or other legal action related to the scope of the CoC Standard arises" or on "becoming aware that the organisation, or their products, are not in compliance/conformance with any relevant applicable laws, regulations, ASC standards and/ or requirements".
  - a. Has Azura Aquaculture informed NSF about the now ten CJEU rulings that draw strong conclusions about the territory in which Azura Aquaculture operates, and even have repercussions to the labelling of the certified establishments' products upon import into the EU?
  - b. Has Azura Aquaculture informed NSF about the CJEU ruling with direct implications with regard to country of origin indications, both at the stage of import and sale to consumers in the European Union?
13. In terms of Chain of Custody certification, ASC's supplementary checklist highlights that all certificate holders are to have a Food Fraud Vulnerability Assessment (FVA) in place to mitigate fraud risk. Misrepresenting the country of origin is a clear case of food fraud. The ruling in Case C-399/22, of the EU Court of Justice of 4 October 2024, which had immediate effect, concluded that "at the stages of import and sale to the consumer, the labelling of the goods at issue in the main proceedings must indicate Western Sahara alone as the country of origin of those goods."<sup>35</sup>
  - a. Does Azura Aquaculture have FVA in place?

<sup>34</sup> <https://asc-aqua.org/wp-content/uploads/2023/05/ASC-Chain-of-Custody-Checklist-Guide-May-2023.pdf>

<sup>35</sup> <https://curia.europa.eu/juris/document/document.jsf?text=&docid=290679&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=106575>

- b. If yes to 4.a, how does NSF assess Azura Aquaculture to comply with its FVA in Western Sahara?
  - c. Would NSF in general qualify the labelling of products of Western Sahara origin as from Morocco to be a case of food fraud?
- 14. 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.<sup>36</sup>
  - 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?
- 15. The MarinTrust 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. Is NSF involved in assessing this part of the application process?
  - b. How does NSF evaluate a written application by an applicant in occupied Western Sahara, that concludes a positive impact on "the local community" (which are 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?
  - c. Would NSF 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?
  - d. 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), 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)?

*Regarding your role and the credibility of the standard:*

- 16. European consumers have the right to know the origin of the products that they purchase. The exporters in Western Sahara are falsely labelling the products with the wrong country origin. What risks does NSF consider it might have for the credibility of the standards that the websites of the involved companies, ASC/MarinTrust and the NSF issued certificates themselves - are misleading the consumer about the country of origin of the products that are being marketed?
- 17. ASC's website has a segment on human rights in aquaculture. Here, it states that "It is our mission to protect the human rights of those who work in aquaculture, or live in surrounding communities, and improve their wellbeing. We also aim to act as a catalyst for broader industry-wide change."
  - a. How does NSF regard the certification of a farm operating on occupied land - operating on the back of approvals granted by an occupying regime with no legal claim to the land - in the framework of its mission to protect human rights?
  - b. Would NSF consider the rights of the people of Western Sahara to be of relevance when certifying farms in Western Sahara?

<sup>36</sup> <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>

- c. How would NSF define the “surrounding communities” in Dakhla in this regard?
  - d. Would it consider the rights of these communities - in majority Moroccan settlers as established by the highest Court of the EU - to take precedence over the rights of the people of the territory?
  - e. Is NSF of the view that human rights, in general, can be compromised, including the right to self-determination through the establishment of company operations in the occupied territory?
  - f. To what extent does NSF believe that it, itself, is acting in violation of the Saharawi people’s rights through certifying business operations on occupied land that do not have the consent of the people of the territory?
18. The fishmeal importer KMP in Germany fails to answer letters from civil society regarding its imports. Our association wrote the company on 19 July 2018, on 21 September 2018, on 1 May 2019, on 14 September 2019, on 16 October 2020 and on 21 July 2023.<sup>37</sup> We have never obtained a response. Which are the contact details of the responsible in KMP that your company is using?
19. Has NSF ever sought to find out whether the issuing of certificates to Moroccan companies in occupied Western Sahara is something that the Saharawi people have consented to?
20. As companies on the European market are now obliged to label goods from Western Sahara as from “Western Sahara”, and specifically not from “Morocco”, is there a risk that the application of this ruling in Europe is undermined by the issuing of NSF certificates claiming that geographical locations in Western Sahara are in fact located in Morocco?
21. Which steps will you take vis-à-vis the certificate, MarinTrust/ASC and the certificate holders as a consequence of our request to you and as a consequence of the 4 October 2024 CJEU rulings?

We’d be grateful for your response. Any answer from your company will be included in the report. We’d appreciate answers prior to 15 December.

Looking forward to hearing from you,

Sincerely,

**Erik Hagen,**  
**Western Sahara Resource Watch**  
[erik@wsrw.org](mailto:erik@wsrw.org)  
[www.wsrw.org](http://www.wsrw.org)

**Mark McLoughlin**  
**Western Sahara Action Ireland**  
[mark@wsrw.org](mailto:mark@wsrw.org)

<sup>37</sup> 19.07.2018, WSRW letter to KMP, [https://vest-sahara.s3.amazonaws.com/wsrw/feature-images/File/2000/674383cf5dc22\\_WSRW-KMP\\_19.07.2018.pdf](https://vest-sahara.s3.amazonaws.com/wsrw/feature-images/File/2000/674383cf5dc22_WSRW-KMP_19.07.2018.pdf)  
 21.09.2018, WSRW letter to KMP, [https://vest-sahara.s3.amazonaws.com/wsrw/feature-images/File/2005/67438531ef529\\_WSRW-KMP\\_21.09.2018.pdf](https://vest-sahara.s3.amazonaws.com/wsrw/feature-images/File/2005/67438531ef529_WSRW-KMP_21.09.2018.pdf)  
 01.05.2019, WSRW letter to KMP, [https://wsrw.org/files/dated/2019-05-01/20190501wsrw-kmp\\_fischmehl\\_naja.pdf](https://wsrw.org/files/dated/2019-05-01/20190501wsrw-kmp_fischmehl_naja.pdf)  
 14.09.2019, WSRW letter to KMP, [https://vest-sahara.s3.amazonaws.com/wsrw/feature-images/File/2004/674385063ac97\\_WSRW-KMP\\_14.09.2019.pdf](https://vest-sahara.s3.amazonaws.com/wsrw/feature-images/File/2004/674385063ac97_WSRW-KMP_14.09.2019.pdf)  
 16.10.2020, WSRW letter to KMP (dated wrongly 2010), [https://vest-sahara.s3.amazonaws.com/wsrw/feature-images/File/2003/674384b4d6209\\_WSRW-KMP\\_16.10.2020\\_wrongdateinPDF.pdf](https://vest-sahara.s3.amazonaws.com/wsrw/feature-images/File/2003/674384b4d6209_WSRW-KMP_16.10.2020_wrongdateinPDF.pdf)  
 21.07.2023, WSRW letter to KMP, [https://vest-sahara.s3.amazonaws.com/wsrw/feature-images/File/2001/67438401ea219\\_WSRW-KMP\\_21.07.2023.pdf](https://vest-sahara.s3.amazonaws.com/wsrw/feature-images/File/2001/67438401ea219_WSRW-KMP_21.07.2023.pdf)