



Blog LabSAHARA

JULIO 2025

ISSN 3020-2000

MOROCCO-ISRAEL JOINT HYDROCARBON EXPLORATION AGREEMENT IN THE CONTINENTAL SHELF OF WESTERN SAHARA: A GEOPOLITICAL AND LEGAL ANALYSIS

ABSTRACT. *Western Sahara is a territory rich in phosphate and fish, with hydrocarbon reserves and the potential for other economic activities, such as agriculture, livestock farming, and mining. To this date, Morocco continues to exploit the natural resources of Western Sahara, without prior consultation with the local population. This Note focuses on the geopolitical and legal analysis of the controversial Joint Hydrocarbon Exploration Agreement between Morocco and Israel in the Continental Shelf of Western Sahara. It analyses how the agreement serves Morocco's strategic interests, in particular, in the consolidation of its territorial claim of Western Sahara, considering the opportunities resulting from the growing ties with Israel and the United States of America, as well as the challenges, such as the lack of support for its claim at the multilateral level and legal ground. This Note demonstrates the dynamic between international politics and international law, showing that despite the obstacles in its enforcement mechanism, international law still influences the behaviour and conduct of States.*

Keywords: Morocco, Israel, Western Sahara, United States of America, European Union, Geopolitics, Foreign Policy, Multilateral Diplomacy, Territorial Claims, Decolonization.

RESUMEN. *El Sáhara Occidental es un territorio rico en fosfatos y pesca, con reservas de hidrocarburos y potencial para otras actividades económicas como la agricultura, la ganadería y la minería. Hasta la fecha, Marruecos continúa explotando los recursos naturales del Sáhara Occidental sin consultar previamente a la población local. Esta Nota se enfoca en el análisis geopolítico y jurídico del controvertido Acuerdo Conjunto de Exploración de Hidrocarburos entre Marruecos e Israel en la Plataforma Continental del Sáhara Occidental. Analiza cómo este acuerdo contribuye a los intereses estratégicos de Marruecos, en particular a la consolidación de su reclamación territorial del Sáhara Occidental, considerando las oportunidades derivadas de los crecientes vínculos con Israel y los Estados Unidos de América, así como los desafíos, como la falta de apoyo a su reclamación a nivel multilateral y jurídico. Esta Nota muestra la dinámica entre la política internacional y el derecho internacional, demostrando que, a pesar de los obstáculos del mecanismo de aplicación, el derecho internacional influye el comportamiento y la conducta de los Estados.*

Palabras Clave: Marruecos, Israel, Sáhara Occidental, Estados Unidos de América, Unión Europea, Geopolítica, Política Exterior, Diplomacia Multilateral, Reclamaciones Territoriales, Descolonización.

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Julio 2025 | ISSN 3020-2000



At the end of February 2025, the Ministry of Energy Transition and Sustainable Development of Morocco granted the license for the exploration of hydrocarbon reserves off the coast of occupied Western Sahara, which will be carried out by a collaboration between the Moroccan company Adarco Energy and the Israeli company NewMed Energy. Both companies had previously signed the agreement on 20 December 2022 for the exploration and production of oil and/or natural gas under the “Boujdour Atlantique” project.

The agreement stipulates that the license includes 17 permits for the exploration and exploitation of hydrocarbons for a period of 8 years, which may be extended in the event of discovery. Under this agreement, both countries’ companies, NewMed and Adarco Energy, each control 37.5% of the license; while the National Office of Hydrocarbons and Mines (ONHYM) under the Ministry of Energy Transition and Sustainable Development of Morocco holds the remaining 25% (Operations - Adarco Energy, n.d.).

This agreement has garnered international attention and sparked a contentious debate, as the project is to be executed in the waters of Western Sahara, a declared Non-Self-Governing Territory by the United Nations, an area over which Morocco continues to assert its territorial claim.

Morocco has implemented various policies and actions to gain control of the region since the signing of the Madrid Accords in November 1975, which marked the end of Spanish colonial rule of Western Sahara. These measures include military force, occupation, enforcing sovereignty through the proposal of an autonomy plan, as well as through diplomatic strategy. Nevertheless, these efforts by Morocco have encountered numerous hurdles at the multilateral level and on legal grounds.

Morocco has tried to gain the support of the international community, such as in the African Union. In 1984, Morocco withdrew from the OAU in protest against its recognition of the Sahrawi Arab Democratic Republic (SADR), which was accepted as a full member in 1982.



Moreover, the organization had repeatedly called on the UN Security Council to assume its responsibility in order to achieve a fair, lasting and mutually acceptable political solution, which will provide for the self-determination of the people of Western Sahara, as well as to UN General Assembly for the protection of the integrity of the Western Sahara, including the preservation of its natural resources (African Union, 2016). Similarly, the European Union has taken a position in opposition to Morocco's territorial claim of Western Sahara, which is reflected in the rulings of its Court of Justice (CJEU).

LEGAL CHALLENGES FACED BY MOROCCO

The diplomatic obstacles faced by Morocco at the international and multilateral level coincide with its failures on legal grounds. Firstly, in August 1975, Morocco requested the UN to seek an advisory opinion from the International Court of Justice (ICJ) regarding the legal status of the territory of Western Sahara. In presenting the case, it attempted to provide a historical rationale by emphasizing that Western Sahara was part of the Moroccan kingdom (Weiner, 1979, p.23). Although the Court recognized the existence of the legal ties of allegiance between the Sultan of Morocco and some of the tribes living in the territory of Western Sahara, it declared that these ties were not equivalent to Moroccan territorial sovereignty over the region. This ICJ's advisory opinion also stated that at the time of colonization by Spain, Western Sahara was not a territory belonging to no one (*terra nullius*); and that the General Assembly resolution 1514 (XV) is applied to the decolonization of Western Sahara, also highlighting the principle of self-determination of the people in the territory (Summary of the Advisory Opinion of 16 October 1975, 1975).

Secondly, the Court of Justice of the European Union (CJEU) issued several judgments on the agreements between the EU and Morocco and their territorial scope, including the Non-Self-Governing Territory of Western Sahara. Cases C-104/16 P and C-266/16 concerning, respectively, the Agricultural Agreement and the Fisheries Partnership Agreement.



The Court ruling of 2016 acknowledged the United Nations General Assembly Resolution, that Western Sahara has a “separate and distinct” status from Morocco, and affirmed that the consent of the Sahrawi people is necessary for any economic activities in their territory.

The final judgment of the CJEU reaffirms this position, annulled the Council Decision (EU) 2019/441 on the conclusion of the Sustainable Fisheries Partnership Agreement between the European Union and the Kingdom of Morocco, considering it to be a breach of the principles of self-determination under Article 73 of the UN Charter (Commission and Council v Front Polisario, 2024). In line with this, González García (2011, p.544-545) maintained that the UN resolutions on decolonization recognize the right of the Sahrawi people, as holders of the right to self-determination, to permanent sovereignty over their natural resources; furthermore, she affirmed that fishing activities off the coast of Western Sahara were being carried out without the consent of its people to the detriment of their interests.

Additionally, the Court also ruled that products originating from Western Sahara must be labelled as such to clearly distinguish them from Moroccan products. Thus, it does not recognize Morocco’s claim over Western Sahara, affirming its status as a Non-Self-Governing-Territory, separated and distinct from Morocco.

The judgments also imply the obligation of States not to recognize any agreements that conflict with international law and the UN Charter. As Koury (2009, p.197) explained, the obligations arising from serious violations of peremptory norms such as the prohibition of aggression and the right to self-determination, rules embedded in the UN Charter, impose a clear obligation on the European Commission to respect its obligation of non-recognition; thus, oblige it to act to ensure that the agreement does not, *prima facie*, give rise to recognition.



As a result, the Western Sahara dispute also has some repercussions on the EU-Morocco relations. According to Torrejon (2014, in Grane-Gascón and Ruiz-Seisdedos, 2017, p.80), European foreign policy has developed along two institutional axes: an intergovernmental axis on one hand, and an economic axis on the other. In other words, EU economic interests have become intertwined with the desire to achieve stability in the Maghreb, migration control, for which Morocco has been considered to play a significant role and has given it political leverage. The rulings of the CJEU affirm the findings of Grane-Gascón and Ruiz-Seisdedos (2017, p.82), which state that the EU's position has gradually shifted to eventually favouring the Sahrawi people's right to self-determination.

Thirdly, in 2002, the Legal Advisor of the UN Legal Counsel, Hans Corell, commented on the actions by "the Moroccan authorities consisting in the offering and signing of contracts with foreign companies for the exploration of mineral resources in Western Sahara", indicated that such actions constituted a violation of international law (S/2002/161). Regarding this, Brus (2009, p.203) suggested that the Legal Adviser's opinions had the possibility of being considered an opinion juris or authoritative positions on particular issues of international law, if the Security Council had endorsed the Legal Adviser's opinion and act upon it, for example by adopting a resolution, the opinion may become State practice.

Fourthly, in 2018, the High Court of South Africa in the case of selling and exporting of 55,000 tonnes of phosphate rock from Western Saharan by the Moroccan state-owned company OCP S.A. and Phosphates de Bourcraa S.A. to the New Zealand company 'Balance Agri-Nutrients Limited', declared that the phosphate in question belongs to the Sahrawi people; thus, the Moroccan companies were not entitled to sell this natural resource (Case No. 1487/2017).

Therefore, the Joint Hydrocarbon Exploration agreement and the increasing ties between Morocco, Israel and the United States of America can be considered as part of Morocco's strategy to gain more unilateral recognition of its territorial claim of Western Sahara, particularly, through bilateral channels, taking into account its failures at the multilateral level, which coincides with its loss in the legal ground.



The joint hydrocarbon exploration initiative with Israel can thus be interpreted as a strategic move by Morocco to consolidate its claim over Western Sahara, not only through resource exploitation but also by reinforcing political legitimacy via high-profile international partnerships, in this case, through a unilateral recognition by Israel.

GEOPOLITICAL INTERESTS OF MOROCCO

The Joint Hydrocarbon Exploration agreement provides an opportunity for Morocco to fulfil its energy needs and build its energy independence, with the advantage of Israel's technology. According to the data of 2024, Morocco still depends primarily around 90% of its energy needs on imported hydrocarbons (Morocco - Energy, 2024). In August 2021, Algeria broke all diplomatic ties with Morocco and decided not to renew the Maghreb-Europe Gas Pipeline (MEG), a 1,300km pipeline that transport gas from Algeria to Spain through Morocco, which took 7% of the gas as royalty, accounting to 31.6% of its petroleum gas import (Pavia, 2022, p.36).

Then, Algeria decided to continue its gas supply directly to Spain by diverting all supply to the Medgaz pipeline, which bypasses Morocco. The decision was taken after a period of deteriorating bilateral relations attributed to the disagreements over the sovereignty of Western Sahara. It is worth mentioning that, in 2022, the Spanish government reopened the Maghreb-Europe gas pipeline to supply gas to Morocco, reversing the usual flow direction. The situation demonstrates the increasing significance of energy, as a national security element, as well as a tool of geopolitics.

Besides the advantages in the energy sector, this agreement also contributes to the strengthening of the ties and cooperation with Israel and the US, including in the military and defence area. In 2022, the same year of the signing of the Joint Hydrocarbon Exploration Agreement, both countries expressed interest in jointly establishing a joint military commission, a defence industrial project in Morocco, as well as considering expanding the military cooperation to include intelligence cooperation, industrial links, joint training, technological transfer and arms purchase (Chtatou, 2023, p.240-241).



In 2022, the Royal Moroccan Armed Forces acquired Israeli-made Heron drones, anti-drone systems, and missile systems in 2023 (Zaaimi, 2025, January 21).

In parallel, Morocco enjoys continuing assistance from the United States, as the country that brokered the normalization of relations between Morocco and Israel, back in 2020, during the first administration of President Donald Trump. It not only granted US recognition of Morocco's sovereignty over Western Sahara, but also entails an arms deal and major military assistance from the US, as it also signed an MoU on a US\$3 billion private investment project financing plan, most of which will be allocated to Moroccan banks, hotels, and the Moroccan king's renewable energy company (Jakes et al., 2020, in Ilham, 2022, p.171). In addition, the signing of the Peace Agreement coincided with the approval by the US State Department for a \$1 billion sale of unmanned aerial drones to Morocco, marking a deepening of military cooperation between Morocco and the Western superpower (Warshel, 2021, p.126).

Subsequently, stronger alliances with the US and Israel also serve Morocco's interest with regard to the regional power competition with Algeria, particularly, providing it with some military advantage. According to Stockholm International Peace Research Institute, in 2024, Algeria maintains its military expenditure of 8% of its GDP (US\$ 21,811.24), while Morocco allocates 3.5% of its GDP (US\$ 5,517.92) (Military Spending as a Share of GDP, 2025). While Algeria obtains its military supply primarily from Russia, the United States has been the main arms supplier for Morocco. The recent arms purchase and military cooperation with Israel further strengthen Morocco's defence capability.

Therefore, it can be considered that the bolstering of alliances with the US and Israel further enhances Morocco's tangible power, such as economic and military capabilities, as well as contributes to the solidification of its position as a regional power in the region, particularly in countering the resistance from Polisario Front and regional competition with Algeria, which is also a supporter of the Sahrawi cause.



THE INTERESTS OF ISRAEL

In the past 20 years, Israel has evolved from a highly energy import-dependent country to a self-sufficient then to a significant gas exporter, since large reservoirs of natural gas were found in its Exclusive Economic Zone (EEZ). It has been proactively seeking to export gas to neighbouring countries, with the attempt to position itself as a key player in the region. In 2023, the energy imports of Israel only accounted to 14.1% of its total energy supply; and the net gas export reached 46.8% of its total gas production (International Energy Agency, 2023). Alongside the growing importance of natural gas in the domestic energy mix, Israel is proactively seeking to export gas to neighbouring countries, contributing to bolstering its position as a key player in the region.

In June 2022, Israel, Egypt and the European Union signed an MoU on cooperation related to trade, transport and export of natural gas from Egypt, Israel and other sources to the EU. The agreement has allowed Israel, for the first time, to export its gas to Europe (Ministry of Energy and Infrastructure, 2022); while it contributes to the energy sources diversification effort by the EU with new reliable partners and to diminish its reliance on Russian gas. Thus, taking into consideration Israel's energy sector profile, the success of its offshore production, and the existing collaboration with other countries, the Joint Hydrocarbon Exploration Agreement with Morocco would further enhance Israel's energy output and provide access to the North African-European energy route, should the exploration lead to a discovery of this energy resource.

CONCLUSION

The Joint Hydrocarbon Exploration agreement has received international attention and generated a controversial debate, since the project is to be executed in the waters of Western Sahara, a declared Non-Self-Governing Territory by the United Nations, claimed by Morocco. It can be considered a strategy to consolidate its territorial claim over Western Sahara through unilateral recognition by other states.



This has taken into account various factors, such as: (i) the lack of support for Morocco's claim at the international and multilateral level, as well as in the legal field; (ii) the slow of progress in the realization of the Autonomy Plan in the Western Sahara proposed in 2007; (iii) the opportunities resulted from the strengthening of relations with Israel and the United States, which have expressed their recognition of Morocco's sovereignty over Western Sahara.

Morocco has established hydrocarbon offshore blocks in the waters of Western Sahara, and grants licenses to foreign companies for the exploration and exploitation of this natural resource, through its National Office of Hydrocarbons and Mines (ONHYM). In this manner, Morocco continues its de facto control over the area through economic occupation, by the construction of infrastructures and business activities in the area, including tourism and the exploitation and export of resources. Considering the existence of the SADR Petroleum and Mining Authority, Moroccan policy has neglected the requirement of the consent of the Sahrawi people and undermines the sovereign right over the natural resources of the SADR.

Geopolitically, the agreement also serves different interests of Morocco, such as to increase its energy independence, as countries are striving to be more self-sufficient and reduce their dependency on foreign resources. The agreement provides an opportunity for Morocco to reinforce its energy independence and national security, with the advantage of Israel's technology. Additionally, the agreement and stronger alliance with the United States and Israel entail major cooperation, including in the military and defence sector. Nevertheless, as a consequence, the Israeli presence in the Maghreb could further raise the tension in the region, related to its rivalry with Algeria, the main supporter of the Polisario Front and the right of self-determination of the Sahrawi people.

This Note also has demonstrated the dynamic between international politics and international law, by providing an example of the inclination of States to reflect and take advantage of the coercive capacity of powerful States in interpreting, applying and contesting international law.



In this case, it can be considered that the US and Israel's unilateral recognition of Morocco's claim over Western Sahara poses a counterposition to the United Nations resolutions, the rulings of the ICJ and the Court of Justice of the European Union.

In addition, the Joint Hydrocarbon Exploration Agreement presents an example of the instrumentalization of the private sector and companies by Morocco to obtain its national interest, in particular, to consolidate its territorial claim over Western Sahara. In this sense, private companies are being utilised as agents of States, since their status allows them to maintain a certain 'distance', which reduces direct accountability when engaging in unlawful or contentious activities. In this way, private companies operate in grey zones of international law, allowing States to circumvent immediate legal consequences. This may further undermine confidence in the current international system and multilateral institutions, legitimize economic coercion and encourage unilateralism.

Nevertheless, throughout the years, there have been other foreign companies who decided not to continue the importation of Western Saharan phosphate, due to the international concern regarding the dispute and the question of the rights of the natural resources in Western Sahara (Western Sahara Resource Watch, 2023, May 11). The study of Trasosmontes (2016, p.166) also confirms this finding, highlighting that the uncertainty regarding compliance with international legislation on the exploitation of resources in Non-Self-Governing territories has led some companies to refrain from importing phosphate from the Bucraa mine in Western Sahara.

On the other hand, this Note also affirms the supposition that international legal norms impact the options and decisions made by international actors. In this case, the advisory opinion of the ICJ, rulings of regional and national courts affect the decision of States, as well as private companies, as they provide a normative and legal reference. Thus, it demonstrates the efficacy of international law, that even in the absence of 'international police' or a global authority with the competence to enforce international law, it still provides the legal and normative references, which direct and influence the behaviour and the conduct of States.



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