



MEMORANDUM ON THE LATEST DEVELOPMENTS IN WESTERN SAHARA

August 2023

- For over forty-seven years, Morocco has illegally occupied a portion of the Territory of Western Sahara, a Non-Self-Governing Territory on the agenda of the United Nations (UN) since December 1963. The Moroccan occupation continues in violation of the purposes and principles of the UN Charter and the Constitutive Act of the African Union (AU) as well as basic norms of international law, including the ruling of the International Court of Justice (ICJ) in 1975, which affirmed that no tie of sovereignty had ever existed between the Territory of Western Sahara and Morocco.
- In keeping with the norms of international law, the UN, the AU, and the European Union (EU), among others, have never recognised Morocco's illegal occupation and annexation of Western Sahara. Indeed, Morocco's presence in Western Sahara has been "*deplored*" by the Security Council (Res. 380 of 1975) and qualified expressly as an act of "*continued occupation*" in General Assembly resolutions (Res. 34/37 of 1979 and Res. 35/19 of 1980, among other resolutions).
- Despite the efforts undertaken by the UN and the then Organisation of the African Unity (OAU) (currently the AU) to bring the last colonial case in Africa to a successful conclusion, the question of Western Sahara remains unresolved owing to Morocco's procrastination and obstructionism as well as the inaction of the international community.
- For three decades, Morocco reneged on its commitments under the UN-OAU Settlement Plan that was accepted by both parties, the Frente POLISARIO and Morocco, in 1988 and approved unanimously by the UN Security Council in 1990 and 1991. Morocco has also been hindering the holding of the referendum on self-determination for the Sahrawi people, which was accepted by both parties and endorsed by the international community as a compromise solution to achieve a peaceful and lasting solution in Western Sahara.
- In his report (S/21360) of 18 June 1990, the UN Secretary-General noted that the Settlement Proposals "*represent a compromise and a practical and reasonable basis for implementing OAU resolution AHG/Res. 104 (XIX) and General Assembly Resolution 40/50, while taking the two parties' interests into account*" (para. 5). Therefore, the only viable, realistic, and enduring solution to the question of Western Sahara is the solution that fully respects the sovereign will of the Sahrawi people and genuinely provides for the exercise of their inalienable, non-negotiable, and imprescriptible right to self-determination and independence in accordance with General Assembly resolution 1514 (XV) and other relevant resolutions.
- Since the inception of the implementation of the UN-OAU Settlement Plan following the entry into force of the ceasefire on 6 September 1991, the Frente POLISARIO has made tremendous concessions to advance the peace process. Its flexibility, cooperation and spirit of compromise made it possible for James A. Baker III, Personal Envoy of the UN Secretary-General for Western Sahara, to negotiate and conclude the Houston Agreements of 1997, which created "*the conditions to proceed towards the full implementation of the Settlement Plan*" (S/1997/742; para 27).

- Nevertheless, the inaction and complacency exhibited by the UN and its failure to stop Morocco from sabotaging the peace process have emboldened the occupying state to persist, with complete impunity, in its annexationist policies and attempts to impose a fait accompli by force in the Occupied Territories of Western Sahara. The gross violations of human rights perpetrated by the Moroccan security forces, the massive plunder of Sahrawi resources and Morocco's attempts to involve third parties in the Occupied Territories are just a few cases in point.
- As a result of Morocco's obstructionist and defiant attitude, the UN peace process in Western Sahara is currently witnessing extremely dangerous developments in the aftermath of Morocco's violation of the 1991 ceasefire and its military attack on the Liberated Territory of Western Sahara on 13 November 2020. In the face of Morocco's ongoing act of aggression coupled with the UN regrettable inaction, the Sahrawi people have been left with no other option but to exercise their legitimate right to self-defence to defend their sovereignty and independence.
- Morocco's new act of aggression has led to the collapse of the ceasefire and the already stalled UN peace process at a time when armed confrontations continue and intensify along the Moroccan illegal military wall of shame in Western Sahara. The Territory of Western Sahara is currently in a state of open war that could lead to the most serious consequences for peace, security, and stability in the whole region.
- Once again, the UN Security Council, which has primary responsibility for the maintenance of international peace and security, has remained silent in the face of the Moroccan new act of aggression on the Liberated Sahrawi Territory. It has also failed to hold Morocco accountable for the consequences of its breach of the 1991 ceasefire. The serious consequences of this complacent attitude are easy to predict because it not only undermines the prospects of relaunching the already stalled peace process but also leaves the door wide open to the escalation of the ongoing armed conflict.
- While the UN has chosen inaction, the African Union (AU) of which the Sahrawi Republic (SADR) and Morocco are Member States, has expressed its deep concern about the violation of the 1991 ceasefire and the resumption of war in Western Sahara. On 6 December 2020, the AU requested its Peace and Security Council (PSC) to address the matter at the level of Heads of State and Government.
- On 9 March 2021, the PSC took a decision in which it recalled the historical role of the OAU/AU as guarantor of the Settlement Plan and the provisions of Chapter VIII of the UN Charter on the role of regional arrangements in the maintenance of international peace and security. The PSC also requested the Sahrawi Republic (SADR) and Morocco to immediately cease hostilities and create conducive environment for direct and candid talks in line with Article 4 of the AU Constitutive Act.
- The Sahrawi Republic (SADR) remains committed to cooperating with the AU and its relevant bodies in the implementation of the PSC communiqué and relevant OAU/AU decisions and resolutions with a view to achieving a peaceful and enduring solution to the conflict between the two AU Member States. For the Sahrawi Republic (SADR), no peaceful and lasting solution can be achieved without strict adherence to the objectives and principles of the AU Constitutive Act, including respect for borders existing on achievement of independence, peaceful resolution of conflicts among Member States, and prohibition of the use of force or threat to use force among Member States of the Union.

- Morocco has shown beyond any doubt that it is unwilling to choose the peaceful and just path that would lead to a lasting solution in Western Sahara. It has systematically reneged on its commitments under all peace plans, including those approved by the UN and the OAU/AU. The illegal involvement of third countries and entities in Occupied Western Sahara, through so-called “diplomatic” declarations and trade agreements, testifies to the intention of the occupying state to persist in its policy of *fait accompli* as well as its destabilising actions that may jeopardise peace and stability of the entire region.
- All members of the international community are therefore called upon to take the necessary decisions and measures, both singly and collectively, to compel Morocco to end its illegal occupation of parts of Western Sahara for the sake of justice and regional peace and security.
- The Sahrawi people have been waiting patiently for the long-promised referendum on self-determination. The Frente POLISARIO has made every possible concession and every sacrifice imaginable with a view to advancing the UN peace process and it remains fully committed to the complete implementation of the mandate of the United Nations Mission for the Referendum in Western Sahara (MINURSO).
- The international status of Western Sahara as a decolonisation issue on the agenda of the United Nations and its relevant bodies since 1963 is abundantly clear. Therefore, the question before the Member States comes down to this: will they continue to tolerate the logic of force and the policy of *fait accompli*, and thus allow the Moroccan military occupation of parts of Western Sahara to continue with complete impunity, or will they remain true to the purposes and principles of the United Nations and therefore call for the immediate and unconditional end of Morocco’s occupation to allow the decolonisation of the Territory to proceed in line with relevant UN resolutions?
- Given the fundamental principles that are at stake in this case as well as the gravity of the current situation and its potentially dangerous consequences for peace and security in the region, the options are very clear. In a rules-based international order, territorial expansionism and the logic of force cannot be an option; otherwise, many peoples and countries, including most of the UN Member States, would have remained under colonial rule and foreign occupation.
- The only option, therefore, is to defend the principles of international law and allow the people of Western Sahara the chance to exercise freely and democratically their inalienable, non-negotiable, and imprescriptible right to self-determination and independence. To this end, it is imperative that efforts be redoubled to bring about a peaceful and lasting solution to the decolonisation of Western Sahara, which remains a *sine qua non* for restoring peace and stability in North Africa.