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THIRD INTERNATIONAL DECADE FOR THE ERADICATION OF COLONIALISM

**Caribbean regional seminar on the implementation of the Third International
Decade for the Eradication of Colonialism: the future for decolonization in
the Non Self-Governing Territories: what are the prospects?**

**Kingstown, Saint Vincent and the Grenadines
16 to 18 May 2017**

STATEMENT BY

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MEMORANDUM

The Case of Western Sahara, the last colony in Africa
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1. For over forty years, Morocco has illegally occupied a significant portion of Western Sahara, a Non-Self Governing Territory (NSGT) on the agenda of the United Nations (UN) Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples, awaiting a process of decolonization.
2. And for over twenty-five years, Morocco has systematically reneged on agreements it had signed, including those endorsed by the UN Security Council, and has hindered all efforts by the international community to secure the decolonization of Western Sahara and the right to self-determination of the Saharawi people. Morocco has shown, beyond any doubt, that it is unwilling to choose the peaceful, democratic and viable path to a lasting solution for Western Sahara.
3. In fact, King Mohamed VI's statements on 6 November 2014 that *'Morocco will remain part of its Sahara, and the Sahara will remain part of Morocco until the end of time'*, is a public confirmation of Morocco's unwillingness to respect the status of Western Sahara as a NSGT. The King's statements reinforce Morocco's unilateral declaration of 'sovereignty' over a territory that the UN continues to consider a NSGT awaiting a process of decolonization, in accordance with General Assembly resolution 1514 (XV).
4. The primary and direct result of Morocco's obstruction over the last twenty-five years has placed the UN political process in a dangerous impasse and has placed the ceasefire, which cannot be sustained indefinitely in the absence of a meaningful political process, under serious threat. The breakdown of the cease-fire would have serious consequences for the stability and security of the Maghreb region whose flank, Sahel-Mali-Libya, is already shaken by instability and an increasing presence of extremist, terrorist, and criminal elements.
5. Generations of Saharawi thus remain divided by an illegal Moroccan occupation that brutalizes the population in the occupied Territory, whilst more than 150,000 Saharawi live in exile under harsh conditions in desert refugee camps in south-west Algeria. They have been denied the right to live peacefully in their own nation, while also being subjected to systematic violations of their human rights, and the theft and plundering of their natural resources.
6. Hand in hand, with the UN and the African Union, the Frente POLISARIO has offered, time and time again, to Morocco, the democratic and peaceful solution to resolve the conflict, with honor safeguarded, confident that the positive effects of a shared vision of peace that would benefit the two peoples and the entire region, would outweigh by far, the wounds from the long and bloody conflict. And time and time again, Morocco has rejected the golden opportunities offered to it.

UN Political Process

7. Western Sahara is the last colony in Africa. In 1963, while still under Spanish control, the Territory was officially recognized as a NSGT by the General Assembly under the UN Charter – a legal status it retains to this day.
8. The General Assembly in Resolution 1514 (XV) decided that in order to complete the process of decolonization, all NSGTs must progress to a “full measure of self-government” by: (a) emergence as a sovereign independent State; (b) free association with an independent State; or (c) integration with an independent State.
9. During Spanish colonial role no such process of decolonization took place for Western Sahara. While Spain committed to organizing a referendum in 1972, no referendum was held. Instead, it offered Western Sahara to two neighboring countries, Morocco and Mauritania, under the so-called Madrid Accords of 14 November 1975.
10. The Saharawi people were thus denied the opportunity to exercise their right to self-determination, a founding principle of the UN and the Organization of African Unity (OAU)/African Union (AU). As a result, in 1973 the people of Western Sahara created the Frente POLISARIO, the Saharawi liberation movement, to fight against colonialism and to secure the opportunity to exercise their inalienable right to self-determination, a founding principle of the United Nations and the Organization of African Unity/ African Union.
11. In October 1975, the International Court of Justice (ICJ) advisory opinion upheld the legal right of the Saharawi to a process of self-determination, including the free and genuine expression of the will of the peoples of the Territory, and which found no ties of territorial sovereignty between Western Sahara and either Morocco or Mauritania.
12. Despite this ruling, in November 1975 Morocco and Mauritania invaded Western Sahara. The Security Council adopted resolution 380 (1975) wherein the Council deplored the 1975 Moroccan march (so called Green March) and called upon Morocco to withdraw all participants in the march from the Territory of the Western Sahara.
13. A 15-year war ensued against the Saharawi liberation movement – the Frente POLISARIO who declared an independent Sahrawi Arab Democratic Republic (SADR) on 27 February 1976. In the same month, Spain informed the UN Secretary-General that following its physical withdrawal from the Territory, it considered itself exempt from any international responsibility related to the administration of the Territory. Mauritania withdrew from Western Sahara by virtue of a peace agreement signed with the Frente POLISARIO in August 1979, and in February 1984, formally recognized the Sahrawi Arab Democratic Republic, a full member of the African Union.
14. Morocco occupied the western two-thirds of Western Sahara, and built a military wall (the Berm) along the length of the Territory to protect its position. The Frente POLISARIO controls the “Free Zone” to the east of the Berm.
15. In 1978, the OAU created an Ad-hoc Committee of Heads of State on Western Sahara, whose tireless efforts to resolve the dispute resulted in OAU resolution 104 (XIX) of 1983, which was adopted unanimously by the Summit, and which initiated the peace process.
16. Around the same time, the General Assembly adopted resolutions 34/37 (1979) and resolution 35/19 (1980) that assert that Morocco is the occupying power of Western Sahara, and the UN has never recognized it as administering power of the Territory.

17. Resolution 34/37 (1979) *“deeply deplored the aggravation of the situation resulting from the continued occupation of Western Sahara by Morocco,”* and also explicitly states, that *“the Frente Popular para la Liberacion de Saguia el-Hamra y de Rio de Oro, the representative of the people of Western Sahara, should participate fully in any search for a just, lasting and definitive political solution of the question of Western Sahara, in accordance with the resolutions and declarations of the United Nations, the Organization of African Unity and the non-aligned countries”.*
18. And one year later in its resolution 35/19 (1980), the Assembly deeply deplored the fact that its resolution 34/37 had not been implemented and again declared that *“it is deeply concerned at the aggravation of the situation deriving from the continued occupation of Western Sahara by Morocco and from the extension of that occupation to the part of Western Sahara, which was the subject of the peace agreement concluded on 10 August 1979 between Mauritania and the Frente POLISARIO”.* Resolution 35/19 also explicitly *“Urges Morocco and the Frente Popular para la Liberacion de Saguia el-Hamra y de Rio de Oro, the representative of the people of Western Sahara, to enter into direct negotiations with a view of arriving at a definitive settlement of the question of Western Sahara.”*
19. In 1988, joint mediation efforts by the UN and OAU produced a Settlement Plan with the aim of enabling the Saharawi people to exercise their right to self-determination. Both Morocco and the Frente POLISARIO accepted the Plan. The Plan was also adopted and endorsed by the Security Council in resolutions 658 (1990) and 690 (1991) that established the Mission for the Referendum in Western Sahara (MINURSO) — a peacekeeping mission that is still in the Territory today, unable to fulfill its mandate due to Morocco’s obstruction, and a peacekeeping mission that since 1991 has part of its troops under the protection of the Frente POLISARIO in the liberated area.
20. MINURSO was established with the primary tasks of (i) monitoring the ceasefire between Morocco and the Frente Polisario and (ii) preparing for a referendum on self-determination within six months to enable the Saharawi to vote upon their own future. The agreed ceasefire and the organization of the referendum were conceived as two inseparable elements of the OAU-UN Settlement Plan. Thus at the core, MINURSO’s mandate is to organize a referendum allowing the Saharawi to exercise their right to self-determination.
21. As soon as implementation of the Settlement Plan started, Morocco began putting all kinds of hurdles in the way, and in 2002 openly declared its unwillingness to go forward with the Settlement Plan (S/2002/178) alleging arbitrarily that it was not implementable. Despite efforts by the UN, including mediation efforts by former US Secretary of State, James Baker III, Morocco’s obstructions continued unabated. In 2004, Morocco declared its official rejection of any solution that would not legitimize, a priori, its illegal occupation of Western Sahara, and that it would only support a political solution based on autonomy within the framework of ‘Moroccan sovereignty’ (S/2004/325).
22. Morocco’s acting in bad faith in implementing the Settlement Plan, and the Houston Accords agreed to by the two parties under the auspices of James Baker III was because it knew too well that any free and fair referendum on self-determination to be held in Western Sahara, under UN supervision, would lead to the independence of the Territory.
23. And despite the publication of UN-approved voter lists in 1999 and the UN’s exclusive authority over all matters relating to the organization of the referendum, no vote has yet been held. Morocco rejected the list of voters developed by MINURSO after 6 years of difficult work, and instead unilaterally declared sovereignty over Western Sahara.
24. After numerous attempts to overcome the stalemate caused by Morocco’s rejection of the Settlement Plan and referendum process, the Security Council, in resolution 1754 (2007), called on both parties *“to enter into negotiations without preconditions with a view to achieving a just, lasting and mutually acceptable political solution, which will provide for the self-determination of the people of Western Sahara.”*

25. Following the adoption of resolution 1754 (2007), delegations from the Frente POLISARIO and Morocco met in four rounds of formal negotiations and nine rounds of informal talks under UN auspices between 2007 and 2012. The negotiations did not achieve any substantive progress due to Morocco's unrelenting rejection for the Saharawi people to exercise their right to self-determination as provided for in the relevant UN resolutions. In fact, Morocco made it clear in Manhasset in 2007 that it would not accept any solution that would envisage the possibility of offering the option of independence to the Saharawi people.
26. In April 2014, the UN Secretary-General's Report on Western Sahara explicitly recommended to the UN Security Council that, "*if no progress occurs before April 2015, the time will have come to engage the members of the Council in a comprehensive review of the framework that it provided for the negotiating process in April 2007.*" This recommendation of the SG led to Morocco reinforcing its modus operandi to obstruct all UN efforts, including by declaring the Personal Envoy of the Secretary General (PESG), Christopher Ross "*persona non-grata*" refusing for him to carry out his mandate or travel to Western Sahara.
27. Morocco's modus operandi to obstruct all UN efforts continued after April 2014 when PESG Christopher Ross, ushered in "*shuttle diplomacy*" to consult the parties on ways to resolve the conflict before resuming direct talks. Whilst the Frente POLISARIO showed their willingness to support the approach, Morocco entered into dialogue with PESG Ross on the principles guiding his mandate and mission, conditioning the resumption of the negotiating process upon receipt of formal answers. Unfortunately, the answers only prompted more questions or periods of silence from Morocco.
28. After months of delay, Morocco re-engaged with PESG Ross and to accepted the deployment of current MINURSO Head, Kim Bolduc, only as a result of a telephone call with UN Secretary-General on 22 January 2015, wherein, King Mohamed VI sought and was apparently given assurances that the 2015 SG's Report would overlook the recommendation in the 2014 Report that, "*if no progress occurs before April 2015, the time will have come to engage the members of the Council in a comprehensive review of the framework that it provided for the negotiating process in April 2007.*" Other assurances given were: no mention of Morocco's human rights abuses and its illegal exploitation of Western Sahara's natural resources. Shuttle diplomacy bore no results.
29. On 4 November 2015 the SG issued a statement putting both parties on notice that their 2007 proposals have not paved the way for genuine negotiations and called for "*true negotiations*" between the Frente POLISARIO and Morocco, without preconditions and in good faith (SG/SM/17298-AMR/3255). The Frente POLISARIO welcomed the statement. The statement reaffirms the historical and legal bases of the Saharawi cause: that Western Sahara is not and has never been part of Moroccan Territory and that its final status is linked to the decolonization process and the right to self-determination of the Saharawi people.
30. The Secretary-General followed this pronouncement by making his first trip to Western Sahara, visiting the refugee camps and the liberated area on 5 March 2016. During his trip the SG used the word '*occupation*' to describe the situation under which the Saharawi live.
31. After having continuously obstructed the referendum process, repressed the Saharawi population in the occupied territories, and denigrated the Secretary-General, Morocco publicly pounced on the SG's use of the word '*occupation*' as a pretext to expel 84 civilians and 3 military MINURSO personnel in March 2016, and to close a military liaison office in Dakhla in occupied Western Sahara.
32. Morocco's action to expel MINURSO personnel are in direct violation of its legal obligations as a responsible member of the international community, including article 25 of the UN Charter to respect and implement decisions of the Security Council, and article 100(2) of the UN charter to respect the exclusive international character of MINURSO, as well as in violation of its obligations under the Status of Mission Agreement, which it signed, not to restrict MINURSO's ability to carry out its mandated functions free of interference and restriction of movement. Morocco's actions have set a dangerous precedent for the future of UN peacekeeping missions around the world, rendering UN field presence vulnerable to unilateral expulsions at the whim of a government, especially because the doctrine of *persona non grata* cannot, as a principle, apply

to UN personnel on a mass scale. Morocco's actions have also been an unprecedented challenge to the authority of the Security Council that established MINURSO's mandate as a demonstration of the international community's commitment to achieve a resolution to the conflict, thereby making the Council the only legal authority for the deployment or closure of a UN peacekeeping operation under the terms of Chapters VI and VII of the UN Charter.

33. On 29 April 2016, the UN Security Council adopted resolution 2285 on Western Sahara with 10 votes in favor, 2 against (Venezuela and Uruguay) and 3 abstentions (Angola, New Zealand and Russia). The fact that the resolution was voted on for the first time in fifteen years signaled that it was no longer 'business as usual' in the Council on Western Sahara. And Russia's abstention was significant as it was the first time that a P5 member and member of the Group of Friends broke with the consensus.
34. The resolution emphasizes the 'urgent' need for MINURSO to return to 'full functionality' and requests that the Secretary-General brief the Council within 90 days on whether this had happened, and if not, the Council will consider how to achieve this. The resolution also stresses the need for the parties to continue the negotiation process through UN sponsored talks, including that a commitment be shown for a fifth round of negotiations. Still, the resolution is yet to be implemented.
35. The UNSC met again on 26 July 2016, to assess the situation in conformity with its resolution 2285 (2016). The UNSC welcomed progress made so far on all sides, and expressed strong hope that a return to 'full functionality' of MINURSO be reached as soon as possible. The Council also pointed to the importance of a resumption of direct negotiations between the parties toward a political solution that will provide for self-determination for the people of Western Sahara. As of today, Security Council resolution 2285 adopted on 29 April 2016, which emphasizes the 'urgent' need for MINURSO to return to 'full functionality', and which stresses the need for the parties to continue the negotiation process through UN sponsored talks, is yet to be implemented because of Morocco's refusal to work with the UN towards these goals.
36. The direct attack by Morocco against the person of the UN Secretary General after his visit last March to Western Sahara and the region, and its unilateral decision to expel, on 16 March 2016, the political and civilian staff of MINURSO, demonstrates that the occupying Power has opted for a course of confrontation with the international community, in order to put an end to the peace process, and push the region to the brink of the worse case scenario.
37. Then on 11 August 2016, merely three months after the adoption of the UNSC resolution 2285 (2016), in an effort to impose *a fait accompli*, the Moroccan Army of the occupying power of Western Sahara crossed the lines of the so called "military berm" and the "buffer zone" in violation of the terms of military agreement No. 1, which the two parties, the Frente POLISARIO and Morocco signed with MINURSO. Morocco's stated purpose for its infringement is to build a paved road through the Frente POLISARIO-controlled Territory of Western Sahara.
38. Instead of cooperating for the full return of MINURSO personnel, which Morocco expelled in March 2016, and for the resumption of direct negotiations by upholding the call of the Security Council for a fifth round of negotiations, Morocco decided to undertake what the Frente POLISARIO considers a provocative action, and which undermined the most sensitive pillar that has thus far allowed for maintaining a peaceful situation on the ground, namely the ceasefire agreement.
39. The Security Council met to discuss the situation in ElGuerguerat on 26th August but did not discharge its responsibility to reaffirm the integrity of the ceasefire agreement. In order to prevent the ceasefire agreement from being violated with impunity, the Frente POLISARIO deployed its special forces at a two kilometers distance from the Moroccan forces. The Security Council then met on 11 September to again discuss the situation, and failed again in its responsibilities. Following a letter from President Ghali to the SG on 26th September informing that Morocco has continued to build the road across the berm, and that Moroccan military aircraft had been flying over the area, despite the UN presence and the call from the SG to show

restraint and to respect the ceasefire agreement, the Council met yet again on 29 September and again did not take any action on the situation, opting instead for 'quiet diplomacy'.

40. The Council's silence threatens regional stability on a continent already contending with a number of fragile conflicts, and its inaction is quick becoming a failure in conflict prevention. The political space for Morocco's actions has been created by the failure of the Security Council to directly oversee the 'UN political process', despite warnings contained in the SG's statement on 4 November 2015 that negotiations based on the parties' 2007 proposals are effectively dead. And the hesitation of the Council to respond swiftly and decisively to both the MINURSO crisis and the El Guerguerat incursion reinforced Morocco's view that its defiance will not be countered.
41. In fact, in 2016 Morocco continuously refused for PESG Ross to travel to Rabat to 'kick off' a fifth round of negotiations, on the pretense of Morocco holding parliamentary elections in October 2016, in which Morocco wants to include the Western Sahara occupied territory –an inclusion, which is an illegal act that violates the legal status of Western Sahara.
42. On 25 February 2017, the SG issued a statement on Western Sahara calling on both parties to withdraw from the El Guerguerat area and to respect their obligations under the ceasefire agreement. The statement also calls for the continuation of normal commercial traffic in the area.
43. On 26 February the Moroccan Government issued a statement informing that Morocco has decided to 'unilaterally' withdraw from Guerguerat, and requesting the SG to guarantee the fluidity of normal commercial traffic in the area. The Frente POLISARIO has not withdrawn its troops from the area outlining clearly in its communiqué of 26th February 2017 while waiting for the new UNSG report to the SC and the resolution of the Council on Western Sahara. The Frente Polisario considers that the situation created by Morocco in ElGargarat zone is not only a violation of the terms of the cease fire and its complement, the Military agreement number 1, but also has created new facts on the ground whose implications and consequences must be resolved by the United Nations. Para 89 of the UNSG report of April 10, 2017 reflected this concern and OP 3 of the UNSC resolution 2351(2017) recognizes that the 'recent crisis in el Gargarat raised fundamental questions that the SG should look for ways to resolve. On this basis and at the request of friendly countries, the Frente Polisario sent the 27th April 2017, a letter to the President of the UNSC, US Ambassador Nikki Haley by which it has decided to redeploy its forces in Elgaragat area, step that facilitated the adoption of the UNSC resolution calling for the resumption of direct negotiations between the two parties, the Frente Polisario and Morocco.
44. The SG appointed a new Personal envoy, former President of Germany, Mr. Kohler that has been accepted by the Frente Polisario while Morocco has not yet to this day (May14, 2017) accepted him, thus [provoking new delays to the resumption of the negotiations the Council has called for.
45. The Frente POLISARIO is correct in its assertion that building a paved road or any construction in the Buffer Strip would constitute a fundamental change in the status quo of the buffer zone as defined by the 1991 ceasefire between the Frente POLISARIO and Morocco. At the time of the establishment of the ceasefire there was no road, nor any commercial traffic between the military wall of the occupier and the Mauritanian border. The existence of traffic today is a violation of the legal status of the Territory, and Morocco's call to guarantee the fluidity of normal and commercial road traffic in the area is a clear attempt to alter the status quo and violate the ceasefire agreement. Any changes to the status quo require the explicit agreement of both parties. The UN and the Security Council have an obligation to uphold the ceasefire agreement.
46. Furthermore, the United Nations and the Security Council must not treat the situation in El Guerguerat as a stand-alone isolated incident. The situation is symptomatic of a stalled UN political process and of decades' long deliberate obstruction, obstinacy and refusal by Morocco to implement Security Council and General Assembly resolutions on Western Sahara. Morocco openly declared its unwillingness to go forward with the Settlement Plan, rejected and continues to reject all negotiation efforts, hinders the work of the Personal

Envoy of the Secretary-General, expelled MINURSO personnel, and violates with impunity the human rights of the Saharawi people and plunders the natural resources of the Territory.

47. These actions in the absence of a credible UN political process are the underlying threat to security in the region. To prevent a repeat of the El Guerguerat situation, the Security Council must exchange its 'silence' for 'action' and take all necessary steps to address the causes of the conflicts that arise in Western Sahara and not merely their consequences.
48. It is therefore critical that the Secretary-General and the UN Security Council to resuscitate the UN political process immediately. It is imperative that direct face-to-face negotiations be launched between the two parties, the Frente POLISARIO and Morocco, in good faith and with no preconditions to reach a just and lasting solution that is based on the respect of the inalienable right of the people of Western Sahara to self-determination and independence.

Conclusion

49. It is clear that Morocco's objective for the past twenty-five years has been to consolidate the status quo and occupation of Western Sahara. Their active obstructionist and interference tactics underlines the need for a firmer resolve by the international community to advance the holding of a free and fair vote among the Sahrawi population, which remains the only viable means of achieving a lasting solution to the conflict. The international community cannot fall folly to Morocco's games. The Security Council must act now.
50. The Saharawi people have fully trusted the UN for over twenty years, and have collaborated with the UN processes with loyalty, patience, generosity and flexibility, despite all the injustice they continue to experience and despite the denial by the aggressor of all its engagements. A continued deadlock of UN processes will be seen as a failure of the UN to keep its promise to the people of Western Sahara of a self-determination referendum following the UN-brokered ceasefire in 1991, and maintaining the status quo would not only would that be an international crime against the Saharawi people, but a permanent threat to regional peace and security and result in grave consequences for the people of the region and the African continent.
51. The Special committee in charge of decolonization must follow closely the situation in Western Sahara and must take the appropriate decisions to ensure an effective follow up, like the sending of a visiting mission.