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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: goals and expected accomplishments

Kingstown, Saint Vincent and the Grenadines
31 May to 2 June 2011

STATEMENT

BY

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Seminar of the UN Special Committee of decolonization (C-24)
Kingstown, 31 may- June 3, 2011
Saint Vincent and the Grenadines

The Frente POLISARIO wishes to set out its views to the Special Committee on Decolonization as it holds its annual regional seminar in Kingstown, Saint Vincent and the Grenadines, from 31 May to 2 June.

At the beginning of the Third International Decade for the Eradication of Colonialism, and just two months after the fiftieth anniversary of the adoption by the General Assembly of the Declaration on the Granting of Independence to Colonial Countries and Peoples, UN Secretary-General Ban Ki-moon said “Colonial situations are completely outdated and must be addressed with renewed vigor and creativity.”

It is the responsibility of the Special Committee on Decolonization and the General Assembly to ensure that 2011 is a decisive year in international efforts to grant the Saharawi people their long-overdue right to self-determination. In order to do this, four issues are crucial and need to be taken into account by the Special Committee efforts to ensure the implementation of the pending decolonization process of the last African colony on its agenda.

1. Reaffirm self-determination as the central objective of the UN political process

The Frente POLISARIO recalls that it is now 20 years since the UN Security Council adopted Resolution 690 (1991), establishing MINURSO to: (1) monitor the ceasefire between Morocco and the Frente POLISARIO; and (2) organize the conduct of a referendum of the Saharawi people to choose their own future. The Frente POLISARIO has held in good faith to the ceasefire, but the international community has failed completely to deliver on its legal obligation, consistent with Article 25 of the UN Charter, to implement a referendum for the Saharawi people. The process remained in stalemate from 2004 .

With this in mind, the Frente POLISARIO reiterates that for both the United Nations and the African Union, the objective of the political process is the long-overdue decolonization of the Non-Self-Governing Territory of Western Sahara through a process for the self-determination of the people of Western Sahara, consistent with the principles and purposes. In 2007 Morocco and the Frente POLISARIO – each made a proposal on its vision for self-determination in Western Sahara.

The Moroccan plan proposes autonomy for Western Sahara under Moroccan sovereignty. However, by purporting to declare unilaterally its sovereignty over the Territory, Morocco is seeking to determine on its own the final status of the Non-Self-Governing Territory without properly consulting the people of that Territory. By doing this, Morocco seeks to exclude the option of independence, which it has already accepted in previous agreements endorsed by the Security Council, and which would amount to a rewriting of the scope and meaning of the inalienable right to self-determination defined by General Assembly resolutions 1514 (XV) and 1541 (XV).

On the other hand, the proposal of the Frente POLISARIO stresses the need for a referendum on self-determination that would include the options already agreed by the two parties in the 1991 Settlement

Plan and in the Houston Accords of 1997, both endorsed by the UN Security Council: independence; integration; and autonomy. For the Frente POLISARIO, the underlying premise is that it must be for the people of Western Sahara to choose their own future.

Following the appointment by the UN Secretary-General of Ambassador Christopher Ross as his Personal Envoy for Western Sahara in January 2009, the parties have held six rounds of informal talks, the latest in Malta from 7 to 9 March 2011. While these talks have been held in “an atmosphere of serious engagement, frankness, and mutual respect”, they largely remain in stalemate due to Morocco’s refusal thus far to discuss the substance of the Frente POLISARIO proposal or other options for a process of self-determination, which would include independence as one of the options to be put to a vote. In this regard, the Frente POLISARIO welcomes the invitation to the parties in the most recent UN Security Council resolution on Western Sahara, UNSCR 1979, to “demonstrate further political will towards a solution, including by expanding upon their discussion of each other’s proposals.” This is a direct recognition by the Security Council that Morocco remains the main obstacle to the decolonization of the last remaining colony in Africa.

The Special Committee must now consider ways to proactively support and reinvigorate the negotiating process, which remains in a dangerous stalemate. In this regard, the Special Committee may wish to reflect on the Secretary-General’s recommendation in his most recent report to the Security Council (S/2011/249) that the parties focus their efforts on delivering “a referendum that will constitute a free exercise of the right to self-determination,” and find ways to support that endeavor. Also, the Frente Polisario considers that the C-24 should send to the Territory of Western Sahara a mission to up-date the Committee on all the developments that took place after its first mission sent in 1975.

2. Underline that unilaterally-imposed solutions are incompatible with the need for a political solution which will provide for the self-determination of the people of Western Sahara

Moroccan efforts to present its autonomy plan as the sole framework for negotiating a mutually acceptable solution or to otherwise pre-empt the UN-led political process on Western Sahara with proposals for “advanced regionalization” are baseless, unhelpful, and do not take the parties closer to an agreement that will provide for the self-determination of the people of Western Sahara.

The Frente POLISARIO rejects such unilateral approaches that are indeed inconsistent with the Security Council’s call for a solution that is mutually acceptable and allows for the self-determination of the people of Western Sahara.

Only a free and fair vote allows the people of a Non-Self-Governing Territory to express their preferred mode of self-government through a process of self-determination, as required by Chapter XI of the UN Charter and General Assembly Resolution 1514 (XV), as well as all previous resolutions of both the UNGA and the Security Council relating to the question of Western Sahara.

Recent attempts to portray Moroccan regionalization and other political reform initiatives as relevant to Western Sahara have a dangerous and completely flawed assumption – that Morocco exercises sovereignty over Western Sahara. On the contrary:

- United Nations does not recognize Moroccan sovereignty over Western Sahara, which under international law – including the UN Charter – is a Non-Self-Governing Territory;

3. Protect and promote universal human rights in Western Sahara

The Frente POLISARIO once again calls the attention of the Special Committee to the continued and systematic human rights abuses perpetrated by the Moroccan regime in the occupied Territory of Western Sahara.

A 2006 report by the Office of the UN High Commissioner for Human Rights (OHCHR) documented Morocco's excessive use of force against peaceful Saharawi demonstrators, along with incidents of arbitrary arrest, harassment, and intimidation of human rights activists. It found that almost all human rights violations in the occupied Territory stem from the non-implementation of the fundamental right to self-determination. These findings were confirmed by a similarly critical report by Human Rights Watch, published in December 2008.

In 2011, the Security Council for the first time stressed "the importance of improving the human rights situation in Western Sahara and the Tindouf camps" and encouraged the parties "to work with the international community to develop and implement independent and credible measure to ensure full respect for human rights."

The past two years have demonstrated with clarity the negative consequences of the failure of the UN to take decisive action to monitor and provide independent and accurate reporting on the human rights situation in Western Sahara. Free from international monitoring, Moroccan authorities have instituted a significant crackdown on freedom of movement and freedom of speech in the Territory, targeting Saharawi human rights defenders in a manner inconsistent with Morocco's international human rights treaty obligations.

In November 2010, the forcible dismantling of peaceful camps of protesters in the region of El Aaiún by Moroccan authorities resulted in loss of life, destruction of property and increased tension between the parties.

A serious and credible UN capacity to monitor and report on human rights is central to restoring the faith and confidence of the Saharawi people in the UN process. This would in turn help to ensure the emergence of a free and open political environment that can support preparations for the conduct of a referendum that will constitute a free exercise by the Saharawi people of the right to self-determination.

4. Report on and protect the natural resources of Western Sahara from illegal exploitation

The Frente POLISARIO wishes to again bring to the attention of the Special Committee the ongoing and systematic plunder of Western Sahara's natural resources by the Kingdom of Morocco and cooperating foreign interests. These activities are in clear breach of the international legal principles applicable to the utilization of the natural resources of Western Sahara as a recognized Non-Self-Governing Territory under the Charter of the United Nations. In accordance with General Assembly resolution 1514 (XV), which contains the Declaration on the Granting of Independence to Colonial Countries and Peoples, the natural resources of the Western Sahara are the heritage of the Saharawi people.

The long-standing illegal exploitation of the rich phosphate resources of the Territory of Western Sahara by Moroccan state-owned company, PhosBoucras, and the ongoing plunder by Moroccan-flagged vessels and foreign fishing interests of the Saharawi people's offshore fisheries resources (including EU vessels fishing under the EU-Morocco Fisheries Partnership Agreement) are a clear violation of international law. The latter is also a violation of the exclusive sovereign rights vested in the Saharawi people by the SADR's declaration of its Exclusive Economic Zone in the areas off the coast of Western Sahara in January 2009.

To ensure that the fundamental rights of the Saharawi people are upheld, we call on the Special Committee to consider ways to ensure reporting by the Secretary-General on the estimated value of natural resources extracted annually from the Territory and its maritime zones, and to consider ways to direct revenues from such exploitation to the benefit and socio-economic development of the Saharawi people. In the absence of any such reporting from an administering power in accordance with Article 73 of the UN Charter, it is incumbent upon the Special Committee and the General Assembly to assume responsibility for securing such information in order to inform its deliberations on the decolonization of Western Sahara.

Moreover, the Frente POLISARIO calls upon Member States, consistent with a number of General Assembly resolutions on the issue, the latest of which is General Assembly resolution 65/109, to take "legislative, administrative or other measures in respect of their nationals and the bodies corporate under their jurisdiction that own and operate enterprises in the Non-Self-Governing Territories that are detrimental to the interests of the inhabitants of those Territories, in order to put an end to such enterprises."

This deplorable situation seriously undermines any efforts at confidence-building that might engender progress towards a peaceful solution that will provide for the self-determination of the people of Western Sahara.

ANNEX
WESTERN SAHARA: HISTORICAL AND LEGAL BACKGROUND

1. Western Sahara is the last colony in Africa, located on the continent's Atlantic coast to the south of Morocco and to the north of Mauritania. In the late 19th century, this vast territory - about the size of the United Kingdom - was inhabited by nomadic tribes known as the Saharawi, and from 1884, was subject to Spanish colonial rule.
2. Western Sahara was designated by the General Assembly as a 'Non-Self-Governing Territory' under the Charter of the United Nations in 1963, a legal status it retains to this day. General Assembly Resolution 1541 (XV) confirmed that all Non-Self-Governing Territories 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.
3. Under increasing international pressure to decolonize the territory, Spain agreed in 1972 to a referendum on self-determination for the Saharawi people. However, in the final months of the Franco regime, and in violation of UNGA resolutions, Spain initiated a process to withdraw from the territory by signing an illegal deal (the 'Madrid Accords' of November 14, 1975), which attempted to transfer the Territory to a temporary tripartite administration of Spain, Morocco and Mauritania with a view to achieving a full withdrawal by Spain at the end of February 1976.
4. An Advisory Opinion of the International Court of Justice in October 1975 found no ties of territorial sovereignty between Western Sahara and either Morocco or Mauritania, and confirmed the legal right of the Saharawi people to a process of self-determination. This prompted illegal invasions of Western Sahara by Morocco and Mauritania, and a 15-year war ensued against the Saharawi liberation movement, or Frente POLISARIO, which declared an independent Saharawi Arab Democratic Republic (SADR) in February 1976. Prior to the formal end of the temporary tripartite administration, Spain then sought unilaterally to exempt itself from its role as administering power and relevant international obligations.
5. Mauritania eventually withdrew from Western Sahara in 1979 and officially recognised the SADR. But Morocco sought to secure its occupation of over two-thirds of Western Sahara by building a sand wall (the so-called "Berm") littered with landmines running the length of the country.
6. The Organization of African Unity (OAU), the precursor to the African Union, granted full membership to the SADR in 1984. The SADR is now a full Member of the African Union.
7. Following 16 years of war, the UN and OAU jointly brokered a ceasefire and elaborated a settlement plan, approved by the Security Council in its Resolutions 658 (1990) and 690 (1991). The UN Security Council also established a UN Mission (MINURSO) to monitor the ceasefire and to organise a referendum of the Saharawi people in order to allow them to determine their own future by choosing between autonomy, independence and integration.
8. Despite publication of UN-approved voter lists in 1999, and the UN's sole and exclusive authority over all matters relating to the organization and conduct of the referendum, the intended referendum has not yet taken place. In his role as the UN Secretary-General's Personal Envoy for Western Sahara, former US Secretary of State James Baker III proposed two versions of a

compromise solution in 2000 and 2003 (Baker Plans I and II), both involving a referendum after a period of autonomy. Baker Plan II was accepted by the Frente POLISARIO and endorsed by the Security Council in July 2003, but was never implemented due to Morocco's refusal to countenance independence for Western Sahara as one of the options to be put to a vote. However, Morocco had previously agreed to independence as a possible option to be voted on in a self-determination referendum in both the Settlement Plan of 1991 and the Houston Accords of 1997.

9. On April 10 and 11 April 2007, respectively, the Frente POLISARIO and Morocco presented their respective proposals for a solution to the issue of Western Sahara. In its Resolution 1754 of 30 April 2007, the Security Council took note of the two proposals and called on the parties to "enter into negotiations without preconditions in good faith 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."
10. Four rounds of formal talks were convened in 2007 and 2008 under the auspices of the former Personal Envoy of the UN Secretary-General, Peter van Walsum. Following the appointment of former US Ambassador Christopher Ross as his replacement in January 2009, the parties have held a further six rounds of informal talks, the latest held in Malta from 7 to 9 March 2011. These talks have been held in "an atmosphere of serious engagement, frankness, and mutual respect", but largely remain in stalemate due to Morocco's refusal to discuss the substance of the Frente POLISARIO proposal, or other options for a process of self-determination that would include independence as one of the options to be put to a vote. A seventh round of informal talks is currently scheduled to be held from 5 to 7 June 2011 in Manhasset, New York.
11. The failure to resolve the dispute is widely recognized as posing a major obstacle to political and economic integration in the Maghreb, which as a result has one of the lowest levels of intra-regional trade in the world. Meanwhile, the large Saharawi population that fled Western Sahara during the war continues to live in tented refugee camps in the harsh conditions of the Sahara desert near Tindouf in southwestern Algeria. A generation of well in excess of 100,000 Saharawi refugees has grown up in the camps, a situation widely recognised as a humanitarian tragedy, while Morocco continues to exploit the territory's natural resources in violation of international law.
12. The Saharawi population inside the occupied Territory remains subject to various and often serious human rights abuses, as documented by, among others, the Office of the UN High Commissioner for Human Rights (OHCHR), Amnesty International and Human Rights Watch. As noted by the OHCHR in its September 2006 report, almost all human rights violations stem from the non-implementation of the Saharawi people's fundamental right to self-determination.

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