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for the Eradication of Colonialism: challenges and opportunities in the process of
decolonization in today's world

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STATEMENT BY

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STATEMENT BY THE F.POLISARIO

Seminar -Special Committee of 24

Saint Kitts and Nevis

**MEMORANDUM BY THE FRENTE POLISARIO
ON WESTERN SAHARA PEACE PROCESS
May -June 2009**

Western Sahara is still listed as the last African colonial case in the agenda of the Special Committee of 24. In the framework of the historical decolonization process that shaped the structure and dimensions of a new world order the people of Western Sahara should have had the opportunity in the middle of the seventies of becoming an independent state through a free and fair process of self-determination. All UN, OAU and NAM resolutions, as well as the legal opinion of the International Court of Justice of October 16, 1975 and the conclusions of the Special committee fact finding mission of 14 October 1975, recognized that Western Sahara must enjoy the right to freedom as any other colonial people in the framework of the principle of self-determination enshrined in the UN Charter and explicitly recognised in resolution 1514 (XV) of December 1960.

Spain, the former colonial power, decided in 1970 to recognize this right while a regional consensus was growing with the objective of speeding up the decolonization process. Morocco, the current occupying power of Western Sahara, had been one of the main supporters of that consensus.

1. In fact, Morocco's commitments to the right to self-determination of the People of Western Sahara before its illegal invasion of Western Sahara in 1975 were clearly expressed on the occasion of UN several meetings and sessions. Here are some statements made by High Moroccan Officials:

1 - Day Ould Sidi Baba, who was the Moroccan delegate to the Committee of 24, meeting in Addis Ababa, on 7 June 1966) expressed:

"I ask for the independence of Western Sahara as soon as possible and this should be an authentic independence, hence we can get over the actual impasse. Once owners of their destiny, the inhabitants of the region could accomplish with total freedom their duties as dignified and conscious citizens and will act in favour of a policy that is adaptable to the national objectives of their people".

2- Mohamed Charkhawi, the then Minister of Foreign Affairs of Morocco , said at the 21st Session of the General Assembly of 13 October 1966:

"Morocco supports a real independence for Western Sahara, putting the future of the region in the hands of its sons which in the context of liberty will decide freely on their self-determination. I therefore, call for the organization of a process of self-determination according to the following stages: Spanish military forces withdrawal from the territory and deployment of UN forces (...) withdrawal of the Spanish administration and return of the Saharawi refugees abroad. These are conditions that the UN could be responsible of, with the support of the Moroccan and Spanish's authorities".

3 - This position has been reiterated by King Hassan II of Morocco during a press conference held on 30 July 1970 in reference to his desire to negotiate with Spain when he said :

"Instead of going on claiming the territory of the Sahara, I would make the specific request that a popular consultation take place, assuring that the first result being the departure of the non-Africans and allowing the people of the Sahara to choose between life under the Moroccan aegis, under their own aegis, or under any other aegis."¹

This statement was a fair reading of resolutions 1514 and 1541 of the UNGA with regard the scope and meaning of the right of self-determination in a decolonization case. It is worthy to recall that this statement came one month after the brutal repression which was carried out by Spanish forces of the popular demonstrations organised in June 17, 1970 in the capital of Western Sahara by the First Saharawi Movement of Liberation

4 – Three months later, his Minister of Foreign Relations, Mr. Butaleb, said to the 25th Session of the General Assembly on 12 October 1970:

“Morocco and neighbouring countries, concerned about peace in the area, the development and cooperation among them, have decided to implement and facilitate the application of the self-determination of the territory of Western Sahara in collaboration with the international organization and the administering power.”

5 – Two years later, in June 1972, during the meeting of the Council of Ministers of the Organisation of African Unity (OAU), held in Rabat from 5 to 12 June 1972, Morocco worked actively for the adoption of resolution CM/Res. 272 (XIX), which called on Spain, the administering power of Western Sahara:

“ To enable the people of this territory to exercise their right to self-determination and independence without delay and in conformity with the Charter of the United Nations” (OP2).

6 – In the Morocco-Algeria-Mauritania Summit held in Nouadhibou (Mauritania) on 24 July 1973, the three Heads of State proclaimed as a reflection of the regional consensus:

“Their unshakable attachment to the principle of self-determination and their will to make sure that this principle is implemented within a frame that ensures the free and true expression of the inhabitants of Western Sahara, in conformity with UN decisions regarding this question”²

7 – This position was three months later reiterated by the Minister of Foreign Affairs of Morocco, Mr. Benhima, at the 28th Session of the General Assembly when on 3 October 1973 announced on behalf the Moroccan government:

“It is known that my country proclaims solemnly and in front of other international authorities to be in favour of the self-determination of the people in this territory”.

II. The path toward breaking international law: The invasion of October 31, 1975

Suddenly, in UNGA session of 1974, Morocco first, and Mauritania later, reactivated their old territorial claims over Western Sahara. Both countries, in an unprecedented move, which was aimed at putting into question UNGA previous resolutions and the regional consensus in favour of a free and fair process of self-determination for Western Sahara, requested the UNGA to submit to the ICJ the legal value of their territorial claims. It was a step to break international law.

However, in its historic advisory opinion issued on 16 October 1975, **the International Court of Justice (ICJ)** very clearly consolidated the way forward for the decolonization process by establishing that:

"The materials and information presented to it do not establish any tie of territorial sovereignty between the territory of Western Sahara and the Kingdom of Morocco or between Western Sahara and the Mauritanian entity. Thus the Court has not found legal ties of such a nature as might affect the application of General Assembly resolution 1514 (XV) in the decolonisation of Western Sahara and, in particular, of the principle of self-determination through the free and genuine expression of the will of the peoples of the Territory".

Two days before the ICJ, on October 14, 1975 the **fact finding Mission sent by the Special Committee of 24**, issued its report which confirmed that the People of Western Sahara want their independence and "rejected the territorial claims of both Morocco and Mauritania". The Special committee stated in its report that the F. Polisario seemed to be the major political force in the territory. Morocco, as the UNSG said in his report to the UNSC, rejected the legal opinion of the Court and announced the beginning of the invasion to the Territory, invasion known by the name of the "green march".

Spain bears a great deal of responsibility on what happened. Effectively, instead of respecting its previous commitment to ensure a self-determination process, Spain entered into secret negotiations with Morocco and Mauritania which led to the Madrid Accords of November 14, 1975, by which the former Administering power allowed the two countries to invade, occupy and divide Western Sahara. It was the first tragic case in Africa where a European colonial power was replaced by African countries. There was no precedent in Africa. The logic and thinking of the cold war permitted this tragedy to take place.

The People of Western Sahara was thus forced to continue their struggle for freedom under the leadership of the F. Polisario.

Four years later, and after a costly war , Mauritania, by virtue of a peace treaty signed in Algiers with the Frente POLISARIO on 5 August 1979, denounced the war as "unjust and fratricide" and "renounced to any territorial claims over Western Sahara". In February 1984, decided to formally recognize the Saharawi Republic. In November that year, the Organization of Africa Unity (OAU) accepted the young Saharawi Republic as a full member state of the African Organization.

Morocco invaded in August 1979 the territory evacuated by Mauritania, prompting thus the adoption of General Assembly resolutions 34/37 of 21 November 1979 and 35/19 of 11 November 1980, by which the General Assembly, whilst "reaffirming the inalienable right of the people of Western Sahara to self-determination and independence", deeply "**deplored the aggravation of the situation resulting from the continued occupation of Western Sahara by Morocco**".

III. Morocco's recognition of the right of self-determination and independence of Western Sahara.

9. The evolution of the conflict in its diplomatic and military aspects seemed, after Mauritania withdrawal from the war, to persuade Morocco towards reconsidering its position. In this connection and during the OAU submit held in Nairobi, in 1981, the king Hassan II of

Morocco accepted the principle of self-determination and proclaimed his will to allow the holding of a referendum in the territory.

The **XIX Summit of the OAU** held in Addis Ababa, in June 1983, adopted by unanimity, including Morocco, resolution 104 (XIX) which established a peace plan by which it requested Morocco and the F. Polisario to enter into "direct negotiations with the aim of reaching a cease fire and agreeing on the modalities of a fair and free referendum on self-determination". The Summit requested the two parties to implement this resolution before the end of December 1983.

10- Morocco reaffirmed its commitment to the resolution adopted by the African summit when King Hassan II stated before the 37th Session of the General Assembly in October 1983:

"Morocco tells you that it wants the referendum; Morocco tells you that it is ready to hold that referendum tomorrow if that you want it. Morocco is willing to grant all the help needed for all observers wherever they come from to reach a cease fire and to hold a free, loyal, and just consultation. Morocco tells you that it solemnly committed to be part and to abide by the results of the referendum"³.

11. However, the deadline established by the XIX summit to implement the resolution was not respected by Morocco, prompting thus the admission in 1984 of the Saharawi Republic as a full Member State of the OAU. Morocco decided to withdraw from the OAU repeating the same behaviour when Mauritania – which Morocco claimed from 1956 to 1969 as integral part of its territory -was admitted as a Member of the African Organization.

These developments indicated that, once again, Morocco reverted to its position of 1975, rejecting to abide by the OAU resolutions and its own recent commitments to accept and allow a process of self-determination.

Despite this setback to the efforts undertaken by the Head of African States, the UN African Group presented the famous resolution 104 (XIX) for adoption by the UNGA session of 1985. The resolution was adopted, and became UNGA resolution 4050, which put in motion the UNSG mediating process that led to the Settlement Plan. The Plan was elaborated with the support of the two parties, Morocco and the F. Polisario which "**the aim to organize a free and fair referendum on self-determination by which the people of Western Sahara will be able to choose between independence and integration into Morocco**"(para 4, 6, of UNSG report to the UNSC S/21360 of June 1990)

11.- In 1991, the UNSC endorsed the Plan and established a UN Mission (MINURSO) which was dispatched to Western Sahara in September 1991 to fulfil its mandate. The organisation of the referendum was entrusted to MINURSO and should have been held in February 1992. The referendum process began with the cease fire, which entered into effect on September 6, 1991, followed by the identification of the voters. Several difficulties rose as a result of Morocco obstruction to the identification process.

12. However, on 16 September 1997, Morocco committed itself once again to the principle of the referendum on self-determination and to the options already agreed by the two parties, independence and integration, when it signed the **Houston Accords**, negotiated by the two parties under the auspices of former US Secretary of State, James Baker III.

13. Dris Basri, former Minister of Home Affairs, and Member of Morocco delegation in Houston negotiations, stated that "If the result of the referendum is independence, Morocco

will abide by it, and will be the first country to have relations of good neighbourhood with the Sahara.”⁴

IV. Morocco’s disrespect for its own commitments and Security Council resolutions.

Once again, Morocco obstructed the full and integral implementation of all peace plans that it had signed despite the fact that they were endorsed by the Security Council and supported by the General Assembly.

Security Council requested in resolution 1429 (2002) James Baker to elaborate a new Peace Plan which he did it in July 2003 (Peace Plan for the self-determination of the People of Western Sahara), which the UNSC endorsed in resolution 1495 (2003)while requesting the two parties to accept it and implement it.

The F. Polisario accepted the Plan despite the fact that it had introduced substantial changes in the structure and elements of the original Settlement plan. The UNSG, Kofi Annan, in his reports of October 2003 and April Of 2004 “urged Morocco to accept the Peace plan as an optimal political solution”.

Against all odds, Morocco decided to turn its back to all these calls and proclaimed in April 2004 its official “rejection of any solution which will put into question its sovereignty” over Western. This position constituted a sharp departure from its previous committeemen’s undertaken by virtue of its acceptance of the Settlement plan and the Houston accords.

Since then its so-called proposal of autonomy responds to this *volte-face*, which is a clear violation of Morocco’s own prior commitments and of all UN resolutions regarding a question of decolonization.

V. Manhasset negotiating process

The United Nations remained however fully attached to the fundamental right of self-determination of the people of Western Sahara.

Security Council resolution 1754 of April 2007 requested the two parties to engage in “negotiations, without preconditions and in good faith with a view to reaching a lasting, just and mutually acceptable political solution which will provide for the self-determination of the people of Western Sahara”. The resolution took note of the two proposals presented by the two parties without endorsing any of them.

The negotiating process was initiated in Manhasset in June 2007. After 4 rounds, it has been clearly demonstrated that Morocco was not willing to abide by the terms of Security Council resolution 1754. In this connection, it came to “negotiate” **only** its proposal of autonomy. This position is equivalent to a pre-condition that the Security Council resolution 1754 (2007) has warned against. It reflects a lack of good faith and, more importantly, it is a flagrant violation of the very scope and meaning of the principle of self-determination established by the international community in General Assembly resolution 1514 of December 1960.

Current situation and Prospects

As long as Morocco is adopting this unfounded position, the entire peace process, which the Security Council and the General Assembly are attached to, will be at great risk.

The UNSG appointed, in August 2008 a **new Personal Envoy**, Ambassador Christopher Ross (USA) to replace Mr. Peter van Walsum.

Mr Ross made in February 2009 a regional visit and met with the leaders of the two parties. Mr. Ross concluded that the peace process should be resumed and proposed as preliminary step "one or more small informal meetings between the two parties "before the resumption of the Fifth round of Manhasset negotiating process". His assessments and vision on how the peace process might be renewed have been the main core of the recent UNSG report (2009/200) of April 14, 2009 to the UNSC and of the UNSC resolution 1871(2009) of April 30, 2009.

The Frente POLISARIO has never reneged on its commitments undertaken before the Security Council since its first involvement in the peace process, starting with the approval of the settlement Plan in 1991. It has been cooperating with all UN efforts aimed at bringing about peace and justice.

Of late, it has immediately given its support to the appointment by the UN Secretary-General of Mr. Christopher Ross as his new Personal Envoy, and do his proposed "informal meetings" as a clear signal of its attachment to the resumption of the negotiating process in the framework of, and towards, the objective established by the United Nations regarding a question of decolonisation.

The Frente POLISARIO does not prejudge the decision to which the Saharawi people are legitimately entitled by the UN to take with regard to their future, by choosing between being an independent nation and a territory integrated into Morocco. Nevertheless, the unwavering position of the Frente POLISARIO is that the Saharawi people must be consulted about their future in a free and transparent manner and the range of the options (independence, integration o free association) contained in UNGA resolutions 1514 (XV)and 1541(XV) must be respected

In this connection, the Frente POLISARIO would like to reiterate its well-known position to move forward the process:

1. - The two parties should negotiate in good faith and without preconditions a political solution that must ensure the right to self-determination of the people of Western Sahara as requested by the Security Council and the General Assembly.

2.- The legal, sure and speedy way to reach this objective lies in allowing the Saharawi people to freely choose between the options that the parties have accepted on many occasions before the Security Council, and are consistent with General assembly resolution 1514 (XV), through a free and fair referendum on self-determination. If Morocco is a democratic country, and attached to the UN Charter, it should not fear this democratic and peaceful way to settle the conflict.

3. - If the referendum leads to independence, the Saharawi side will be willing to take all appropriate steps to establish with Morocco, as a neighbour, strategic relations of friendship and cooperation. This readiness has been reflected in the proposals submitted by the Frente POLISARIO on 10 April 2007.

4. - Peace and stability as well as the longstanding desires of our peoples for regional integration and unity are dependent on a fair and just resolution of the conflict of Western Sahara. The principles of self-determination and the intangibility of the borders inherited from the colonial era are essential pillars for a solid and lasting peace.

5.-The Security Council, taking into account all the efforts carried out over the past years and bearing in mind the supreme interest of enhancing the credibility of the United Nations and the foundations of a lasting and just peace, should take the appropriate measures to ensure that the two parties are fully committed to abiding by international law and, hence, are willing to cooperate with the UN in fulfilling their responsibility toward the implementation of the right to self-determination of the Saharawi people.

6.-The Frente POLISARIO considers that the respect for and protection of **human rights** are sacred obligations toward which the international community cannot accept exceptions to the general rule. Western Sahara is a territory under a decolonisation process that was brutally interrupted by Morocco's invasion and illegal occupation in 1975.. The Secretary-General, in many of his reports to the Security Council, has been faithful to the legal and moral obligation of drawing the attention of the Security Council to this question. (*See annexe*)

7.- The people of Western Sahara have a permanent right of sovereignty over the natural resources of the Territory. Taking into account UN relevant resolutions and principles of international law regarding Non-self-governing Territories, any activity of exploitation, commercialization and trade affecting the **natural resources** engaged by Morocco are illegal and UN Member States and foreign interest should avoid entering into agreement with the occupying power since Morocco is not the legitimate and legal authority in the territory. (*See annexe*)-----

¹ Original statement in French: « Au lieu d'aller revendiquer tout court le territoire du Sahara, j'allais faire la demande spécifique qu'une consultation populaire ait lieu, assuré que le premier résultat serait le départ des non africains et qu'on laisserait au peuple du Sahara de choisir entre la vie sous les égides marocaines, sous leur propres égides ou sous n'importe quelles autres égides». Conférence de presse du Roi Hassan II, le 30 juillet 1970, in Annuaire de l'Afrique du Nord, 1970, CNRS, Paris, 1971, p. 807.)

² Original version in French: "...leur attachement inébranlable au principe de l'autodétermination et leur souci d'assurer que ce principe serait implémenté dans un cadre qui garantit l'expression libre et vraie des habitants du Sahara, en conformité avec les décisions des Nations Unies relatives à cette question». Communiqué conjoint fait par les gouvernements de l'Algérie, Mauritanie et Maroc, 24 Juillet 1973 à Agadir.]

³ Original statement in french : Le Maroc vous dit qu'il veut le référendum, le Maroc vous dit qu'il est prêt à ce que le référendum ait lieu dès demain si vous le voulez, le Maroc est prêt à accorder toutes les facilités à tous les observateurs d'où qu'il viennent pour qu'il y ait un cessez-le-feu et pour qu'il y ait une consultation juste, équitable et loyale. Enfin, le Maroc s'engage solennellement à être, et à se considérer comme obligé et tenu par les résultats de ce référendum». Discours du roi Hassan II devant la 37ème session de l'assemblée générale de l'ONU, 27/09/1983.]

⁴ Original statement in French :« Si une volonté d'indépendance débouche du référendum, le Maroc respectera cette décision et serait le premier pays à entretenir des rapports de bon voisinage avec le Sahara». Sahara info – septembre –décembre 1997.]

Annexe1: Natural resources of Western Sahara.

The Frente POLISARIO wishes to bring to the attention of the Special committee of 24 the systematic and ongoing plunder of the natural resources of Western Sahara 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.

The Territory of Western Sahara and its offshore areas are rich in natural resources. Phosphate reserves, including those in the **BuCraa** mine, are estimated to contain 1.13 billion m³ of phosphate rock. Areas offshore of Western Sahara's 1200-kilometers coastline contain some of the world's richest and most productive fisheries, and according to numerous geological surveys, the Western Saharan continental shelf is thought to be prospective for significant reserves of oil and methane gas.

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. Activities which deprive the Saharawi people of the right to enjoy and benefit from the exploitation of those resources are in contravention of international law.

A Moroccan state-owned company, **PhosBoucraa**, a subsidiary of the *Office Chérifien des Phosphates*, operates the mine at **BuCraa** in the north-west of the Territory. The mine is estimated to produce approximately 3 million tons of phosphate rock annually, worth billions of dollars in exports.

The International Court of Justice established unequivocally that there were "no ties of territorial sovereignty between Morocco and the Territory of Western Sahara" ¹ prior to the Spanish colonization of the Territory

In addition, the United Nations Under-Secretary-General for Legal Affairs and Legal Counsel confirmed in an important legal opinion provided to the Security Council in January 2002 that the so-called Madrid Agreement between Spain, Morocco and Mauritania *'did not transfer sovereignty over the Territory, nor did it confer upon any of the signatories the status of an administering Power.'*² In the absence of any such links, it is clear that Morocco has no legitimate authority to exploit the phosphate resources at the **BuCraa** mine.

It is in this context that the UN Legal Counsel declared in his 2002 opinion that: "*If further exploration and exploitation activities were to proceed in disregard of the interests and wishes of the people of Western Sahara, they would be in violation of the principles of international law applicable to mineral resource activities in Non-Self-Governing-Territories.*"³

Given the clarity of the applicable law, we cannot but express our dismay and serious concern at the ongoing plunder by Moroccan-flagged vessels and foreign fishing interests of the Saharawi people's offshore fisheries resources. I wish to draw to your particular attention fisheries activities

¹ Western Sahara, Advisory Opinion, I.C.J Reports 1975, p.12, at paragraph 162.

² UN Document S/2002/161, paragraph 6.

³ UN Document S/2002/ 161

conducted by EU-flagged vessels pursuant to the 2005 Fisheries Partnership Agreement between the European Communities and the Kingdom of Morocco (*Fisheries Partnership Agreement*).⁴

According to its terms, the Fisheries Partnership Agreement purports to provide EU vessels with fishing opportunities in "the waters falling within the sovereignty or jurisdiction of the Kingdom of Morocco".⁵

In the absence of any sovereign ties between Morocco and Western Sahara, it follows that the waters off Western Sahara cannot and do not fall under the jurisdiction of Morocco. In spite of this legal reality, the Fisheries Partnership Agreement is silent on the southern extremity of its area of application, a silence which is exploited unlawfully by the EU and Morocco to allow access by European vessels to the fisheries resources of the coast of Western Sahara. For their complicity in the theft of Western Saharan natural resources, the Kingdom of Morocco will receive a total of more than €144 million.

The former UN Legal Counsel responsible for the aforementioned legal opinion provided to the Security Council in 2002, Ambassador Hans Corell, confirmed recently that, in failing to make an express distinction between Moroccan waters and those of Western Sahara, the EU-Morocco Fisheries Partnership Agreement is in clear violation of international law.⁶ I note in this context the recent passage of Law No. 03/2009 of 21 January 2009 Establishing the Maritime Zones of the Saharawi Arab Democratic Republic, which declares for the Saharawi Arab Democratic Republic (SADR) a 200-nautical mile Exclusive Economic Zone, in accordance with international law. Pursuant to this legislation, the Government of the SADR renders illegal any activities related to the exploration or exploitation of the marine living and non-living resources of Western Sahara conducted without its express authorization.

It has also come to the attention of the Frente POLISARIO that entities of the Kingdom of Morocco have entered into commercial arrangements purporting to grant reconnaissance and exploration rights in respect of the Western Saharan territory and adjacent offshore areas. As made clear in the aforementioned opinion of the UN Legal Counsel to the Security Council in 2002 (S/2002/161), exploration activities undertaken in disregard of the wishes and interests of the people of Western Sahara are in violation of international law. On behalf of the Saharawi people, the SADR Petroleum Authority has protested vociferously against such activities.

Most recently, SADR Petroleum Authority issued letters of protest in January 2009 to US-based Kosmos Energy LLC and its Dutch and Norwegian-based technical contractors (Fugro NV and Fugro-Geoteam, respectively) in relation to exploration activities conducted under agreements with Morocco authorities. Similar protests in the past have resulted in withdrawal from the Western Saharan Territory of operations by French-based TotalFinaElf S.A. and US-based Kerr-McGee Corporation. Of further concern are recent revelations that Texas-based San Leon Energy Plc and its joint venture partners (including Island Oil and Gas, an Irish-based international oil and gas company), are pursuing with **Morocco's Office National des Hydrocarbures et des Mines**

⁴ Adopted by Council Regulation EC No 764/2006 of 22 May 2006.

⁵ EU-Morocco Fisheries Partnership Agreement, article 2(a).

⁶ Ambassador Hans Corell, *The legality of exploring and exploiting natural resources in Western Sahara*, Conference on Multilateralism and International Law with Western Sahara as a Case Study (hosted by the South African Department of Foreign Affairs and the University of Pretoria), Pretoria, 5 December 2008, available for download at <http://www.havc.se/res/SelectedMaterial/20081205pretoriawesternsahara1.pdf>.

(ONHYM) an upgrade of their purported Reconnaissance Licence in the Zag Basin area (in the northern part of Western Sahara) to a full Exploration Licence.⁷ As made clear by the UN Legal Counsel in 2002, activities pursuant to such a licence would be in direct violation of international law.

As reaffirmed most recently in **General Assembly Resolution 63/102 of 18 December 2008**, the Saharawi people have the exclusive right to the enjoyment of their natural resources and to dispose of those resources in their best interests.

To ensure that the fundamental rights of the Saharawi people are upheld, we call on Member States, consistent with General Assembly Resolution 63/102, 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 those enterprises."*

The Frente POLISARIO, as the internationally recognized representative of the Saharawi people, reserves the right to use all available means, including legal avenues, to prevent and seek reparation in respect of any unauthorized activities relating to the natural resources of Western Sahara.

We believe that it is the responsibility of the Members of the United Nations, and in particular the Security Council, to restore respect for international law, and to call a halt to the illegal plunder of the natural resources belonging to the people of Western Sahara. This deplorable situation seriously undermines any efforts at confidence-building that might engender progress towards a peaceful solution that provides for the self-determination of the people of Western Sahara.

May 2009

⁷ Island Oil and Gas, 'Moroccan operational update', Press Release, 25 February 2009, available for download at <http://www.islandoilandgas.com/default.asp?docId=12442&newsItem=12920>.

Annexe 2: Human Rights in Western Sahara

The Frente POLISARIO wishes to bring to the attention of the Special Committee of 24 the continued pattern of human rights abuses of the Saharawi civilian population inside the occupied Territory of Western Sahara.

MINURSO was established in 1991 for two inseparable purposes: first, to monitor the ceasefire between Morocco and Frente POLISARIO forces; and second, to organize a referendum for the self-determination of the people of Western Sahara by which they will freely choose between independence and integration into Morocco. Eighteen years later, due to Moroccan obstruction, no such referendum has taken place.

Until the fundamental right of self-determination of the Saharawi people is secured, the United Nations has a responsibility to protect the population of the Western Sahara pursuant to its clearly defined obligations towards Non Self-Governing Territories, as set out in Article 73 of the Charter of the United Nations. It is worthy to recall that Members of the United Nations have accepted as a 'sacred trust the obligation to promote to the utmost...the well-being of the inhabitants of these territories' and to ensure 'their just treatment and their protection against abuses'. These fundamental Charter obligations include the provision of basic human rights.

Despite these clear legal requirements, the Saharawi people in the occupied Territory have suffered grave violations of their most basic human rights. More than five hundred Saharawi civilians who were kidnapped by Morocco forces remain in unknown locations. Hundreds were kept for more than 16 years in secret prisons and dozens were killed or died during their imprisonment. Since 2005, a peaceful intifada engaged by the Saharawi population in the occupied territories is taking place and, still, the repression has been the response of Morocco forces. Three civilians were killed since the beginning of the intifada.

It should be recalled in this regard that on 8 September 2006, the **United Nations Office of the High Commissioner for Human Rights (OHCHR)** delivered a report expressing serious concern at the human rights situation in Western Sahara, and documenting incidents of arbitrary arrest, harassment, and intimidation of human rights activists, including excessive use of force against peaceful demonstrators. While the report, unfortunately, has not been yet made public, it linked clearly the egregious and brazen human rights abuses in the occupied territory to the denial of the Saharawi people's inalienable right to self-determination. The High Commissioner therefore recommended that the United Nations should institute a capacity to monitor human rights in the occupied Territory.

The findings of the OHCHR and recommendations were confirmed by a similarly critical reports published by **Human Rights Watch in December 2008**, [Human Right Watch, *Human Rights in Western Sahara and in the Tindouf Refugee Camps*, 19 December 2008] and by the **European Parliament fact-finding Mission** of February 2009, which documents Morocco's systematic and abusive efforts to suppress political dissent in the occupied Territory.

According to Human Rights Watch, these efforts are manifested by 'arbitrary arrests, unfair trials, restrictions on associations and assemblies, and through police violence and harassment'. The report also finds that Moroccan security forces 'arbitrarily arrest demonstrators and suspected Saharawi activists, beat them and subject them to torture, and force them to sign incriminating police statements, all with virtual impunity; and the courts convict and imprison them after unfair trials', all in violation of

Morocco's obligations as a signatory to the International Covenant on Civil and Political Rights. In light of these grave findings, Human Rights Watch recommends that the Security Council should 'expand the mandate of MINURSO to include human rights monitoring and reporting in both Western Sahara and in the POLISARIO-administered camps in Algeria'.

In his reports to the Security Council on 14 April 2008 (S/2008/251), and S/2009/200 Of April 14, 2009 the Secretary-General noted that, while MINURSO has no staff dedicated to human rights monitoring, "it is the duty of the United Nations to uphold human rights standards in all of its operations, including its operations related to Western Sahara"

The F. Polisario urged the Security Council to act upon the recommendations of the High Commissioner and establish a human rights component within the MINURSO mandate to protect, promote and monitor the human rights situation of the Saharawi people as long as the conflict over the decolonization of Western Sahara remains unresolved. The UNSC, because of Morocco's rejection which was supported by a European Permanent Member historically known by its negative interference in the decolonization process of Western Sahara, failed in including in its latest resolution(S/1871/2009 of April30, 2009) a recommendation with regard human rights monitoring system in Western Sahara, despite the efforts undertaken by UNSC members.

Our hope is that the United Nations will address responsibly the long-standing and systematic denial of the human rights of the Saharawi people, and pave the way towards securing a democratic and legitimate process of self-determination in the Western Sahara.

May-June 2009