

Distr. RESTRICTED  
CRS/2007/CRP.15

ORIGINAL: ENGLISH

SECOND INTERNATIONAL DECADE FOR THE ERADICATION OF COLONIALISM

Caribbean Regional Seminar on the implementation of the Second  
International Decade for the Eradication of  
Colonialism: next steps in decolonization

St. George's, Grenada  
22 to 24 May 2007

Statement by Mr. Ahmed Boukhari

FRENTE POLISARIO (WESTERN SAHARA)

MEMORANDUM BY THE F. POLISARIO ON  
THE QUESTION OF WESTERN SAHARA  
Feb-March 2007

1. The 61<sup>st</sup> Session of the General Assembly has just adopted a resolution that reaffirms the right of Western Sahara to self-determination. This is the 41<sup>st</sup> consecutive year in which the international community declares solemnly that the decolonization conflict between the Kingdom of Morocco and the POLISARIO Front can be resolved only by allowing the Saharawi people to exercise their right to self-determination.

Listed as a non self-governing territory by the United Nations Special Committee on Decolonization since 1965, Western Sahara is subject to the implementation of General Assembly resolution 1514 (XV) entitled Declaration on the Granting of Independence to Colonial Countries and Peoples.

For its part, the Security Council has constantly stressed the need to find a just and final solution that guarantees self-determination to the people of Western Sahara, and has reaffirmed in resolution 1720 its commitment to achieve a mutually acceptable political solution which will provide for the self-determination of the people of Western Sahara.

2. It is worth mentioning on the other hand, that the International Court of Justice, upon a request made by the United Nations General Assembly, and an initiative by Morocco and Mauritania, issued a legal opinion on 16 October 1975 in which it clearly established 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 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 decolonization 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."

3. Similarly, the opinion rendered by the Legal Counsel of the United Nations, at the request of the Security Council, on 29 January 2002, concluded clearly that Morocco had no administrative power on the territory, that the 1975 Madrid Accords which divided the territory between Morocco and Mauritania did not transfer to the signatories any sovereignty whatsoever, and that finally the status of Western Sahara as a non self-governing territory had not been affected by those accords.

In sum, the General Assembly, the Security Council, the ICJ, and the Office of Legal Affairs of the United Nations did clearly identify the question of Western Sahara as a question of decolonization whose settlement should take into account the free and sovereign expression of the people of the territory.

4. It is thus only natural for the efforts aiming at solving the question of Western Sahara, to have as ultimate objective to grant the people of that territory the opportunity to decide their future by organizing a free and fair referendum on self-determination.

The Settlement Plan approved by both parties to the conflict, Morocco and the POLISARIO Front, and by the Security Council in its resolutions 658 (1990) and 690 (1991), reflects this will. It stipulates the entry into force of a ceasefire that paves the way for organizing a free and regular referendum on self-determination without any administrative or military constraints, for the Sahrawi identified in the 1974 Spanish census.

The delaying tactics, renunciations, and sudden changes of position by Morocco have however resulted in undermining the Plan, similarly to what they have done to the Houston Agreements that have been negotiated and signed by both parties in September 1997 under the auspices of Mr. James Baker III, the Personal Envoy of the Secretary-General, and that permitted to resolve pending problems and set the stage for organizing the referendum on 8 December 1998.

Today, the Plan can be, at any time, put back on track and implemented if Morocco has the will to do so. In fact, all the practical and painstakingly-negotiated modalities related to the identification, cantonment of forces, repatriation of refugees and organization of the referendum campaign, have been agreed upon and the provisional list of voters has been duly approved by the United Nations Identification Commission (IDC).

The other plan entitled the Peace Plan for Self-determination of the People of Western Sahara, put forward by Mr. James Baker, at the request of the Security Council following Morocco's rejection of the settlement Plan, and approved by Security council resolution 1495 (2003), follows the same approach of the Settlement plan. Indeed, it calls for the organization of a referendum, after a four-to-five-year period of internal self-governance, for Sahrawi as well as Moroccans who have been residing in the territory in December 1999.

Furthermore, although the referendum offered two options, i.e. integration or independence, Mr. Baker added a third option – self-governance within Moroccan sovereignty - in order to further assure the Kingdom of Morocco, as an incentive to accept his plan.

However, this effort was exerted in vain because Morocco rejected the Peace Plan as it had already done with the Houston Agreements and the Settlement Plan that it approved and signed.

5. While the rejection of a plan that includes all the conditions set by and guarantees asked for by Morocco might apparently look surprising, it should not be as surprising when we realize that this country accepted the principle of organizing a referendum on self-determination only after being forced to do so, and that since the very beginning, and at the risk of renegeing on its engagements, it developed a strategy to undermine holding the referendum by hindering, questioning and, currently, by denying altogether what lies at the heart of the exercise of the right to self-determination ; the constituency who would take part in such exercise, and ultimately the very existence of the Sahrawi people.

Once the Settlement Plan had been approved, Morocco, as already mentioned, embarked on a relentless campaign to undermine the efforts of the IDC to establish the list of Sahrawi voters, by constantly questioning the identification criteria of voters, intimidating the members of the Commission, and submitting multiple appeals. Eventually it was able to paralyze the IDC activities.

It took all the ingenuity of Mr. Baker in order to put back on track, through the Houston Accords, the identification operations, and all the dedication and determination of the identification Commission members to conclude its work and publish the provisional list of voters by the end of 1999.

Once the referendum became unavoidable after meeting all the conditions to organize it, Morocco arbitrarily declared the settlement inapplicable.

Instead of forcing Morocco to honor its engagements, the Security Council requested Mr. Baker to find a political settlement that provides self-determination for the people of Western Sahara.

Thinking that the reason for Morocco's rejection of the Settlement Plan and the referendum included, was its concern that the Sahrawi electorate would overwhelmingly vote in favour of independence, Mr. Baker suggested in his Peace Plan for self-determination of the people of Western Sahara the enlargement of the participating electorate in the referendum called for by his plan, to include Moroccans residing in Western Sahara until 31 December 1999.

To the surprise of Mr. Baker, Morocco rejected his plan under the pretext that the referendum included the option for independence.

The United Nations Secretary-General, as well as Mr. Baker and his successor Mr. Peter Van Walsum underlined to the Security Council that it was inconceivable for a referendum on self-determination organized by the United Nations not to include the option of independence. Nonetheless, Morocco maintained its rejection of the plan.

Coming back to the reasons for Morocco's rejection of the various United Nations plans, Mr. Baker said, in August 2004 on PBS, that Morocco became more and more nervous every time they got closer to holding a referendum on independence (called for by the Settlement Plan): "the closer we got, the more nervous I think the Moroccans got about whether they might not win the referendum". And that explains why "after the voter list has been made, the voters had been identified, she (Morocco) said well, it's no longer applicable", he said.

Mr. Baker was surprised of the fact that Morocco exhibited the same nervousness about the results of the referendum called for by his Peace Plan that was unanimously adopted by the Security Council in July 2003, even though it was open to Moroccan residents that largely outnumbered the Sahrawi voters. "We have said we will include all the people of Western Sahara as voters in the referendum on self-determination. And, the Moroccans are evidently even afraid of that", he noted.

In fact, the reason for Morocco's renegeing on its international engagements is the fact that it knows only too well that Western Sahara is not Moroccan and that it might lose it if a referendum on self-determination was to be held even with the participation of Moroccan citizens residing in Western Sahara.

In sum, the Moroccan strategy has so far achieved its objectives as long as Morocco was able to prevent the organization of the referendum on self-determination called for by the international organizations.

Yet the problem of Western Sahara is still on the agenda of the United Nations General Assembly and Security Council and the right of the people of Western Sahara to self-determination is more relevant than ever since it has been solemnly reiterated by the Security Council and the General Assembly in October and December 2006.

Furthermore, no State has to date recognized any Moroccan sovereignty on this territory which is considered by the United Nations a non self-governing territory, subject to the implementation of resolution 1514 (XV), as reiterated by Mr. Baker in the same interview on PBS.

It is worth mentioning that in its report dated 8 September 2006, the mission of the High Commissioner for Human Rights to Western Sahara recommended the following: "As it has been stated in various UN fora, the right to self-determination for the people of Western Sahara must be ensured and implemented without any further delay."

6. Since its rejection of the Baker plan in 2004, Morocco has never stopped declaring time and again that it was willing to accept a solution to the question of Western Sahara only "within the sovereignty and territorial integrity of Morocco" and that it was on the verge of announcing a project of self-governance for that territory in line with that unilaterally proclaimed principle.

Presented as a major concession, that project which puts aside all the achievements made so far by the United Nations to settle the conflict, is considered, in fact, another delaying tactic by Morocco since its only purpose is to gain the recognition by the international community of the fait-accompli or, in other words, of the Moroccan sovereignty on a non self-governing territory without meeting the requirements of the United Nations doctrine and practice with regard to decolonization.

Thus, Morocco is counting on "the elapse of time" to make the Sahrawi people and the world accept its illegal occupation of a territory on which the ICJ has clearly established that it does not exercise any sovereignty.

Nonetheless, the Moroccan project is bound to fail for it is founded on wrong principles, proposes an unacceptable and dangerous solution, and puts an end to the national aspirations of a whole people.

In fact, the basic principle according to which Western Sahara is considered a Moroccan province is wrong since, from the international legitimacy's point of

view, Morocco does not exercise territorial sovereignty or even administrative authority over it. It is considered a non self-governing territory whose status must be decided by its original residents.

In addition, by declaring that self-governance is the only solution, Morocco is prejudging the will of the Sahrawi people by limiting their choice, from the start, to autonomy thus violating the sacrosanct principle applicable to non self-governing territories as enshrined by resolution 1514 (XV) and the doctrine and practice of the United Nations with regard to decolonization, i.e. the principle of self-determination that requires the concerned populations to express their will through a free and regular referendum that necessarily includes the option for independence.

Furthermore, this approach deliberately ignores the Sahrawi national reality with all its accomplishments and implications as well as the strong wish for independence that has been manifested daily for the last thirty years in the occupied Sahrawi territories.

That project is also dangerous. In fact, willing to impose an autonomy-based solution on a people who are fundamentally hostile to any form of Moroccan trusteeship and who have fought the Moroccan occupation for thirty years, is taking deliberately the risk to increase the tension and create an intolerable situation that would jeopardize the stability of the territory and the region and undermine the chances for a just and final settlement of the conflict.

Finally, Western Sahara is not a territory that lacks autonomy. Rather, it is a territory that lacks sovereignty.

The problem could not therefore be resolved by granting autonomy, no matter how wide-scoped it might be, but only by the free choice of its original residents who would freely decide whether they want the territory for themselves to make



an independent State out of it, or whether they are willing to be integrated in the Kingdom of Morocco and be a province in that country.

Therefore, promoting autonomy is not the solution. For all those reasons, the Moroccan project that has been time and again announced and put off is not viable and is still-born.

7. Finding a just and final settlement that respects the international legitimacy for the problem of Western Sahara today is not only necessary but possible.

Finding a settlement is still possible because the Settlement Plan as well as the Peace Plan for self-determination of the people of Western Sahara can provide, at any moment, if the political will exists, an appropriate and honorable framework to settle the conflict.

What other solution could be more just, more legitimate, more democratic and more acceptable than the one that respects the will of the population of the territory and fulfills the requirements of the international law and the relevant resolutions of the United Nations ?

The settlement is necessary because the Kingdom of Morocco, the POLISARIO Front, as well as all the peoples of the region cannot afford a protracted conflict. In an era of regional groupings and globalization, those peoples are more willing than ever to achieve their dream of a united, stable and prosper Maghreb.

The United Nations that assumes a particular responsibility vis-à-vis the people of Western Sahara, including that of protecting and preserving their natural resources, should spare no effort to do them justice and to finally implement the international legitimacy in Western Sahara, similarly to other regions in the world.

8. While the composition of the United Nations evolves toward an inclusive universality of peoples of all sizes that have accomplished their national aspirations, especially through the process of decolonization, Moroccan unilateralism should not be encouraged at the expense of denying the people of Western Sahara the inalienable right to self-determination.

9. This new manipulative approach that the Moroccan party is using to gain a renunciation by the international community of the basic human right, i.e. the right of peoples to decide their fate, is doomed to fail.

10. Therefore, the unilateral, illegal and antidemocratic Moroccan project of autonomy does not constitute obviously *"the mutually acceptable political solution which will provide for the self-determination of the people of Western Sahara"* called for by the international community and the Security Council. It is even tantamount to betting on perpetuating the deadlock.

For its part, the POLISARIO Front, in keeping with the Security Council position, is ready to work and cooperate with the United Nations Secretary-General in order to achieve this mutually acceptable political solution which will provide for the self-determination of the people of Western Sahara.

February 2007