

**Saharawi Arab Democratic Republic (SADR) Aide Memoire on Western Sahara  
AU Summit, Johannesburg, 7 to 15 June 2015**

**Key Points**

1. Western Sahara is the last colony in Africa. In the 40<sup>th</sup> year since the Territory's illegal invasion and partial occupation by Morocco, the 25<sup>th</sup> African Union (AU) Summit is a critical opportunity to fortify efforts to resolve the dispute over Western Sahara, and once and for all to end colonialism on the African continent.
  
2. Given Morocco's obstruction of all international efforts aimed at resolving the dispute, and the resulting absence of any tangible progress from the UN Security Council (UNSC) and the UN Mission for the Referendum in Western Sahara (MINURSO) in implementing the 1991 OAU-UN Settlement Plan, it is critical that the AU assume its responsibility as **co-guarantor** of the Settlement Plan and take a leadership role in advancing the Saharawi right to self-determination. To this end, the Government of the SADR calls on its African brothers and sisters to assert a strong AU position on the question of Western Sahara in accordance with OAU resolution 104 (XIX) of 1983, and all relevant OAU/AU resolutions, and adopt a decision reflecting the following key elements:
  - (a) Recall that Western Sahara is the last colony on the African continent. As confirmed by the International Court of Justice (ICJ) in its Advisory Opinion on Western Sahara in October 1975, there are no ties of sovereignty between Morocco and Western Sahara.
  
  - (b) Recall the UN Legal Opinion of 20 January 2002 (Hans Corell) that Spain was in contravention of the UN Charter when it unilaterally withdrew from the territory and that in fact, Spain is the administering power of the territory and that Morocco is the occupying power. Further recall that in accordance with UN General Assembly resolutions 34/37 (1979) and 35/19 (1980), Morocco is the occupying power of Western Sahara, and the UN has never recognized it as administering power of the territory.
  
  - (c) Recall that the Saharawi people have for too long been denied the referendum to exercise their self-determination as prescribed under the joint OAU-UN Settlement Plan of 1991, endorsed by the UN Security Council in resolution 658 (1990). It should also be recalled that the Settlement Plan was signed by both parties (the Frente-Polisario and Morocco) and that the Frente Polisario agreed to the ceasefire and Morocco agreed to accept the referendum. Morocco has thus reneged on all the agreements they had signed up to under the Settlement Plan.
  
  - (d) Express grave concern at the UN's failure to progress efforts to resolve the dispute, which has left a whole generation of Saharawi to endure human rights abuses in the Moroccan occupied part of Western Sahara, and the humanitarian tragedy of more than 150,000 Saharawi living for more than 40 years in exile in the Tindouf refugee camps.
  
  - (e) Denounce the failure of the UNSC to take into account proposals and concerns expressed by the current African members of the UNSC (Angola, Chad and Nigeria) in its most recent debate on Western Sahara (April 2015) and deplore the absence of any tangible outcome from the UNSC debate.

- (f) Faced with the lack of progress in UN efforts, and as a **co-guarantor** of the 1991 Settlement Plan demand that a deadline be set for holding the referendum, and request the relevant bodies of the AU to renew cooperation with the UN to organize the referendum, including through the resumption of technical preparations.
- (g) Reaffirm the need for MINURSO, as is the case for all other UN peacekeeping missions in Africa, to be given a mandate to monitor and report on the human rights situation in Western Sahara.
- (h) Condemn and call for a halt to current activities and further plans by Morocco and complicit foreign companies to plunder the natural resources of Western Sahara, in violation of international law.
- (i) End colonialism on the African continent. It is imperative that the AU work towards ending the occupation of one African country by another African country. The continuation of such an occupation contravenes two fundamental principles of the African Union, namely the principle of self-determination, and respect for the inviolability of borders inherited from colonial powers.

### Background

3. Western Sahara is the last colony in Africa. In 1963, while still under Spanish control, the Territory was officially recognized as a Non-Self Governing Territory (NSGT) under the Charter of the United Nations, a legal status it retains to this day. While Spain committed to organizing a referendum in 1972, no referendum was held, and no process of decolonization ever took place. As a result of Spain's failure to organize a referendum, the Frente POLISARIO was created by the people of Western Sahara to fight colonialism, and achieved liberation of 90% of the Territory.
4. In October 1975, the ICJ confirmed the legal right of the Saharawi people to a process of self-determination and found no ties of territorial sovereignty between Western Sahara and Morocco. Western Sahara was then invaded by Morocco in violation of the advisory opinion of the ICJ, and the resolutions of the UN, OAU/AU, and the Non-Aligned Movement (NAM). On 27 February 1976 an independent Sahrawi Arab Democratic Republic (SADR) was declared, a significant date, which saw Spain withdraw from the Territory without fulfilling its mandate of administering power in accordance with the UN Charter.
5. 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, and ultimately became the OAU-UN Settlement Plan on Western Sahara.
6. In 1990, the UN Security Council endorsed the Settlement Plan brokered jointly by the OAU and the UN, borne out of negotiations held under the joint auspices of the sitting OAU Chairperson and the UN Secretary-General between 1985 and 1991. As a result, the UNSC also adopted Resolution 690 (1991) establishing the UN Mission for the Referendum in Western Sahara (MINURSO) to supervise a ceasefire between the Moroccan and Frente POLISARIO forces and to conduct a referendum on self-determination within the following six months. The agreed ceasefire and the organization of the referendum were conceived as two inseparable elements of the OAU-UN Settlement Plan on

Western Sahara. Thus at the core, MINURSO's mandate is to organize a referendum allowing the Saharawi to exercise their right to self-determination.

7. For more than 40 years, Morocco has obstructed all international efforts aimed at implementing the Settlement Plan, including the organization of a referendum on self-determination allowing the Saharawi people to determine their own political future.
8. At their meeting in Addis Ababa in January 2015, African leaders reaffirmed previous AU Assembly decisions (including Assembly/AU/Dec. 536(XXIII)) "to take all the necessary measures for the organization of a referendum for self-determination of the people of Western Sahara in compliance with the relevant OAU/AU Decisions and UN Resolutions."
9. At the 496<sup>th</sup> meeting of the AU Peace and Security Council (AUPSC) held on 27 March 2015, the AU adopted a communiqué on the situation in Western Sahara, which noted that "four decades after the onset of the conflict in Western Sahara and fifty years after the decision to decolonize Western Sahara, all efforts aimed at finding a solution have so far failed to achieve the expected results and that the prevailing stalemate not only heightens tension in the Territory, but also undermines efforts to promote integration in the Maghreb region."
10. On 28 April 2015, the UNSC adopted a 'technical' resolution S/RES/2218 (2015) drafted by the so-called Group of Friends of Western Sahara comprised of USA, UK, France, Russia and Spain (a group conspicuously devoid of any one single African member), and failed to take into account a number of critical elements proposed by the current AU members of the Security Council, including a comprehensive review of the 2007 framework for negotiations; a reaffirmation of the core purpose of MINURSO to organize a referendum for the self-determination of the Saharawi people; establishing a human rights monitoring and reporting mechanism for MINURSO; and demanding that Morocco halt the illegal exploitation of the natural resources of Western Sahara.
11. UN efforts on Western Sahara have reached a crisis point. The attempts by the UN Secretary-General's Personal Envoy on Western Sahara, Christopher Ross, to pursue 'talks' between the Parties or to conduct shuttle diplomacy has produced nothing. The UNSC has failed to provide any direction or purpose for Ross's efforts, and MINURSO's core mandate to organize a referendum remains suspended as a result of Morocco's refusal to countenance a vote that includes independence as an option, despite this being a requirement in the joint OAU-UN Settlement Plan, and as a result of Morocco's refusal to fulfill obligations it had signed on to under the OAU/AU Settlement Plan. In the meantime, a generation of Saharawi people have been divided by an illegal Moroccan occupation that brutalizes the Saharawi population in the occupied part of the Territory, and has forced more than 150,000 Saharawi people to live in exile in desert refugee camps near Tindouf in south-west Algeria.