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Human rights situations that require the Council's attention

Note verbale dated 7 March 2019 from the Permanent Mission of South Africa to the United Nations Office at Geneva addressed to the President of the Human Rights Council

The Permanent Mission of the Republic of South Africa to the United Nations Office at Geneva and other international organizations in Switzerland presents its compliments to the President of the Human Rights Council, and has the honour to bring to the attention of the President of the Council the attached correspondence from the Frente Polisario pertaining to the correct United Nations nomenclature to be used by the Council when referring to the Non-Self-Governing Territory of Western Sahara (see annex).

The Permanent Mission of the Republic of South Africa has the honour to request that the present note verbale and the annex thereto* be issued as a document of the Human Rights Council and circulated to all Members of the Council under agenda item 4.

* Reproduced as received, in the language of submission only.



Annex to the note verbale dated 7 March 2019 from the Permanent Mission of South Africa to the United Nations Office at Geneva addressed to the President of the Human Rights Council

For the attention of the President of the Human Rights Council

Upon instructions from my authorities, I have the honour to write to you to bring to your attention and that of the Human Rights Council the official designation of the Non-Self-Governing Territory of Western Sahara, within the context of the requirement of international legality.

A Spanish protectorate since 1884, Spanish Sahara was included in 1963 in the list of Non-Self-Governing Territories under Chapter XI of the Charter (A/5514, annex III); since then, Western Sahara has had a distinct and separate legal status from that of the Administering Power, if any.

On 26 February 1976, Spain informed the United Nations Secretary-General that as of that date it had terminated its presence in the Non-Self-Governing Territory and relinquished its responsibilities over the Territory.

Since 1976, the United Nations adopted the official and unique denomination of Western Sahara when referring to that Territory. The UN General Assembly and its subsidiary bodies, the UN Security Council and all International Organisations of the UN system, as well as all UN Programmes and Missions use the official denomination of Western Sahara in their reports, and to date in more than one hundred resolutions.

Western Sahara is the only Non-Self-Governing Territory that does not have a recognised Administering Power, and is under the illegal military occupation of the Kingdom of Morocco that has illegally annexed the Occupied Territory. The issue is discussed annually with the Special Committee on Decolonisation, the General Assembly and the Security Council, which decided in 1991 to set up the United Nations Mission for the Referendum in Western Sahara (MINURSO).

In pursuing its long-standing policy of occupation of almost two-thirds of the aforementioned Territory, the Kingdom of Morocco spares no effort to create and sustain the impression that Western Sahara belongs to the Moroccan national territory, in contradiction with the internationally-recognised legal status of the Non-Self-Governing Territory.

One of the tools used by the Moroccan delegation, as well as some NGOs, in Human Rights Council debates, is to refer to Western Sahara as the “Moroccan Sahara” or the “Southern Provinces”; this directly contravenes the official denomination recognised by the United Nations.

In its Advisory Opinion of 1975, the International Court of Justice unequivocally stated that the Kingdom of Morocco has no sovereignty over Western Sahara. Furthermore, in December 2016, February 2018, July 2018 and November 2018 the European Court of Justice repeatedly reaffirmed that Western Sahara does not belong to the Kingdom of Morocco and that the Territory has a distinct and separate legal status. Similarly, in June 2017, the High Court of South Africa, Port Elizabeth Division, also ruled that, in conformity with International Law, the Kingdom of Morocco does not exercise any sovereignty over Western Sahara.

In this context, the Polisario Front calls upon the President of the UN Human Rights Council to ensure that, without any exception, all Permanent Delegations, representatives of civil society and any other participants, complies with the official denomination recognised by the United Nations when referring to the Non-Self-Governing Territory of Western Sahara in the Human Rights Council.

The Sahrawi authorities also reiterate their preparedness to engage in direct negotiations with Morocco, without preconditions and in good faith, as called for by Security Council resolutions and African Union decisions. In this regard, they reaffirm their strong commitment to cooperating fully with the efforts deployed by both the Secretary-General and his Personal Envoy for Western Sahara, President Horst Köhler, and by the relevant African Union policy organs, including in particular the newly- established mechanism, with a view to bringing to a conclusion the decolonisation of Western Sahara.

I would be most grateful if you would bring the present letter to the attention of the members of the Human Rights Council.

Geneva, 20 February 2019

Ms. Omeima **Abdeslam**

Representative of the Frente Polisario to the United Nations
and other international organisations in Geneva
