



Security Council

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Letter dated 21 December 2020 from the Permanent Representative of Namibia to the United Nations addressed to the President of the Security Council

I have the honour to transmit herewith a letter from Sidi Omar, Representative of the Frente POLISARIO at the United Nations, containing the views of the Frente POLISARIO on the proclamation made by the outgoing United States President regarding Western Sahara (see annex).

I should be grateful to have the present letter and its annex issued as a document of the Security Council.

(Signed) Neville **Gertze**
Ambassador
Permanent Representative



Annex to the letter dated 21 December 2020 from the Permanent Representative of Namibia to the United Nations addressed to the President of the Security Council

Upon the instructions of my Authorities, I have the honour to share the views of the Frente POLISARIO on the recent proclamation of the outgoing United States President concerning Western Sahara:

On 10 December 2020, the outgoing United States President, Donald Trump, announced that an agreement between Morocco and Israel on normalization of relations had been reached with American mediation. As a quid pro quo for the deal, President Trump also made a proclamation declaring United States recognition of “Moroccan sovereignty over Western Sahara” and the intention to open an American consulate in the Sahrawi occupied city of Dajla (Dakhla).

The decision taken by the outgoing United States President is a regrettable and unilateral position that violates the Charter of the United Nations and United Nations resolutions, including Security Council resolutions that the United States itself drafted and approved over the past decades. It is all the more regrettable that this proclamation distances itself from the traditional United States policy regarding Western Sahara, breaks a long-standing position on the right of self-determination that is embodied in the United States Constitution and negates one of its cardinal principles.

The proclamation further disregards United Nations General Assembly resolutions, including resolution [2625 \(XXV\)](#) of 1970, which stipulates that no territorial acquisition resulting from the threat or use of force shall be recognized as legal, and therefore it constitutes a violation of international humanitarian law and the erga omnes obligations of States not to engage in any act or in any form of assistance that may have the effect of consolidating an illegal situation created by a serious breach of the basic principles of international law.

The legal status of Western Sahara is unequivocally clear. The International Court of Justice (ICJ), which is the United Nations principal judicial organ, issued an advisory opinion on Western Sahara on 16 October 1975 in which it ruled that there was no tie of territorial sovereignty between the Territory of Western Sahara and the Kingdom of Morocco.

By rebutting Morocco’s claims of sovereignty over Western Sahara, ICJ established clearly that sovereignty over the Territory was vested in the Sahrawi people, who have the right to decide, through the free and genuine expression of their will, the status of the Territory in accordance with United Nations General Assembly resolution [1514 \(XV\)](#) and other resolutions relating to decolonization.

In 2002, the United Nations Under-Secretary-General for Legal Affairs, Hans Corell, issued an advisory opinion at the request of the United Nations Security Council in which he also reaffirmed that Morocco does not exercise any sovereignty or administering power over Western Sahara. Several rulings by African and European courts have also reaffirmed this fact.

The United Nations and the Organization of African Unity (now the African Union), as well as the European Union, have never recognized Morocco’s forceful and illegal annexation of parts of Western Sahara, which remains a Non-Self-Governing Territory whose decolonization was thwarted owing to Morocco’s military invasion of the Territory on 31 October 1975.

In accordance with its doctrine of not recognizing as legal any territorial acquisition resulting from the use of force, the United Nations General Assembly has

clearly described Morocco's presence in Western Sahara as an act of occupation (resolution 34/37 of 21 November 1979 and resolution 35/19 of 11 November 1980). The unilateral action carried out by the outgoing United States President regarding the sovereignty of Western Sahara lies outside the purview of the Charter of the United Nations and international law and therefore it is null and void and will have no effect whatsoever.

In reaction to President Trump's proclamation, many countries, including permanent members of the Security Council, have reaffirmed their positions regarding Western Sahara and their support for the United Nations resolutions on the self-determination of the people of Western Sahara. Some countries have described the United States President's decision as a violation of basic principles of international law that would only lead to exacerbating the situation on the ground.

Furthermore, strong voices from the American Congress, civil society and the political arena have expressed their shock and disappointment regarding this attempt to trade away the self-determination of the people of Western Sahara and called on the incoming President to reverse Trump's decision.

The United Nations Secretary-General has also reaffirmed that the United Nations position regarding Western Sahara remains unchanged. For its part, the African Union, of which both the Sahrawi Republic and Morocco are member states, has reaffirmed its position regarding Western Sahara in conformity with the relevant African Union and United Nations resolutions.

All efforts deployed by the international community over the past decades since the beginning of the implementation of the United Nations-Organization of African Unity Settlement Plan in 1991 have been met with Morocco's obstructionism and rejection. The decision taken by President Trump hampers the United Nations and African Union efforts to achieve a peaceful solution to the question of Western Sahara. It also encourages the Moroccan occupying state to persist in its illegal occupation and aggressive actions that have already led to its military aggression on the Sahrawi Liberated Territory on 13 November 2020, thus ending the ceasefire in place since 1991.

The Government of the Sahrawi Republic and the Frente POLISARIO hope that the incoming United States Government would reverse the unilateral decision made by the outgoing United States President and ensure that the United States would continue to play a constructive role in the international efforts aimed at achieving a peaceful and lasting solution based on the exercise by the Sahrawi people of their inalienable right to self-determination and independence.

(Signed) Sidi M. **Omar**
Ambassador

Representative of the Frente POLISARIO at the United Nations