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12 de septiembre a 7 de octubre de 2022 Tema 3 de la agenda **Promoción y protección de todos los derechos humanos,** civiles, políticos, económicos, sociales y culturales, incluido el derecho al desarrollo

> Nota verbal de fecha 6 de octubre de 2022 dirigida a la Oficina del Alto Comisionado de las Naciones Unidas para los Derechos Humanos por la Misión Permanente de Namibia ante la Oficina de las Naciones Unidas en Ginebra

La Misión Permanente de la República de Namibia ante la Oficina de las Naciones Unidas en Ginebra y otras organizaciones internacionales con sede en Suiza señala a la atención de la Presidencia del Consejo de Derechos Humanos y la Oficina del Alto Comisionado de las Naciones Unidas para los Derechos Humanos la correspondencia adjunta del Frente POLISARIO relativa al derecho a la libre determinación y a la soberanía permanente del pueblo del Territorio No Autónomo del Sáhara Occidental sobre sus recursos naturales (véase el anexo).

La Misión Permanente de la República de Namibia tiene el honor de solicitar que la presente nota verbal y su anexo* se publiquen como documento del Consejo de Derechos Humanos y se distribuyan a todos los miembros del Consejo en relación con el tema 3 de la agenda.

^{*} Se reproduce como se recibió, en el idioma en que se presentó únicamente.



Anexo de la nota verbal de fecha 6 de octubre de 2022 dirigida a la Oficina del Alto Comisionado de las Naciones Unidas para los Derechos Humanos por la Misión Permanente de Namibia ante la Oficina de las Naciones Unidas en Ginebra

A la atención de los miembros del Consejo de Derechos Humanos

Western Sahara, called Spanish Sahara until the colonial Power (Spain) terminated its presence in and illegally relinquished its responsibilities over the Territory in February 1976, was included in 1963 in the list of Non-Self-Governing Territories under Chapter XI of the Charter (A/5514, annex III). Since then, UN General Assembly Resolution 1514 (XV), which contains the "Declaration on the Granting of Independence to Colonial Countries and Peoples" fully applies to Western Sahara.

In adopting resolution 1514 (XV), the UN General Assembly affirmed that peoples may, for their own ends, freely dispose of their natural wealth and resources and declared that "all armed action or repressive measures of all kinds directed against dependent peoples shall cease in order to enable them to exercise peacefully and freely their right to complete independence, and the integrity of their national territory shall be respected."

In its 1975 Advisory Opinion², the International Court of Justice concluded 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. In November 1975, the UN Security Council in Resolution 380 called upon Morocco to immediately withdraw from the Territory of Western Sahara all the participants in the march. In November 1979, the UN General Assembly in Resolution 34/37 deeply deplored the aggravation of the situation resulting from the continued occupation of Western Sahara by the Kingdom of Morocco.

In adopting resolution 1803 (14 Dec. 1962) entitled "Permanent sovereignty over natural resources", the UN General Assembly declared that "The exploration, development and disposition of such resources, as well as the import of the foreign capital required for these purposes, should be in conformity with the rules and conditions which the peoples and nations freely consider to be necessary or desirable with regard to the authorization, restriction or prohibition of such activities."

In its General comment No. 12 on Article 1 of the International Covenant on Civil and Political Rights, the Human Rights Committee, referring to paragraph 2 of Article 1 stressed that the right of peoples freely to dispose of their natural wealth and resources entails corresponding duties for all States and the international community.

Paragraph 3, in the Committee's opinion, is particularly important in that it imposes specific obligations on States parties, not only in relation to their own peoples but vis-à-vis all peoples which have not been able to exercise or have been deprived of the possibility of exercising their right to self-determination. The obligations exist irrespective of whether a people entitled to self-determination depend on a State party to the Covenant or not. It follows that all States parties to the Covenant should take positive action to facilitate realization of and respect for the right of peoples to self-determination.

Both, the Committee on Economic, Social and Cultural Rights in its 2015 Concluding observations on the fourth periodic report of Morocco³ and the Human Rights Committee in

The southern and eastern boundaries with the Islamic Republic of Mauritania were established by the "Convention pour la délimitation des possessions françaises et espagnoles dans l'Afrique occidentale, sur la côte du Sahara et sur la côte du Golfe de Guinée", signed in Paris on 27 June 1900. The Northern boundary of Western Sahara with the territory of the Kingdom of Morocco was delimited by two conventions, the Paris Convention signed on 3 October 1904, and the Madrid Convention signed on 27 November 1912. Its delimitation has been slightly corrected by the Madrid Convention signed on 19 December 1956.

² Western Sahara, Advisory Opinion, I.C.J. Reports 1975.

³ E/C.12/MAR/CO/4*.

its 2016 Concluding observations on the sixth periodic report of Morocco⁴, expressed their concerns about the failure to find a solution to the issue of the right to self-determination of the Non-Self-Governing Territory of Western Sahara and the illegal exploitation of the natural resources of the Territory by the Kingdom of Morocco.

Furthermore, in its annually adopted resolution entitled " Economic and other activities which affect the interests of the peoples of the Non-Self-Governing Territories", the UN General Assembly calls upon all Governments that have not yet done so 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 such enterprises.

UN General Assembly Resolution 2625 (XXV) of 24 October 1970, entitled "Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations", provides that the territory of a colony or other Non-Self-Governing Territory has, under the Charter, a status separate and distinct from the territory of the administering Power (not mentioning an occupying Power) and that such separate and distinct status under the Charter shall exist until the people of the colony or Non-Self-Governing Territory have exercised their right of self-determination in accordance with the Charter, and particularly its purposes and principles.

It is precisely upon this very fundamental principle that the General Court of the European Union has founded its 29th September 2021 ruling⁵ on the agreement between the European Union and Morocco amending the tariff preferences granted by the European Union to products of Moroccan origin and, second, the Sustainable Fisheries Partnership Agreement.

Confirming the relevant case law of the Court of Justice of the European Union⁶, the General Court, recalls that the Frente Popular de Liberación de Saguía el Hamra y Río de Oro (Frente POLISARIO) is recognised internationally as the representative of the people of Western Sahara and that any agreement on economic activities in the Non-Self-Governing Territory of Western Sahara must have the free and genuine consent of the people of Western Sahara. The General Court affirmed the legal personality of the Frente Polisario being entitled to act before the European and international judicial institutions to defend the rights of the people and the territory of Western Sahara.

The Frente POLISARIO, recognized by the UN General Assembly in Resolution 34/37 as the representative of the people of Western Sahara, denounces the persistent attitude of the European Union and its member states in its relations with the Kingdom of Morocco when addressing the Non-Self-Governing Territory of Western Sahara.

Whether it relates to the process of self-determination started in 1966 and continued with the creation by the Security Council of the UN Mission for the Referendum in Western Sahara (MINURSO), or to the exploitation of natural resources in the same Territory, the European democracies are ostensibly trampling on fundamental principles of international relations, the international law, the UN Charter and the countless resolutions adopted by the General Assembly concerning the Non-Self-Governing Territories and Western Sahara in particular.

The Frente POLISARIO deeply regrets that the European democracies participate actively to the weakening of the system created in 1945 in order to maintain international peace and security, to develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples and to achieve international co-operation in encouraging respect for human rights and for fundamental freedoms for all.

The Frente POLISARIO calls upon the members of the Human Rights Council to request the High-Commissioner to establish a comprehensive list of companies developing economic activities in the occupied Non-Self-Governing Territory of Western Sahara without the free and genuine consent of the people of Western Sahara.⁷

4 CCPR/C/MAR/CO/6

⁵ https://curia.europa.eu/jcms/upload/docs/application/pdf/2021-09/cp210166en.pdf

⁶ See document A/HRC/44/G/20

⁷ See the annexed list

The Frente POLISARIO, while denouncing the persistent illegal occupation and annexation of part of Western Sahara by the Kingdom of Morocco and the persistent illegal plundering of the natural resources of the Territory, as well as the development of economic activities which violate the rights of the Sahrawi people, calls upon once again the members of the Human Rights Council to implement OP5 of the UN General Assembly's annually-adopted resolution entitled "Universal realisation of the right of peoples to self-determination", which reads "Requests the Human Rights Council to continue to give special attention to violations of human rights, especially the right to self-determination, resulting from foreign military intervention, aggression or occupation" and to establish the mandate of a Special Rapporteur on the situation of human rights in the Occupied 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, 5 October 2022 Ms. Omeima Abdeslam Representative of the Frente Polisario to the United Nations and other International Organisations in Geneva

Annex

Non exhaustive list⁸ of major companies developing economic activities in the occupied Non-Self-Governing Territory of Western Sahara without the free and genuine consent of the people of Western Sahara

Country	Company	Field of activity
Australia	Worley Ltd	Phosphates
Belgium	Windvision NV	Renewable Energy
Canada	Metalex Ventures	Mining
China	Chint Group	Renewable energy
Cyprus	FML Ship Management Ltd	Shipping
Denmark	COWI A/S	Infrastructure
Denmark	Deugro Danmark A/S	Renewable Energy
Finland	Wartsila OYJ ABP	Infrastructure
Finland	Nokia	Infrastructure
France	Azura Group	Agriculture
France	Idyl S.A.S.	Agriculture
France	Air France-KLM Group	Aviation
France	Engie S.A.	Desalination
France	Veolia Environment S.A.	Desalination
France	Sogestran Group	Energy exports
France	Agence Française de Développement	Finance
France	Axa S.A.	Finance
France	BNP Paribas S.A.	Finance
France	Crédit Agricole Group	Finance
France	Société Générale S.A.	Finance
France	Vinci Group	Infrastructure
France	DV Offshore	Infrastructure
France	Mobilis	Infrastructure
France	Negri France	Infrastructure
France	Orange S.A.	Infrastructure
France	SYSTRA Group	Infrastructure
France	Tecalemit Flexibles	Infrastructure

⁸ The list will be updated on a regular basis.

France Terrasol Infrastructure

France Voltalia SA Renewable Energy

FranceChancerelleSeafoodFranceCMA CGM S.A.ShippingFranceUCPATourism

Germany HeidelbergCement AG Cement
Germany ThyssenKrupp AG Cement

Warnemünder

Germany Hochseefischerei GmbH Fisheries

(Doggerbank Seefischerei

GmbH)

Germany

Köster Marine Proteins
GmbH

Fishmeal imports

Germany Deutche Post DHL Group International Logistics

Germany Siemens Energy AG Renewable Energy

Germany Siemens AG Renewable energy

Germany J Müller Weser GmbH &

Co. KG

Shipping

GermanyBriese SchiffahrtsShippingGermanyHamburger LloydShipping

Greece Stealth Corp Energy exports

Greece Kataskevastiki J.
Dimitriou Ltd

Dimitriou Ltd Infrastructure

Greece Archirodon Group Infrastructure

Greece Common Progress

Compania

Shipping

Greece Empire Bulkers Ltd Shipping

Greece Sea World Management

& Trading Inc

Shipping

GreeceTechnomar Shipping IncShippingGreeceUnisea Shipping LtdShippingGreeceWhite Sea Navigation SAShippingIndiaLarsen & Toubro LtdInfrastructure

India Paradeep Phosphates Ltd Phosphates

IndiaSterling and WilsonRenewable energy

Ireland San Leon Energy PLC Oil and gas

 $\begin{array}{c} \textbf{Israel} & \begin{array}{c} \text{Ratio Petroleum Energy} \\ \text{LP} \end{array} \quad \text{Oil and gas} \end{array}$

 Italy
 Italcementi Group
 Cement

Italy Eccher/DEAL Infrastructure

ItalyEnel SpARenewable energyJapanHitachi LtdRenewable energy

LithuaniaBaltlanta ZAOFisheriesKingdom of MoroccoAttijariwafa Bank (*)FinanceKingdom of MoroccoBank Assafa (*)Finance

Kingdom of Morocco Dar Al Moukawil (*) Finance

Kingdom of Morocco Inwi (*) Telecommunications

Kingdom of Morocco Marjane Holding (*) Retail & Distribution

LafargeHolcim Maroc (*)

Building materials

Kingdom of Morocco Nareva (*) Energy

Kingdom of Morocco

Kingdom of Morocco ONAPAR (*) Construction

Kingdom of Morocco Sonasid (*) Building materials

Kingdom of Morocco SOMED (*) Mining / Construction

Kingdom of Morocco Sotherma (*) Retail & Distribution

Kingdom of MoroccoWafa Assurance (*)InsuranceKingdom of MoroccoWafacash (*)Finance

Kingdom of Morocco Wana Corporate (*) Telecommunications

Kingdom of Morocco

Dakhla Kids (King's cousin Lalla Noufissa)

Hotels / Resorts

Kingdom of MoroccoAbd DahaConstructionKingdom of MoroccoAcacia SudConstruction

Kingdom of MoroccoAgence Transit Sakia El Hamra
Maritime transport

Kingdom of Morocco Agkmat Holding Construction

Kingdom of Morocco Agro Rio D'oro Agricultural machinery

Kingdom of Morocco Ahl Abidine sarl Construction

Kingdom of Morocco Al Binai Civil engineering

Kingdom of Morocco Al Moukhad Construction

Kingdom of Morocco Aosiba Civil engineering

Kingdom of Morocco Aoulad Brahim T.p Construction

Kingdom of Morocco Azyosli Construction

Banque Marocaine du

Kingdom of Morocco Commerce Extérieur Finance

(BMCE)

Kingdom of Morocco Banque Populaire Finance

Kingdom of Morocco Bensalman Construction

BK Fish Kingdom of Morocco Fish Preparation-Export

Kingdom of Morocco Canafric(Mina Holding) Tyres seller

Kingdom of Morocco Canpêches Fish Preparation- Export

Kingdom of Morocco C.e.te.ge.c Civil engineering

Ciment et Matériel de **Kingdom of Morocco** Construction

Construction Saharienne

Cie. Africaine des travaux **Kingdom of Morocco** Civil engineering généraux (Mina Holding)

Kingdom of Morocco Cogémetal Civil engineering

Kingdom of Morocco Concept Dakhla **Developer Constructors**

Conserveries Pelagiques **Kingdom of Morocco** Shipowners De Dakhla

Kingdom of Morocco COPELIT Fishery

Crédit Immobilier et Kingdom of Morocco Finance

Hôtelier

Crédit du Maroc Kingdom of Morocco Finance

Kingdom of Morocco C.s.v. Mechanical maintenance

Frozen fishery

Kingdom of Morocco Dakhla Assurances Insurance **Tourism Kingdom of Morocco** Dakhla Attitude **Kingdom of Morocco** Dakhla Club Hôtel Tourism

Kingdom of Morocco Dakhla Excursion **Tourism**

Dakhlapes

Kingdom of Morocco

Kingdom of Morocco Dakhla Seafood Fishery export

Kingdom of Morocco Dakhla Trans Service **Tourism**

Kingdom of Morocco Delta 3e Construction

Kingdom of Morocco Delta Ocean Fish derivatives

Kingdom of Morocco Dipromer Fish freezing

Eco Green Systems Construction Kingdom of Morocco

Kingdom of Morocco E.i.c.3 sarl Civil engineering

Kingdom of Morocco El Delavilla Construction

Kingdom of Morocco Electroclim Laayoune Industrial refrigeration

El Wakar Des Travaux Kingdom of Morocco Construction Générale

Kingdom of Morocco Ennarjissia (ets) Construction

Entreprise Générale De Public/private Kingdom of Morocco Construction Saharienne construction

Ets Ahmed Koubaa Construction material Kingdom of Morocco

Kingdom of Morocco Ets Khmich Construction

Kingdom of Morocco Ezz Aama Construction Kingdom of Morocco **Express Line Company** Freight transport **Kingdom of Morocco** Extratec Boilermaker Kingdom of Morocco Forages Sahara Drilling Kingdom of Morocco Frigo Adnane Fishery export Kingdom of Morocco Geospec Drilling **Kingdom of Morocco** Gidital Construction **Kingdom of Morocco** Gotame Civil engineering **Kingdom of Morocco** Hajar Tous Travaux Construction Canned fish Kingdom of Morocco **Halieutes Process** Holding Sahara Tekna, Finance / Services **Kingdom of Morocco** Holsatek Kingdom of Morocco Iglo Fish Fish Preparation-Export INDUSAHA (Industrie **Kingdom of Morocco** Construction material Sakia el Hamra) **Kingdom of Morocco** Jaalawi Frères Construction **Kingdom of Morocco** K.b. Fish Fish derivatives Kingdom of Morocco Laayoune Elevage Fish derivatives **Kingdom of Morocco** Laayoune Khadamat Construction **Kingdom of Morocco** Laayoune Protein sarl Fish derivatives Kingdom of Morocco Linkol Construction Kingdom of Morocco Mabal Construction Kingdom of Morocco Maraichage du Sahara Agriculture Kingdom of Morocco Marexp Fish Preparation- Export Marsa Maroc - Port de Kingdom of Morocco Seaport management Laâyoune Kingdom of Morocco Medzal Construction Mijik Kingdom of Morocco Agriculture Module Sud Construction Kingdom of Morocco Multibra Construction **Kingdom of Morocco** Kingdom of Morocco Oceamic Laayoune II Fishery Office Chérifien des Kingdom of Morocco Phosphates phosphates (OCP) **Kingdom of Morocco** Omiti Construction **Omnuim Construction**

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Genie Civil Et Batiment

Ostreiculture de Dakhla

Kingdom of Morocco

Kingdom of Morocco

Construction

Ostrichulture

Kingdom of Morocco	Phosphates de Boucraa	Phosphate mining
Kingdom of Morocco	Proxitrav	Construction
Kingdom of Morocco	Rio de oro Voyages	Tourism
Kingdom of Morocco	Rio Export	Food export
Kingdom of Morocco	Rio Food	Fishery export
Kingdom of Morocco	Rio Trading	Construction
Kingdom of Morocco	Saga Sud	Business advice
Kingdom of Morocco	Sahara Petrom	Petrol and lubricants
Kingdom of Morocco	Sahara Sakane (Mina Holding)	Construction
Kingdom of Morocco	Sakia El Hamra de Ravitaillement des Bateaux	Refueling ships
Kingdom of Morocco	Sarma Fish	Canned fish
Kingdom of Morocco	Sbai Africa Trans Dakhla	Freight transport
Kingdom of Morocco	Sbayou Fishing Company (Mina Holding)	Promotion of sea products
Kingdom of Morocco	S Consi Dakhla	Freight transport
Kingdom of Morocco	Sepomer	Fish derivatives
Kingdom of Morocco	Sigma Project	Hotels/ Restaurants
Kingdom of Morocco	Sté Alfarabi Pour Les Travaux Divers(A.l.t.d)	Construction
Kingdom of Morocco	Société Azilatrav Btp	Construction
Kingdom of Morocco	Société de Construction Hassouni Sud	Construction
Kingdom of Morocco	Société d'Exploitation des Ports S.A.	Shipping
Kingdom of Morocco	Société Khalij Dakhla de Construction et Services	Construction
Kingdom of Morocco	Société Oubouhouch Services	Financial and legal tax advice
Kingdom of Morocco	Société Pétroles Nord Africain	Petrol and lubricants
Kingdom of Morocco	Socopo	Promotion of sea products
Kingdom of Morocco	Solevatra Logistics & Services	Industrial equipment hire
Kingdom of Morocco	Somagec Sud	Construction
Kingdom of Morocco	Somatraps	Fish derivatives
Kingdom of Morocco	Sotragel	Fish derivatives
Kingdom of Morocco	Sud Comutel	Industrial engineering

Sud Emulsion et Bitume Kingdom of Morocco

(Mina Holding)

Bitumen manufacturer

Kingdom of Morocco Taamir Sahara Groupe Civil engineering

Kingdom of Morocco Tawarta Agriculture

Kingdom of Morocco Tinighir Ste Fishery / Agriculture

Kingdom of Morocco Univers Maritime Fishery

Kingdom of Morocco Warm De Construction Construction Kingdom of Morocco Well fishing Fish export

Commercial and Kingdom of Morocco Yakoubi Equipement industrial refrigeration

Netherlands Air France-KLM Group Aviation

Netherlands Jan de Nul Group Infrastructure Oil and gas Netherlands Fugro NV

Ballance Agri-Nutrients **New Zealand** Phosphates

Ltd

New Zealand Ravensdown Ltd Phosphates **Norway** Sjøvik AS Fishery Norway BW Epic Kosan Ltd Shipping

Portugal Gesto Energy Renewable Energy

Russia Murmansk Trawl Fleet Fishery

Russia EuroChem Group Phosphates

Saudi Arabia **ACWA** Power Renewable energy

Singapore BW Epic Kosan Ltd Shipping

Grindrod Shipping Pte **South Africa**

Shipping

Daewoo E&C and Korea **South Korea**

Port Engineering Corp

Infrastructure

Spain Aquaculture

Marocco Catalane

Aquaculture

Binter Canarias S.A. **Spain** Aviation

Spain CEISA Construction

CEMENGAL Construction **Spain**

Spain Proyecto Dover S.L Construction

Spain Abengoa S.A. Desalination

Compañía Española de **Spain** Energy exports Petróleos, S.A.U.

Spain Repsol S.A. Energy exports

Grupo Conservas Fisheries **Spain**

Garavilla (Isabel)

Spain Grupo Profand Fisheries **Spain** Angulas Aguinaga Fisheries

Canosa Grupo **Spain** Fisheries

Empresarial

Spain Congelados Salgado Fisheries

Fisheries **Spain** Grupo Amasúa

Fisheries **Spain** Rosa de los vientos sl **Spain** Viveros Merimar Fisheries

Discefa SLU Spain Fisheries

Siemens Gamesa **Spain** Renewable energy Renewable Energy S.A.

Ingeteam Corporación **Spain** Renewable Energy

S.A.

Spain Transportes Lasarte S.A. **Transport**

Sweden Bygging-Uddemann AB Infrastructure

Sweden Wisby Tankers AB Shipping Sweden **Tourism** Kite.se

Switzerland ABC Maritime AG Energy exports

ASEA Brown Boveri **Switzerland** Renewable energy

A(BB)

Switzerland Holcim Ltd Cement Switzerland SwissMarine Services SA Shipping

Switzerland Crans Montana Forum Networking / Lobbying

Taiwan Wisdom Marine Group Shipping Taiwan Franbo Sagacity SA Shipping

Turkey Gümüşdoğa A.S Fishmeal imports

Ince Denizcilik ve Ticaret **Turkey** Shipping

AS

United Arab Emirates Air Arabia PJSC Aviation

ADNOC Logistics &

Shipping **United Arab Emirates** Services

United Kingdom Biwater International Ltd Infrastructure **United Kingdom** GeoEx MCG Oil and gas

Windhoist Ltd United Kingdom Renewable Energy

United Kingdom G4S Ltd Security

Shipping **United Kingdom** Hadley Shipping Co Ltd

United States	Avis Budget Group	Car rental
United States	MoneyGram International Inc.	Money transfer
United States	Caterpillar Inc	Phosphates
United States	Innophos Holdings Inc	Phosphates
United States	General Electric Company	Renewable Energy
United States	Harmattan Energy	Renewable Energy
United States	McDonald's Corporation	Restaurants
United States	Cargill International SA	Shipping
United States	Booking Holdings Inc	Tourism
United States	Expedia Group Inc	Tourism
United States	AMIDEAST	Training

^(*) Those companies belong to Al Mada Holding, which is a private investment fund, the majority of whose capital belongs to Siger, the Moroccan royal family's holding.