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Situation in Western Sahara

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Report

Political Affairs Committee

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For debate in the Standing Committee — see Rule 15 of the Rules of Procedure

Summary

The Parliamentary Assembly remains concerned over the lack of substantial progress in finding a fair and lasting political solution to the dispute over Western Sahara.

The constant efforts of the United Nations since 1965, and more particularly of the UN Mission for the Referendum in Western Sahara since 1991, have now reached a decisive phase perceived by the observers as "the last chance". The Assembly considers it essential to put an end to a particularly long conflict that has had serious consequences for the humanitarian situation of refugees, prisoners of war and political prisoners and is harming the development of the Magreb and good relations between the countries in the region. .

The Assembly gives its full backing to the United Nations and to Security Council Resolution 1541 (2004) of 29 April 2004 reaffirming its support of the Peace Plan for Self-Determination of the People of Western Sahara as an optimum political solution and calls on Morocco to show a compromising attitude towards its acceptance.

The Assembly also calls on its members to contribute by appropriate means in encouraging the parties concerned to work with the United Nations towards rapid acceptance and implementation of the Peace Plan.

I. Draft resolution [[Link to the adopted text](#)]

1. The Parliamentary Assembly remains concerned over the lack of substantial progress in finding a fair and lasting political solution, which is acceptable to the different parties, to the dispute over Western Sahara.

2. The conflict in Western Sahara causes unacceptable hardship and suffering for innocent people and has led to an unbearable humanitarian situation which should no longer be tolerated.

3. The United Nations has been seeking a settlement in Western Sahara since the withdrawal of Spain in 1976. In 1988, the Secretary-General submitted the settlement plan calling for a definite solution of the question of Western Sahara by means of a ceasefire and the holding of a referendum of self-determination for the people of Western Sahara.

4. The Assembly gives its full support to the United Nations, including the United Nations Mission for the Referendum in Western Sahara (MINURSO), set up in 1991, and to the Secretary-General's Personal Envoy, in their tireless efforts to assist the parties concerned to find a solution to the dispute. It pays special tribute to the Personal Envoy who has met several times during recent months with both Morocco's leadership and the *Frente Popular para la Liberaci?n de Saguía el-Hamra y del Río de Oro* (Frente POLISARIO) with the aim of getting the parties to work towards acceptance and the implementation of the Peace Plan for Self-Determination of the People of Western Sahara.

5. The Assembly gives its full backing to the [United Nations Security Council Resolution 1541 \(2004\)](#) of 29 April 2004 by which the Security Council reaffirms its support for the Peace Plan for Self-Determination of the People of Western Sahara as an optimum political solution as well as its strong support for the United Nations Secretary-General and his Personal Envoy in their efforts to achieve a mutually acceptable political solution to the conflict over Western Sahara.

6. While the Frente POLISARIO officially accepted the Peace Plan for Self-Determination of the

People of Western Sahara on 6 July 2003, Morocco in its final response of 15 April 2004 does not accept essential elements of the Peace Plan. It does not agree with the proposed transitional period of self-government, aimed at offering the bona fide residents of Western Sahara an opportunity to determine their future themselves. Morocco considers that this period would imply uncertainty as to the final status of the territory and thus is likely to usher in an era of insecurity and instability for the whole Magreb and considers that the final nature of the autonomy is not negotiable.

7. The Assembly urges the authorities of Morocco to seize the opportunity and show a compromising attitude towards acceptance of the Peace Plan and hence to put an end to the dispute over Western Sahara.

8. The Assembly invites the neighbouring states to co-operate with the United Nations in finding a fair and final solution to the conflict.

9. The Assembly also calls on its member states to contribute by appropriate means in encouraging the parties concerned to work with the United Nations towards rapid acceptance and implementation of the Peace Plan.

10. While the Assembly agrees with the importance of concentrating efforts on the acceptance of the Peace Plan, it underlines the necessity not to forget the humanitarian aspects of the dispute, including the food situation in the Tindouf area refugee camps. In this connection, the Assembly notes with satisfaction that since February 2003, 843 Moroccan prisoners of war have been released by the Frente POLISARIO and repatriated to Morocco under the auspices of the International Committee of the Red Cross (ICRC). The Assembly calls on the Frente POLISARIO to expedite the release of the remaining 412 prisoners.

11. The Assembly gives its support to the International Committee of the Red Cross which continues to visit the prisoners regularly and to provide them with medical care. The Assembly calls on both Morocco and the Frente POLISARIO to continue to co-operate with ICRC also in accounting for those who are still missing in relation to the conflict.

12. As regards the confidence-building measures, the Assembly notes with satisfaction that since March 2004 family visits have started and are proceeding well and it calls on both parties to continue co-operating with UNHCR and MINURSO to ensure the smooth running and extension of those family visits. It also asks both parties to co-operate with the UNHCR in implementing the mail service between the Territory and the Tindouf refugee camps, in accordance with the modalities set out by the UNHCR.

13. Concerning the financial aspect, the Assembly notes with regret that the amount of unpaid contributions to the special account for MINURSO amounted to 45 million USD at the end of March 2004. The Assembly urges the governments of those member states which have unpaid contributions to respect their commitments and to pay them without delay in order to allow MINURSO continue its activities as planned.

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VI. POSSIBLE CONTRIBUTION BY THE COUNCIL OF EUROPE

I. INTRODUCTION

1. Western Sahara is certainly not part of the Council of Europe's normal area of activity, but the Magreb, namely Algeria, Morocco and Tunisia, do have strong and long-standing historical, cultural, political, economic and demographic links with Europe, and several Council of Europe member states are particularly affected by these links. The Magreb is expected to become a special partner of Europe if it succeeds in resolving certain enduring issues, including the Western Sahara conflict, the reverberations of which in some Council of Europe member states, such as Spain or France, must not be overlooked. The Western Sahara issue is thus a matter for the Council of Europe, one of whose fundamental tasks is to prevent and resolve all conflicts.

2. The conflict in Western Sahara is increasing political instability in the Magreb, limiting the scope of the political and administrative decentralisation process and hampering the implementation of democratic reforms, especially in Morocco. The Council of Europe, which is committed to the establishment or restoration of states based on the rule of law, respect for diversity, democracy and human rights, is called upon to bring its experience to bear in this process.

3. Against a background of demands by the independence movement, this situation benefits religious fundamentalism, which exploits this type of unresolved dispute to unite population groups around a misused faith. Morocco, which seemed to be strong enough to limit the development of Islamic fundamentalism in the Arab world, is not immune from this threat, as the recent attacks there show. By providing its support for a settlement of the conflict in Western Sahara, the Council of Europe would help the states in the region regain their credibility in the fight against terrorism and religious fundamentalism while at the same time respecting human and minority rights.

4. The continuation of the dispute is harming the already fragile diplomatic relations between Morocco and Algeria, jeopardising regional co-operation and hindering development of the Union of the Arab Magreb, which could be a regional Council of Europe partner organisation.

5. Western Sahara, a region on the Atlantic coast in north-west Africa, is situated in the extreme south of Morocco and covers an area of 266,000km², most of it desert. The territory is bordered by Mauritania in the south and Morocco in the north and has a 50km border with Algeria in the north-east.

6. Spanish protectorate since 1884, recognized by the Conference of Berlin in November 1884-February 1885, Western Sahara was ceded back to the Kingdom of Morocco on 14 November 1975 under the Madrid Agreement. Since then, it has been the subject of a territorial dispute between Morocco and the Popular Front for the Liberation of Saguía el Hamra and Río de Oro (known as the Frente POLISARIO), which is supported by Algeria. Mauritania abandoned any claim to the region in August 1979.

7. The 1994 census estimated the population at approximately 252,200, which corresponds to a very low density. It includes a large number of nomadic Saharawi tribes. Their specific linguistic, religious and social characteristics, which they have inherited as a result of their nomadic and livestock farming traditions give them a strong identity and unique social organisation. These tribes have long been disseminated across Morocco, Mauritania and Algeria, but have privileged historical and economic links with Morocco.

8. Since 1980, Western Sahara has been divided by a wall of sand, the so-called Berm, which marks the boundary of the zone controlled by Morocco in the west and that controlled by the Frente POLISARIO. In addition, the town of

Tindouf, in Algeria, serves as the capital of the Saharawi Arab Democratic Republic (SADR), which was proclaimed on the initiative of the Frente POLISARIO on 27 February 1976 and accommodates a number of big Saharawi refugee camps. In the part under Moroccan administration, the main towns are the capital El Aaiún, the economically relatively dynamic coastal town of Dakhla and, in the interior of the territory, Smara. In the east, there are the towns of Bir Lahlou, Tihariti and Mijik.

9. Apart from the fact that its location between the Magreb and sub-Saharan Africa makes it strategically interesting, Western Sahara has major deposits of phosphates and ore and oil reserves. Its waters are among the world's richest sources of fish and are the subject of fishing agreements between Morocco, the European Union and Mauritania. In addition, the coastal zone has considerable tourist or commercial potential.

10. This explains partly the difficulty in reaching a settlement of the conflict, in spite of the constant efforts of the United Nations since 1965 and more particularly of the United Nations Mission for the Referendum in Western Sahara (MINURSO) since 1991. The negotiations are currently in a decisive phase and have been described by James Baker, the Personal Envoy of the United Nations Secretary-General, as the "last chance". It is essential to put an end to a particularly long conflict that has had serious consequences for the humanitarian situation of refugees, prisoners of war and political prisoners and is harming the development of the Magreb and good relations between the regional players. Western Sahara is one of the few territories still on the UN's list of non-autonomous territories.

11. The Special Representative of the UN Secretary General for Western Sahara, Alvaro de Soto^[1], continued to hold talks in Algeria, Morocco and with the leadership of Frente POLISARIO with the aim of finding a solution to the long-standing impasse and urging implementation of confidence-building measures to help the refugees who have spent nearly three decades in camps in the desert.

12. The Security Council considers the Peace Plan for Self-Determination of the People of Western Sahara as an optimum political solution on the basis of agreement between the parties (the Peace Plan is appears in Appendix II). The Frente POLISARIO leadership officially accepted the Peace Plan in July 2003. On 15 April 2004, Morocco delivered its final response, in which it expresses a willingness to continue to work to achieve a political solution to the conflict over Western Sahara. It also clearly states that an "*autonomy-based political solution can only be final*", which has adverse implications for self-determination, as called for in United Nations Security Council Resolution 1492 (2002).

II. HISTORICAL BACKGROUND

A – The origins of the conflict (1975-1991)

i – Who has sovereignty over Western Sahara?

13. Between the Madrid Agreement, which marked the withdrawal of the Spanish colonial power, and the creation of MINURSO in 1991, the issue of Western Sahara became a regional conflict in which the Magreb states confronted one another indirectly by developing regional strategies. The conflict is to be seen in the historical context of decolonisation, which involved giving the Saharawi people the right to its own territory and self-determination, and the cold war – which fostered the creation of the Frente POLISARIO as well as other socialism-inspired rebel movements in Africa. Accordingly, the Frente POLISARIO received support from Algeria, the regional power and a socialist republic.

14. The fact that the problems of the decolonisation and ethnic affinities all came together in a "peripheral" region of the world thus complicated and aggravated the situation.

15. It is consequently easier to understand why sovereignty over Western Sahara has become a very important issue for the Magreb states of Morocco, Algeria and Mauritania, but also Libya. This explains Morocco's decision to seek a judicial opinion from the International Court of Justice. (The request for an opinion was also a delaying tactic on the part of Hassan II to avoid holding the referendum announced by Spain the year before). The Court delivered its judgment in its Consultative Opinion of 16 October 1975 in terms that gave rise to different interpretations: Western Sahara, through its tribal heads, had ties of allegiance to the Kingdom of Morocco before the Spanish colonisation but this could not mean Moroccan sovereignty over the Saharawis. The heads of the Saharawi tribes also had ties of allegiance for several centuries with the powers in the neighbouring countries. Morocco considers that, in view of the traditions existing before Spanish colonisation, the allegiance was at that time tantamount to sovereignty. It also bases its claim on the 19th century colonial registers, which recognised the territorial integrity of Morocco, including Western Sahara. It thus claims a historical right to Western Sahara, a claim reinforced by the assistance it provided in the early 20th century to the Saharawis' struggle against Spanish colonisation.

16. Morocco is convinced that Western Sahara belongs to the Moroccan people and that its independence granted in 1956, which did not permit the territory to be integrated, was incomplete. These reasons provide the background to the so-called "Green March" of 16 October 1975, a massive "peaceful march" organised, in response to an appeal by Hassan II in a speech that day, to "recover the Moroccan Sahara" and involving 350,000 Moroccans flanked by 10,000 representatives of the Moroccan army and government. Many Saharawis decided to go into exile in the Algerian town of Tindouf.

17. The Saharawi Arab Democratic Republic (SADR) was proclaimed on 27 February 1976, with the aim of asserting the sovereignty of Western Sahara. It has been run by the Frente POLISARIO since then with Algeria's support. The government of the SADR is still in exile in Tindouf, south-west Algeria.

ii – Chronology of the conflict

18. Ever since its creation on 10 May 1973, ie. before the Spanish decolonisation, the Frente POLISARIO has called for the immediate independence of Western Sahara. Under the tripartite Madrid Accords, the country was shared between Morocco and Mauritania, enabling Spain to withdraw. The Frente POLISARIO has been fighting a guerrilla war since September 1974. This situation benefits the organisation since the Royal Moroccan Armed Forces are mainly trained to conduct traditional military operations and continually suffer military setbacks. Given its limited military resources, the Frente POLISARIO naturally cannot hope for a final military victory against the Moroccan army, but the economic pressure is considerable and the conflict is having an adverse effect on Morocco's domestic politics. The Mauritanian army, which has no resources, cannot put up a long drawn-out fight against the guerrillas and Frente POLISARIO forces even reached the capital Nouakchott. Mauritania gave up its claims on the region in an agreement with the Frente POLISARIO in August 1979.

19. Given this situation, King Hassan had a wall of sand (the Berm) built in 1980 to separate the zone controlled by the Frente POLISARIO in the east from the "useful triangle" controlled by the Royal Armed Forces. It thus protects a region in which Morocco is investing a great deal in economic, social and political terms and which contains most of Western Sahara's resources (ores, as yet unexploited hydrocarbon reserves, fishing grounds, etc). Although the Frente POLISARIO has occasionally managed to break through the Berm, its attacks are hardly having any effect and the situation is changing in Morocco's favour. Now that it has been relieved of the continued pressure from Frente POLISARIO, the Moroccan government is devoting its energies to developing the economy and integrating the Saharawi population to the west of the wall through sedentarisation programmes and the provision of schools and other public

services. The settlement of Moroccans from other provinces is encouraged through fiscal or social measures or assistance with land acquisition. "Diversions" bypassing the Frente POLISARIO-controlled zones have also been built. By contrast, the Frente POLISARIO's difficulty in developing the eastern part of the zone is weakening its credibility.

20. In spite of this halting of the guerrilla war, the frequent skirmishes and the division of Western Sahara into two parts are impeding the region's economic and social development. The controversy concerning Western Sahara's status is adversely affecting international relations in the Magreb, which is why the international community, followed up by the press, has been talking since 1981 about the possibility of holding a referendum on self-determination.

B – Action by the United Nations: 1991 - 2001

i – The UN favours self-determination

21. The UN has been seeking a settlement to the situation in Western Sahara long before the Spain's withdrawal in 1976 and the ensuing fighting between Morocco, which had decided to "reintegrate" Western Sahara into its territory, and the Frente POLISARIO, supported by Algeria. Mauritania renounced all claims to Western Sahara in 1979.

22. In 1985, given the lack of prospects for a settlement of a conflict which had already lasted for ten years, a "good offices mission" was established, in co-operation with the Organisation of African Unity (OAU), by the UN Secretary General. This mission led to "the settlement proposals", which were accepted in August 1988 by Morocco and the Frente POLISARIO in principle but which were never implemented. Representatives of Morocco and the Frente POLISARIO were brought together for direct talks for the first time, but the negotiations failed largely due to the absence of representatives of Algeria, which is a *de facto* party to the conflict.

23. In order to overcome this impasse, a referendum, organised by the United Nations, on the self-determination of the Saharawi people quickly appeared to be the only legitimate and lasting solution to the conflict, in conformity with the organisation's principles and in line with previous decolonisation processes. This solution received considerable international support. On 29 April 1991, the Security Council in its Resolution 690 (1991) decided to establish the UN Mission for the Referendum in Western Sahara (MINURSO). This resolution was based on the Secretary-General's report of 18 June 1990 (S/22464), which contains a settlement proposal and the UN Secretary General's plan for implementing it. The Plan provided for a transitional period during which the Special Representative of the Secretary-General would have sole and exclusive responsibility over all matters relating to a referendum in which the people of Western Sahara would choose between independence and integration with Morocco. The Special Representative would be assisted in his tasks by an integrated group of United Nations civilian, military and civilian police personnel, to be known as MINURSO. The United Nations High Commissioner for Refugees would carry out a repatriation programme for eligible Western Saharan voters living outside the Territory. The transitional period was to begin with the coming into effect of the ceasefire and end with the proclamation of the results of the referendum.

24. It was originally envisaged that the civilian component of MINURSO would range in size from about 800 to 1,000 personnel depending on the requirements of the various phases of the transitional period. At full strength, the military component would consist of approximately 1,700 personnel, and the security unit of about 300 police officers.

25. According to the settlement plan, the referendum in Western Sahara should have taken place in January 1992. However, it was not possible to proceed in conformity with the original timetable.

ii – Circumvention of the 1991 settlement plan by the parties

26. On 24 May 1991, the Secretary-General proposed that the ceasefire should enter into effect on 6 September 1991. Both parties accepted that date. During the following three months, however, it became clear that it would not be possible to complete before 6 September a number of tasks that were to be completed before the ceasefire. It also became clear that, notwithstanding the parties' earlier acceptance of the settlement plan, substantial areas of difference between them remained. One party, therefore, was not able to agree that the transition period should begin on 6 September 1991.

27. Meanwhile, hostilities had broken out in the Territory, interrupting an informal ceasefire that had been in effect for over two years. In these circumstances, the Secretary-General decided that the formal ceasefire should come into effect on 6 September as initially agreed, on the understanding that the transition period would begin as soon as the outstanding tasks had been completed. The Security Council supported his proposal that, during this delay, 100 military observers should be deployed in the Territory to verify the ceasefire and the cessation of hostilities in certain areas. The number of military observers was subsequently increased to 228, and certain logistics and administrative support staff were also sent to the field.

28. The primary function of MINURSO at that time was restricted to verifying the ceasefire and cessation of hostilities. The headquarters of the Mission was established in Laayoune, with regional headquarters in the northern and southern sectors of the Territory. A liaison office was also established in Tindouf to maintain contact with the Algerian authorities in the Frente POLISARIO.

29. Since the deployment of MINURSO in September 1991, the ceasefire has generally held. The transitional period, however, has not begun, given the parties' divergent views on some key elements of the Plan, in particular with regard to the criteria for eligibility to vote. Notwithstanding these difficulties, the parties have repeatedly stated their commitment to implementing the Plan, and MINURSO has carried out its functions in so far as conditions have allowed. For his part, the Secretary-General and his Special Representatives have continued efforts to find compromise solutions acceptable to both parties. This process has required a number of revisions to the Plan and the timetable.

30. There was apparent agreement on the principle of holding a referendum, but the attempts to organise it crystallised the fundamentally different positions of the parties to the conflict, who accepted the principle of a referendum only in so far as they could be certain of its outcome. They therefore tried to influence with all the means at their disposal and delayed the implementation of the plan until they were certain of a victory at the ballot box.

31. The settlement plan provides for the establishment of an Identification Commission charged with identifying the people qualified to vote in the referendum. This Commission was established in May 1993. In August 1994, after completing the necessary groundwork, including securing the co-operation of the parties, MINURSO began the process of identifying potential voters. Procedural and operational difficulties, however, allowed only slow progress, and efforts to resolve differences between the parties were not successful. In May 1996, the Secretary-General suspended the identification process and most MINURSO civilian staff were withdrawn, including the civilian police component which provided security and assistance to the Identification Commission. The military component remained to monitor and verify the ceasefire, as it has done throughout its deployment.

32. In early 1997, the Secretary-General intensified the examination of the main contentious issues, including in a series of direct talks between the parties, held under the auspices of the Secretary-General's Personal Envoy. By September, with the successful completion of the last round, the Secretary-

General report that all the agreements reached during the talks had taken effect.

33. In December 1997, the Secretary-General restarted the identification process. Despite a number of difficulties, identification of all applicants from tribes other than three contested groupings drew to a close on 3 September 1998. However, the parties remained unable to arrive at a consensus on how to deal with applicants from the three groups.

34. In an effort to move the process forward, the Secretary-General, in October 1998, presented a package of measures to the parties, which included a protocol on identification of those remaining applicants from the three tribal groupings and a protocol on the appeals process. Frente POLISARIO accepted the package the following month, and the Government of Morocco, after seeking clarification, accepted in principle in March 1999.

35. Accordingly, identification of the remaining individuals from the three tribal groups resumed on 15 June 1999. As for individuals identified in 1994 and 1995 and from December 1997 to September 1998, the appeals process got under way on 15 July when the first part of the provisional list was published. That list included 84,251 names of applicants found eligible to vote out of 147,249 identified. During the six-week appeals period for the 94-95/97-98 group, the Identification Commission received 79,000 appeals. Identification of applicants from the three tribal groupings was completed at the end of December 1999. Of 51,220 individuals who presented themselves, 2,130 were found eligible to vote. The appeals period for individuals on the second part of the provisional list began on 15 January for a six-week period.

36. Although the identification process has been completed, the parties continue to hold divergent views regarding the appeals process, the repatriation of refugees and other crucial aspects of the Plan. The Secretary-General has instructed his Special Representative to continue consultations with the parties to seek a reconciliation of these views; and to explore ways and means to achieve an early, durable and agreed resolution of their dispute over Western Sahara.

37. The Frente POLISARIO is imposing considerable limits on the freedom of movement of MINURSO staff to the east of the Berm; on the Moroccan side, MINURSO staff have been inspecting military installations for several years. In general terms, it is difficult to bring about a reduction in the number of troops on both sides to less than 65,000 men and station them as provided for under the Houston Accords.

38. The approved budget for MINURSO for July 2003 - July 2004 is 43.40 million USD. At present, the military component at MINURSO is at 227 UN military observers and troops against the authorised strength of 230. The strength of the civilian police component is 14 officers. The national contributions to the Mission have failed to materialise, and the Secretary-General continually condemns the arrears in his reports (in March 2004, they amounted to 45 million USD). Staff numbers are being reduced all the time, resulting in a renewal of violence on the ground.

39. The referendum is repeatedly postponed and the Mission's mandate extended, which is trying its patience and harming its image. There are weaknesses in the 1991 settlement plan, which have encouraged the parties to adopt an inflexible attitude.

40. The referendum solution is based on the "winner takes all" principle and it is therefore a very important issue. As its outcome is very uncertain, the parties to the crisis have no interest in the vote being held quickly. Moreover, the settlement plan is extremely unclear with regard to the implementation of the decision. The "transitional phase" is poorly defined, as is MINURSO's role during this period. In the event of independence, how can a Saharawi state be established under favourable conditions? If the territory is incorporated into

Morocco, what will happen to the Frente POLISARIO and SADR fighters? In the final analysis, "nothing is agreed until everything is agreed". This principle, which is supposed to avoid haggling over details, enables the parties to keep going back on what they have agreed and interminably prolong fruitless negotiations. It was thought possible to overcome fundamental theoretical differences by enabling the parties to agree on technical aspects, but as they have no interest in a settlement of the conflict at the moment they are exploiting these aspects to block the process and paralyse MINURSO.

C – The strategies of the parties

i – Morocco

41. In this conflict, the concept of a people's right to self-determination has given rise to widely differing interpretations: for Morocco, the population of Western Sahara is part of the Moroccan people, so it considers that the Frente POLISARIO's action shows it wants to bring about secession. Morocco thus considers itself a dismembered state and claims its historical right to the territory, even though the International Court of Justice rejected this argument in the Consultative Opinion it issued in 1975.

42. The Moroccan monarchy is very strongly based on the concepts of territorial integrity and national union centred around the King. Historically, this union rests on an implicit agreement which it is the King's duty to enforce. The issue of Western Sahara is jeopardising these fundamental principles.

43. Furthermore, the monarchy was under threat from the political opposition at the beginning of the conflict, and "the Green March" and the fight to "win back" Western Sahara united the country's political and armed forces. The issue has become the exclusive responsibility of the Palace, so the independence of Western Sahara would be a blow to the monarchy and provide a platform for the opposition. Consequently, the Frente POLISARIO believes Rabat's strategy is aimed at confirming Western Sahara's incorporation into the kingdom. The significant amounts that have been invested in the "useful triangle" illustrate this desire and serve to demonstrate the ability to develop the territory and integrate the population. The signing of hydrocarbon exploration contracts with western companies confirms this strategy.

44. At the diplomatic level, Morocco relies on its special position in the Magreb, where it is a regional power that cannot be ignored, to influence both the states in the region and western countries. Moreover, the country enjoys the support of the United States and France. This makes it necessary for it to have a good international image so it regularly declares its faith in the United Nations and support for MINURSO. However, it seems that Rabat is not interested in the organisation of a referendum at the moment.

ii – The Frente POLISARIO

45. On the other hand, the Frente POLISARIO considers that the Saharawi people and its territory have exchanged colonisation by one country – Spain – for colonisation by another – Morocco. It therefore invokes the fundamental principle mentioned in the Charter and Resolution 1514, i.e. the right of peoples to decide their own future, or in other words self-determination. It thus systematically rejects as inadmissible, illegitimate and illegal any solution other than self-determination. However, it too does not want the referendum to take place while the outcome is uncertain. Moreover, its very existence is linked to the independence struggle and its sole raison d'être is to act as the only possible interlocutor on the Saharawi side. This means it has no interest in an immediate settlement of the conflict, unless it changes its nature in order to govern the new state that might emerge.

46. The Frente POLISARIO maintains close links with the African countries, the international community and world opinion. There are, for example, an impressive

number of Saharawi associations or NGOs that have made full use of the possibilities afforded by the internet. Being aware that Western Sahara has little influence on the international scene compared with Morocco with its thirty million inhabitants, the Frente POLISARIO strongly promotes the mobilisation of public opinion via these various associations.

47. The SADR possesses most of the constituent elements of a state but the number of countries that recognise it [as a government] is constantly fluctuating and remains insufficient to give it any diplomatic weight, especially as neither the United States nor any member of the European Union has recognised it. It maintains close links with the Frente POLISARIO, of which it is an offshoot. Its president is Mohamed Abdelaziz, who is also the Frente POLISARIO's secretary general. In the event of independence, there is a considerable risk that a one-party state will come into being or a military junta assume power.

iii – Algeria

48. The specific social and political features of the Magreb have contributed to making Western Sahara a hardly noticed issue but one that is important for Morocco and Algeria, the rival powers in the region. This conflict has functioned as a catalyst for the ideological and strategic opposition between the Moroccan monarchy and the Algerian Republic. By providing the Frente POLISARIO, with which it has long had ideological ties, with political and logistical support, Algeria has therefore sought to counter Morocco's influence in the region. However, this policy, especially since the end of the cold war, is at odds with the necessity for greater economic co-operation with Morocco and also risks excluding Algeria from rapprochement between the Magreb and Europe. This explains Algeria's recent moderation of its position on this issue, in spite of President Bouteflika's visit to Tindouf in February 2002.

iv – Mauritania

49. Since its withdrawal from the conflict in 1979, Mauritania has observed a policy of committed neutrality. An economically drained country, it does not have the resources to claim any territory or openly help the Frente POLISARIO and simply supports all the work of the United Nations.

v – The regional organisations

50. The Organisation of African Unity (OAU) and the Union of the Arab Magreb (UAM) are annoyed because the conflict is dragging on.

51. The OAU provided the Frente POLISARIO with a platform when the SADR joined it in 1982. Morocco then withdrew from the organisation, but the OAU can now no longer do without it and always supports the UN in order to rid Africa of a long drawn-out conflict that is harming what is a very important region for the continent.

52. The UAM, which was set up in 1989 and comprises Morocco, Algeria, Tunisia, Mauritania and Libya, is paralysed by the ongoing conflict. While the organisation had a promising start, it has now largely been drained of any substance because of the Western Sahara dispute. Economic reasons have recently led its two big members, Morocco and Algeria, to revive their co-operation within the organisation.

vi – Western countries

53. The international community is highly divided on the issue, especially the western countries.

54. **Spain** wants to restore peaceful relations with Morocco, with which it has a dispute concerning Melilla and Ceuta (autonomous Spanish towns). Moreover, Morocco is a fairly important economic partner, so Madrid is pursuing a policy of

committed neutrality rather than being pro-Moroccan, while at the same time recognising the Frente POLISARIO as the sole interlocutor on the Saharawi side. Spanish support for the Frente POLISARIO comes more from civil society (associations, school twinnings, etc) since the links with Western Sahara have remained close and the historical dispute with Morocco is still a sensitive issue.

55. **France** is in a comparable situation, given its common history with Morocco and the links between Jacques Chirac and Hassan II, and subsequently with Mohamed VI. Initially, it therefore signalled its support for Morocco, but Franco-Algerian relations have gone through a bad patch and need to be sorted out, so that France is avoiding making any comments on the issue, stressing the necessity not to create any discord within the European Union.

56. **The European Union** is split between the opposing views of its members. In addition, there are differences between the positions of the European Parliament, which is more pro-Saharawi, and the other institutions, which are more cautious as far as international politics is concerned. Following a trip to Rabat, Algiers and Tindouf, the chair of the European Parliament's ad hoc Delegation to Western Sahara and Vice President of the European Parliament, Catherine Lalumière, presented a very polemical draft report in April 2002 that provoked heated debate about the viability of the 1991 settlement plan. It is difficult for the EU to adopt a clear political stance on this issue. Europe's economic ties with Morocco (major investments) would normally lead it to support Rabat, but opting to do this could conflict with its principle of championing the right of peoples to self-determination. The experience in Bosnia and then Kosovo has encouraged it to exercise caution. The issue of Western Sahara appears above all to be a harmful source of tension. The EU mainly supports the UN's activities through resolutions or recommendations adopted by the European Parliament and through declarations by the presidencies, and it is involved more in providing help to refugees (ECHO programmes) than in political action (the European Parliament organised a visit to the Tindouf refugee camps in Algeria in 2001).

57. **The United States** is split between its tradition of supporting decolonisation and the rights of peoples and the desire to stabilise the region, especially since 11 September 2001. During the cold war, Morocco appeared to be a bastion against socialism, while today it seems to be a country less inclined to religious extremism, which has earned it the open support of the United States.

III. RECENT NEGOTIATIONS

A – Failure of the negotiations on the framework agreement

i – The framework agreement is a turning-point

58. Tired of the deadlocked situation, the UN Secretary-General's Special Representative, James Baker, proposed on 20 June 2001 a framework agreement laying down the conditions for the exercise of power in Western Sahara. It provides for very broad autonomy within the Kingdom of Morocco, paving the way for a referendum on the territory's status within five years (the time necessary for, among other things, examining the appeals lodged by Morocco). This alternative is often described as the "third way" between independence and integration.

59. During this period, Morocco would have exclusive sovereignty in the areas of external relations, security and defence (including frontiers), arms control, monetary policy, national symbols, customs and postal services. In addition, the framework agreement states that Morocco would be the guarantor of "territorial integrity against any attempt at secession", thus limiting the Frente POLISARIO's activities. Moroccan representatives would be appointed in the territory.

60. The powers accorded to the Saharawi bodies would, however, be fairly wide: local government administration, the territorial budget and taxes, the police

and judiciary, transport and energy services, resource management, the economy and trade. An Executive – the internal organisation of which is not specified in the framework agreement – would be elected by voters whose names appear on the provisional lists, ie without the appeals having been taken into account. It would be entirely responsible for the local administration. An Assembly would be elected by the Executive and possess legislative powers, with an absolute requirement to conform to the Moroccan constitution, especially as regards public liberties – Morocco has made progress in this area, and the United Nations does not want this called into question in Western Sahara.

61. This proposal constitutes a turning-point and provides for the first time an option that does not involve holding a referendum beforehand but, on the contrary, creates the conditions for it to be held. A fierce debate is taking place on the influence of these conditions on the outcome of the referendum.

ii – The positions of the parties

62. Following the preparation of this report, James Baker consulted the parties and then organised talks in Pinedale (Wyoming) in August 2001. For the first time, Algeria participated fully in the negotiations.

63. **The Frente POLISARIO** is totally and unequivocally opposed to the framework agreement, as the report of 20 June 2001 of UN Secretary-General, Kofi Annan, points out in its analysis of the parties' positions. For the Frente POLISARIO, it means nothing less than the abandonment of the principle of self-determination and the "recognition of the colonial *fait accompli* in Western Sahara". It believes the organisation of a referendum in these conditions is unrealistic because after five years the population would be totally integrated into Morocco and not all the people entitled to vote would be Saharawis. The Frente POLISARIO thinks the agreement implicitly calls into question the very existence of a Saharawi people and its fundamental rights, negates the United Nations' efforts and its founding principles and would merely be a means of evaluating the future integration of Western Sahara into Morocco.

64. **Morocco**, for its part, hopes to gain a great deal from the framework agreement, which is more advantageous than all the solutions considered to date, and it has therefore given its total support to the initiative. As it has no modifications to any of the aspects to propose, it has withdrawn from the direct negotiations. This position might appear encouraging, but in reality it prevents any amendments to the framework agreement and therefore any attempt to narrow the gap between Morocco's positions and those of the Frente POLISARIO. Since the agreement of all the parties is required on every aspect of the proposal in order for it to be adopted, Morocco is contributing to the deadlock.

65. **Mauritania** is remaining neutral and does not constitute an obstacle since it is only being consulted and is not making any claims.

66. **Algeria** is involved to a much greater extent as its attitude will have a considerable influence on the development of the Frente POLISARIO's positions. The memorandum sent by President Bouteflika to the UN Secretary-General explicitly challenges the framework agreement and is based on the same arguments as those put forward by the Frente POLISARIO. Algeria has even proposed that the United Nations should assume full power in Western Sahara until the referendum is organised, which does not seem very realistic.

67. Once again, the negotiations will, to use the language of the report, only have served to highlight the fundamental differences between the parties' positions, so inducing a measure of despondency in the international community. None of the parties is willing to make the slightest concession as to the type of compromise to be adopted. It is essential to resolve the disputes, but in spite of the repeated appeals by Kofi Annan and James Baker none of the parties has presented any genuine counter-proposal. This is blocking any progress in the

negotiations, and the only signs of goodwill shown by the parties are the acceptance of the UN as the platform for settling the conflict, as an intermediary in the negotiations and as the guarantor of compliance with the ceasefire. The players will do everything to avoid the UN giving up on the matter. The temporary withdrawal of James Baker (in 2002) suggests that the danger exists that it will withdraw for good, which would leave the parties to settle the conflict on their own and without international approval.

B – The prospects for a settlement

i – The four options contained in the UN Secretary-General's report of 19 February 2002

68. The UN Secretary-General's report of 19 February 2002 refers to the deadlock James Baker faces in the negotiations on the framework agreement and reiterates the four options put forward by Mr Baker to resolve the crisis. If the negotiations on these new options fail and the parties do not change their attitude of systematic opposition without counter-proposals, one option might be chosen and implemented without consensus being considered necessary, i.e. in spite of the disagreement of one of the parties.

69. **The first option** adopts the initial settlement plan but without requiring the support of the parties. However, the organisation of the referendum presupposes either their full participation or a significant increase in MINURSO's human and financial resources to cover all the work organising the ballot. It is thus up to the Security Council to decide. However, in view of the financial difficulties already encountered by MINURSO (in August 2003, the arrears of contributions to the Mission amounted to almost \$48.7 million) and its considerable overall costs, this option does not seem very realistic.

70. **The second option** is to revise the framework agreement, this time by consulting other parties (international or regional organisations, other countries in the region, etc). In this case, at the end of the consultations, and even without a consensus, the Secretary-General would draw up a new non-negotiable and directly enforceable framework agreement and have it approved by the Security Council. This solution may have been prompted by the experience of the Balkans. However, as in the Balkans the implementation of such an agreement requires the long-term involvement of the international community.

71. **The third option** is the partitioning of the territory after negotiations under UN auspices. However, the duration of these negotiations would be limited. Once completed, and whatever the continuing disagreements, the UN Secretary-General's Special Representative would propose a partition plan that, as soon as it had been approved by the Security Council, would be non-negotiable and directly enforceable, which raises questions about whether this solution is realistic. Morocco and the Frente POLISARIO have broadly welcomed it but some Saharawi representatives consider that partitioning would be worse for the integrity of their people than their integration by Morocco, since

they would be distributed over several states and could therefore not choose their own future. Some of the principal members of the Frente POLISARIO have even left the movement and gone into exile as a sign of protest. This rejection of partition is nothing new, the idea having been put forward during the Spanish decolonisation process, when it encountered fierce opposition.

72. **The fourth option** is for MINURSO simply to withdraw without any solution having been found, which would constitute an admission of abject failure, as Kofi Annan pointed out in his report of 19 February 2002. This would jeopardise the political and economic stability of the Magreb. However, the mere mention of this possibility has put pressure on the parties and encouraged them to show more flexibility, since no one wants to see the end of MINURSO's mandate under these conditions. This possibility, which has provoked strong reactions at the UN, also

implies a challenge for the Security Council by emphasising the gravity of the situation.

ii – A solution based on substantial autonomy for the territory is enjoying increasing support

73. After the publication of this report, James Baker temporarily withdrew from the negotiations. The Special Representative, William Lacy Swing, has maintained contacts with the parties pending the Security Council's decision to opt for one of the solutions mentioned. Security Council Resolution 1429, of 30 July 2002, enabled James Baker, with the title of Personal Envoy of the Secretary-General of the United Nations, to resume his work by drawing up a new proposal for settling the conflict. He then held individual talks with the parties.

74. It is clearly impossible to bring about the agreement of all the parties, whether it is on modifying the status of the territory or implementing the right to self-determination. The approaches employed for reaching a settlement in the Balkans and East Timor provide new alternatives. In particular, a solution based on the autonomy of Western Sahara within the Kingdom of Morocco rather than partition is enjoying increasing support. This option could differ somewhat from the 1991 framework agreement since the settlement plan would more precisely define the form of autonomy, the arrangements for establishing local institutions and the sharing of powers. Moreover, the international community – i.e. probably the United Nations and the regional organisations, including the OAU – would, on a long-term basis, monitor compliance with the terms and conditions laid down. The international community would appear to quite favour this solution. The accession of Mohamed VI to the Moroccan throne and the "democratisation and decentralisation" measures suggest that substantial autonomy would be possible while respecting the rights of the Saharawi minority/people.

75. **The regional players**, (the UAM and the OAU) can no longer afford to allow the conflict to go on. The autonomy solution appears to be a way of settling it quickly. Even Algeria seems to be asking the Frente POLISARIO, which is fundamentally opposed to integration with Morocco, to moderate its position. The Frente POLISARIO itself is divided on the question.

76. **The United States** appears to be the new dominant power in the region, and the American diplomatic presence has been intensified in Morocco, especially with the visit by Under Secretary of State, Marc Grossman, on 8 November 2002. Since proposing the partitioning of the territory to the Security Council on 25 April 2001, the United States has modified its position and now supports a solution based on autonomy, as US State Department documents indicate. Washington is now totally against partition, which is too reminiscent of the situation in the Middle East. This position has been influenced by such considerations as the stabilisation of the Moroccan government, its co-operation with the countries of the Mediterranean basin, oil, military priorities and Western Sahara's position on the Atlantic coast. In addition, the fear of Islamic fundamentalism (which is more present in Algeria than in Morocco) confirms the necessity to support Morocco as a regional power and limit at all costs the rise of Islamic fundamentalism in the country, which, as the recent attacks have shown, is a real possibility.

77. **The European countries** cannot openly support any of the parties without risking a significant deterioration in their relations with all the Magreb countries. They would by and large support any solution that would permit a rapid settlement of the conflict. Above all, the experience of the Balkans, which has transformed European diplomacy, provides a precedent: it is not sensible to allow a conflict like this to go on, and the international community sometimes has an interest in imposing a solution, even without the consent of the parties. Substantial autonomy, duly monitored and controlled by an international or regional body, appears to be the least risky way of ending the dispute. This solution also makes it possible to support and observe the economic and democratic reforms in Morocco. European diplomatic circles generally want to

strengthen the opening up of the country towards the Mediterranean basin and the stabilisation of the Magreb. The resumption of diplomatic relations between Morocco and Spain in January 2003 and Jacques Chirac's visit to the Tindouf refugee camps in February 2003, when veiled reference was made to the possibility of French mediation, are a good sign of the intensification of relations between Europe and the Magreb, and especially Morocco.

78. **Moroccan civil society** is also beginning to show an interest in the issue of Western Sahara, especially since Mohamed VI's introduction of measures to ensure more democracy. Human rights associations are organising public campaigns and the press is running more and more articles on the subject. A colloquy on Western Sahara was also organised in April 2003 on the initiative of the "Sahara-Magreb Association" and brought together experts, journalists and associations.

iii – Viability of autonomy in practice

79. Under the integration policy pursued through its Development Agency for the Southern Provinces, Morocco has invested considerable sums in the zone it controls and has appointed a large number of civil servants there. The provision of schools has made remarkable progress. The Saharawi population has been relatively well integrated and in all cases to a very large extent sedentarised. Finally, many non-Saharawi Moroccans now live in Western Sahara to the west of the wall of sand, an area considered more secure. Far from increasing in this sector, there are fewer protests against Moroccan authority than in other regions of the Kingdom, such as the High and Middle Atlas.

80. However, the absence of an agreement is jeopardising the sustainability of this solution. The autonomy of Western Sahara within Morocco presupposes that Algeria will support this solution and carry with it the majority of the members of the Frente POLISARIO – which is already partly the case. Without this support, a long guerrilla war can be expected, which would only harm the civilian population even more. As long as the two countries oppose one another on this issue, Western Sahara will remain a "grey area" in the Magreb. This situation will not permit any proper economic development and place the entire region under a permanent state of emergency, thus preventing any efforts towards genuine democratisation.

IV. THE PEACE PLAN FOR THE SELF-DETERMINATION OF WESTERN SAHARA

A – The UN Secretary-General's report of 23 May 2003

81. After the submission of the Secretary-General's previous report, the Security Council was unable to reach agreement on any of the four solutions, so it seemed the last chance for the United Nations to settle this conflict was to examine a fifth option. Kofi Annan is now even clearly suggesting that the UN could withdraw from the region in the event of another failure. His report of 23 May 2003 sets out the settlement plan drawn up by James Baker after his separate consultations with the parties and the neighbouring countries. This draft adopts the framework agreement but adds certain aspects agreed at the Houston talks (1997), which were supported by the Frente POLISARIO.

82. The plan provides for a period of four to five years, during which power would be shared between Morocco and the "Authority of Western Sahara". At the end of this period, the United Nations would organise and conduct a referendum. This solution appears very close to the framework agreement but differs in several respects.

83. If this plan were adopted by the Security Council, it would strengthen the United Nations' powers in Western Sahara. The Organisation would exercise exclusive authority with regard to the election of the Authority and the referendum. The settlement plan also seeks to prevent any futile protests by any

of the players right up to the end of the process. Kofi Annan has therefore taken up his Personal Envoy's proposals and recommended the Security Council to adopt the plan as it is and ask the parties to sign it without any further negotiations, since new talks would have few prospects of success. It is essential to define a new status for Western Sahara and this status must not be challenged later on. The United Nations can then finally withdraw from the region.

84. The proposed solution is based on sharing benefits and making compromises, so that the parties no longer adopt the "winner takes all" mentality, which has until now thwarted every effort to settle the conflict. The fact that the agreement of the parties is not necessary for each stage of the implementation after the signing of the accord should make it possible to avoid any deadlock on technical aspects due to the lack of goodwill among the parties.

85. The draft plan emphasises the importance of the referendum, contrary to the framework agreement, which only dealt with it last. It details the arrangements for holding the referendum, with the following people entitled to vote: those on the list produced in 1999, those on the list of Saharawi refugees drawn up by the High Commission for Refugees and persons who have resided permanently in Western Sahara since 30 December 1999 – which includes a considerable number of Moroccans settled in 1991 at the time of the "*second Green March*", which was not as big as the first. With regard to the identification of these residents, the UN would be the sole judge and no appeal would be possible. In addition, the UN would be in sole charge of organising the referendum, which is both an innovation and an enhancement of its role. Finally, until the referendum is held the armed forces on both sides would be confined to barracks and their numbers reduced.

86. The Authority of Western Sahara would be installed one year after the signing of the plan. The internal structure of the Authority is better defined: it comprises an elected Chief Executive empowered to appoint the local administrators required. Legislative, power, represented by an Assembly, is not very different from that provided for by the framework agreement. Only the Saharawis on the UNHCR and MINURSO lists would be able to vote in the election for the Assembly and the Chief Executive. As regards judicial power, this time it comprises a Supreme Court of Western Sahara, which is appointed by the Chief Executive. This constitutes a significant step forward with respect to the territory's autonomy during the transitional period. The Authority would have armed police forces.

87. While the sharing of powers between Morocco and the Authority of Western Sahara is roughly the same as in the framework agreement, the new settlement plan offers more guarantees for the two parties, such as the jurisdiction of the Supreme Court of Western Sahara and consultation by Morocco of the Authority of Western Sahara in the event of an international agreement affecting the territory. There is also provision for human rights guarantees: the level of protection of human rights by the Authority of Western Sahara must be at least as high as in Morocco, and Morocco, which has the power to prevent any attempt at secession, must ensure that the exercise of this right does not restrict the election and referendum campaigns.

88. However, the principal innovation in this plan is the introduction of a third option for the voters when the referendum is held: apart from independence and integration into Morocco, they could vote on autonomy within the Kingdom. If they were to choose autonomy, which the composition of the referendum electorate leads one to believe, it would no doubt be based on the structures already established during the transitional period of four to five years. This scenario would be in accordance with the policy of the United Nations which, since the Balkan and Great Lakes conflicts, has tried to limit the creation of new states. It may therefore be supposed that this solution has good prospects of being adopted, which clearly explains the nature of the objections raised by the parties.

B – Initial observations

i – The parties' response

89. **Morocco**, apart from now flatly rejecting any idea of partitioning the territory, has mainly expressed reservations concerning the terms and conditions of power-sharing between it and the Authority. One might be inclined to think it is speculating on the success of the autonomy option in the referendum. It is also stressing that the autonomy of Western Sahara is consistent with its current decentralisation policy. It thus wants to prepare the Authority's organs by defining them and limiting their autonomy through a host of technical matters. Morocco's main objection to the peace-plan is that the referendum to determine the final status of Western Sahara, one of the two ballot choices was independence. It is thus asking for independence to be excluded from the options – which would make autonomy more than likely. In this respect, it has gone back on its decision to back the framework agreement, which envisaged independence. It can therefore be assumed that it only gave its support at the time because when the framework agreement was being negotiated, there was little chance of its being signed and implemented by all the parties. Today, with pressure being exerted by the UN, which is threatening to withdraw and considering having the plan implemented without a consensus between the parties, Morocco's demands are being spelled out more precisely. On 15 April 2004, Morocco delivered its final response, in which it expresses a willingness to continue to work to achieve a political solution to the conflict over Western Sahara. It also clearly states that an *"autonomy-based political solution can only be final"*, which has adverse implications for self-determination, as called for in United Nations Security Council Resolution 1492 (2002).

90. **The Frente POLISARIO**, in a letter to the United Nations, is highly critical of Morocco. The aggressive language used and the allusion to the "trap" that autonomy – even temporary – in the Kingdom of Morocco would be for the Saharawi people reveal its fear that this autonomy might be confirmed by the referendum, in which case it would no longer be able to justify its existence and only the Authority of Western Sahara would represent the Saharawis. The large number of technical points it has raised, especially on the terms employed in the settlement plan, demonstrates its extreme reluctance to co-operate and its desire to re-open discussions in order to delay any concrete measures. Finally, it is proposing the readoption of the first settlement plan – which everyone agrees is unworkable, as experience has proved. In reality, there are three opposing wings of the Frente POLISARIO. The majority led by Mohamed Abdelaziz[2] does not consider accepting any solution apart from the 1991 settlement plan. A few minority groups made up of former fighters, most of them in exile in the refugee camps in Tindouf, realise it is impossible to gain a military or diplomatic advantage over Morocco and envisage reaching an agreement on autonomy with it and the return of the refugees. Finally, the faction led by Brahim Gali[3] promises to pursue a policy of intransigence towards Morocco. In its initial observation in March 2003 the Polisario informed the Secretary-General of its objection of the peace plan. However, in July 2003, it officially accepted the plan as presented to it.

91. **Algeria**, which is now not seen as a party but only as a neighbouring state, has raised objections, all of them fairly technical, concerning virtually every aspect of the plan but without calling into question the actual idea of autonomy status. In reality, its main aim in making these comments is to limit Morocco's room for manoeuvre in the Saharawi territory during the transitional period and therefore in the event of permanent autonomy status being granted. The recent rapprochement between it and Morocco suggests it will act more moderately from now on.

92. **Mauritania** has renewed its support for the action of the United Nations.

ii – The new peace plan's prospects for success

93. It is likely that this new peace plan is a last chance for the United Nations to deal with the conflict in Western Sahara. While this plan is no doubt the most balanced and the only viable solution, the goodwill of the two sides is not very likely as it presupposes compromises on their part.

94. In addition, the peace plan does not specify certain important aspects. For example, who will exercise governmental authority and with what resources during the year preceding the Western Sahara Authority's election? If this role devolves to the United Nations, the financial and human resources, both civilian and military, will have to be substantially increased. The deficiencies already observed in this area and the Security Council's foreseeable reluctance to increase the resources of a costly mission that has suffered a number of setbacks may therefore be viewed with concern.

95. The Frente POLISARIO's role during this transitional period and its involvement with the Authority are not defined. The nature of governmental authority before the referendum is held will be the subject of predictable arguments, and tensions are likely. Moreover, there is a risk that the election campaigns, followed by the referendum campaign, will lead to incidents and acts in violation of human rights.

96. Finally, there are no provisions for ensuring the actual implementation of the referendum result. It can already be predicted that if autonomy is chosen the Frente POLISARIO forces will be hard to integrate into the civilian population, as will, for different reasons, the refugees in the Tindouf camps.

97. The Security Council approved the new peace plan in Resolution 1495 of 31 July 2003; it extended on 29 April 2004, (UNSC Resolution 1541) MINURSO's mandate until 31 October 2004. In addition, the Frente POLISARIO declared on 11 July 2003 that it was agreeing to the peace settlement plan. It tried to demonstrate its good faith by releasing 243 prisoners of war in August, 300 in November 2003 and 100 further prisoners on 13 February 2004. This offers a window of opportunity for solving the long-standing dispute, although the final response to the Peace Plan by Morocco naturally does not facilitate this.

V. HUMAN RIGHTS SITUATION

A – Civilian populations in the Moroccan provinces and the Frente POLISARIO controlled zone

98. For many people, especially at the UN High Commission for Refugees, the postponements of the referendum are in themselves a violation of the right to self-determination.

99. The war has effectively imprisoned the civilian population. Before the ceasefire, the combatants laid large numbers of anti-personnel mines, which are endangering civilian lives. While Morocco is actively co-operating on the demining of Western Sahara, Frente POLISARIO does not seem to be doing so. Moreover, these operations are very long and costly. For two decades, a large part of the territory has been closed to the population, which not only constitutes an infringement of their right to freedom of movement but also runs counter to all the traditions of nomadic life.

100. The families separated by the Berm did not have any contacts with one another for many years as it is impossible to cross it. MINURSO and UNHCR have, however, since 5 March 2004 been able to organise visits between the members of separated families, with increasing support from the parties to the conflict. To date, there have been five 5-day exchange of family visits between Laayoune and the Tindouf area camps, involving a total of 240 persons from both sides. MINURSO and UNHCR repeatedly appeal to donor countries for urgent contributions for the implementation of family visits, which require a great deal of logistical, monitoring and administrative resources. Postal and telephone links between the camps in Tindouf and the Moroccan sector have been set up and

subsequently suspended as a result of the action by the two parties. The telephone service linking the 27 February School in Tindouf with the Territory, which was resumed on 12 January 2004, has continued to function, and more than 2000 refugees have benefited from the service. Work is currently underway to extend the telephone service to other locations in the Tindouf area camps.

101. Individual freedoms are severely limited on both sides of the wall, and the situation of women is particularly alarming. The restrictions on public and individual liberties are greater in the Sahara provinces in Morocco than in the rest of the country. Troops and police are to be seen everywhere, there is no political representation of the Saharawi population, and there are restrictions on both freedom of association and freedom of movement. The inhabitants of the Moroccan sector of Western Sahara cannot leave the territory – even to go north to Morocco – without a special permit. Press freedom is partially respected, as the Serfati case proves^[4]. Several peaceful demonstrations by Saharawis have been suppressed, and Amnesty International reports repeated cases of people being ill-treated in police custody or during questioning, as well as in prison.

102. On the Saharawi side, the situation is even more worrying. The SADR is virtually a one-party state and there is no opposition party. A number of Saharawi regime opponents are in exile in Mauritania or elsewhere, so there is no democratic competition for the assumption of power. The

organisation of elections is very much open to criticism. There is a serious risk of a military junta type dictatorship in the event of the referendum resulting in the independence of Western Sahara, and a future Saharawi state is in danger of being run by the army.

103. Finally, the effect of the conflict on the economic situation in Western Sahara is disastrous. Outside the main towns the civilian population have so few prospects that “boat people” have even tried to reach the Canary Islands a number of times.

104. If the new settlement plan is implemented, the campaigns preceding the elections to the Authority and the subsequent referendum campaign can be expected to lead to restrictions on public liberties, in a climate of tensions between the communities. In addition, the voters could be put under pressure. The provisions in the settlement plan for the protection of human rights not very specific.

B – The issue of the refugees

i – The mandate of the UN High Commission for Refugees

105. Saharawi refugees have been living in the camps around Tindouf in Algeria since the beginning of the guerrilla war. There are now 165,000 of them according to the Algerian government. In addition, the UNHCR estimates the number of Saharawi refugees in Mauritania at 26,420.

106. Since MINURSO was established, the UNHCR has been charged with the voluntary repatriation of the refugees in advance of the referendum. Until this has been completed, the UNHCR will assist the refugees in the four camps around Tindouf (more than 80,000 people) but not those in Mauritania. It will also make preparations for their future repatriation following a settlement of the conflict. This work mainly involves identifying the areas to which it is planned to return people and, in particular, assessing the supply of drinking water. The assistance itself comprises the distribution of food, drinking water in the camps (the UNHCR has set up several water-points since 1999), health care and primary education, as well as a small number of training workshops.

107. Since the initiation of confidence building measures in 1999, the UNHCR has also organised classes to inform the refugees of their legal rights, and there is a growing demand from the refugees to attend them. The MINURSO police staff

are also able to attend training workshops. Finally, meetings between members of families separated by the Berm and exchanges of mail are provided for and sometimes organised.

108. The refugees are totally dependent on the High Commission's work. In spite of the initiatives of the UNHCR, no economic and social network exists to enable them to work and, as their freedom of movement, is severely reduced, they have very slim prospects. Moreover, their living conditions are very poor. The UNHCR is in desperate need of financial resources, and the situation is so bad that there is often a lack of staple foods, which results in malnutrition and therefore general debility and disease. The first victims of this situation are those who are the most vulnerable, i.e. the elderly, women and children.

109. At the end of 2003, the UNCHR and the World Food Programme (WFP) appealed for funds to enable them to help refugees in the area suffering from acute and chronic malnutrition. The UNHCR estimates the refugees' rate of acute malnutrition to be above 10 per cent and the rate of chronic malnutrition more than 30 per cent. In January 2004, the World Food Programme and UNHCR undertook a joint assessment mission to the Tindouf area refugee camps. Despite some improvements in recent months due to increased donor support, the food situation in the refugee camps remains unstable and they might start facing a shortage of cereals, as well as other commodities, in May 2004. Therefore, generous donor support remains necessary.

ii – The UNHCR's activities are hampered by the lack of resources and arguments between the parties

110. The principal donors – the EU's ECHO programme, the World Food Programme and some twenty countries – are tired of this never-ending conflict. Despite repeated appeals by the UNHCR and the UN Secretary-General and sponsors' visits to the Tindouf camps in 2001 and 2002, the budget forecasts are pessimistic. The funds available to meet expenditure of more than \$300,000 planned in 2002 amounted to just \$145,700. Finally, since May 2003 there has been a dispute concerning the possible misappropriation of food aid between Morocco and the World Food Programme, which is extremely annoyed about these allegations.

111. The assessments by several sponsors reveal the contradiction between their desire to see the normalisation of the situation in Western Sahara and the fact that the refugee camps continue to exist because of the assistance they provide. Far from helping to prepare the refugees' return, the aid programme actually enables the parties to the conflict to keep the negotiations deadlocked without provoking a humanitarian disaster. The operation of these programmes thus follows the blocking of the settlement plan and the negotiations on it.

112. With regard to the implementation of the confidence-building measures, the UNHCR is in a similar situation to MINURSO: technical aspects are the subject of endless negotiations with the parties, and this prevents objectives from being achieved. Once again, most of the problems are caused by the selection of the people to benefit from these measures. The Frente POLISARIO wants to limit the action to those on the list of voters for the referendum, while Morocco wants to extend it to all the inhabitants of Western Sahara and the Tindouf region. This dispute is blocking the implementation of the measures.

113. The refugees themselves are despondent and the situation is arousing tensions, as shown by the hostility and protests when the Paris-Dakar Rally passed through in 2000. Moreover, the growing feeling that their situation is being exploited for political ends and the repeated lack of basic foodstuffs have forced some refugees from the Tindouf camps to go to Mauritania, as the UNHCR's North Africa Report for 2001 points out.

114. However, the activities of the main international players are concentrated

on aid to the refugees. Firstly, the European Union, through the European Commission Humanitarian Office (ECHO), implements food aid and medical assistance programmes in partnership with NGOs. The comprehensive assessment carried out in 2001 of ECHO's overall humanitarian assistance plans for the Saharawi refugees resulted in better co-ordination with UNHCR and the International Committee of the Red Cross, which is also operating on the spot.

C – Prisoners of war and political prisoners

115. The Moroccan prisoners of war held by the Frente POLISARIO, both in the area of Western Sahara under its control and in the Tindouf region, remain the subject of considerable concern, although the 1998 Houston Accords provided for their release. At the moment, the Frente POLISARIO is still holding an unknown number of prisoners of war, some of whom have been detained for twenty-five years, which is the longest period of detention of prisoners of war anywhere in the world. The conditions in which they are held, which are regularly condemned by the United Nations, Amnesty International or Human Rights Watch, vary considerably but are often terrible and constitute a breach of human rights. It is true that the Frente POLISARIO regularly releases prisoners, which results in the international community welcoming the progress made, but the fact remains that many Moroccan prisoners continue to endure unacceptable detention and remain a means for Frente POLISARIO to exert pressure on the other players, including the international community.

116. Furthermore, people are continuing to disappear in the part of Western Sahara controlled by the Frente POLISARIO, and this could be considered to be due to political repression.

117. Algeria has also been accused by Morocco of detaining Moroccan prisoners in the Tindouf region. Morocco itself no longer holds any Saharawi prisoners of war but a large number of Saharawi activists and demonstrators with Moroccan nationality have been imprisoned following trials considered unfair by the human rights associations. It should be pointed out that these political prisoners are also a cause for concern, in spite of their gradual release (56 in 2002 according to Human Rights Watch). People have also disappeared.

118. The settlement plan of 23 May 2003 provides for the release of all these prisoners and for investigations concerning those who have disappeared. In February 2003, 100 prisoners of war were released. On 1 September 2003, the ICRC repatriated to Morocco 243 Moroccan prisoners of war who had been released by the Frente POLISARIO on 14 August 2003. Another release of 300 Moroccan prisoners of war took place on 8 November 2003, 100 on February 2004, 100 on June 2004. While these releases are a welcomed step, one should not forget that 412 prisoners are still in detention, some of them for more than 20 years. The UN Secretary-General has urged the Frente POLISARIO to expeditiously release all remaining prisoners. He has also called for further co-operation of both Morocco and the Frente POLISARIO with the ICRC in accounting for those who are still missing in relation to the conflict.

VI. POSSIBLE CONTRIBUTION BY THE COUNCIL OF EUROPE

119. The work of the United Nations to resolve this conflict has been impeded for over twenty years owing to the inflexible positions of the parties. It has become impossible to hold a referendum on self-determination, which was called for in the UNSC Resolution 690 of 1991 and was the reason why MINURSO was set up. The settlement plan of May 2003 thus constitutes a last chance for the international community to put an end to this conflict under international law. The Parliamentary Assembly should fully support this new plan, not only because its provisions doubtless represent the most viable solution but also in order to uphold the rule of law (including with regard to international relations), which is one of the founding principles of the Council of Europe. The United Nations is a Council of Europe partner institution that must be supported in such a difficult case.

120. The Parliamentary Assembly of the Council of Europe has the experience to facilitate the resolution of this conflict. In particular, if the settlement plan is adopted the Assembly could contribute its expertise to define what needs to be done after the referendum has been held. This period is indeed fraught with dangers, but the settlement plan contains no provisions on this subject. If the outcome of the referendum points towards independence, the Council of Europe could help the new state to establish democratic standards, especially through the signing of conventions open to non-member states, as there is a considerable risk of an authoritarian and/or unstable state being set up. If the referendum results in the integration into Morocco or autonomy, the Assembly has at its disposal the report on the *Positive experiences of autonomous regions as a source of inspiration for conflict resolution in Europe*, which can provide some useful avenues of approach for Morocco, which already faces unrest in the High and Middle Atlas regions. More generally, the democratic standards established by the Council of Europe may be of value to Morocco in the continuation of its reforms, which should also be implemented in Western Sahara in the event of its integration or autonomy.

121. For the time being, and pending action on the Peace Plan, the Parliamentary Assembly action should concentrate in the field of human rights since political action that is taken too quickly and goes beyond support for the United Nations could increase the already high level of tension in the region. On human rights, the Council of Europe's contribution could focus on the following main areas.

122. In view of the serious situation of the political prisoners and prisoners of war, both in Morocco and in the Tindouf region in Algeria (the seat of the Saharawi Arab Democratic Republic in exile), the Assembly should make an explicit declaration in support of the immediate and unconditional release of the remaining 412 prisoners.

123. The situation of the refugees in the Tindouf region in Algeria is extremely serious and very worrying. The programmes of the European Commission Humanitarian Office (ECHO) and of UNHCR are desperately short of funds. UNHCR holds classes to inform the refugees of their rights but these rights only exist on paper as far as they are concerned. The situation of the Saharawi refugees in Mauritania, who are widely ignored, is difficult to assess but is no doubt even worse since these people do not receive assistance from any UNHCR programme. The Parliamentary Assembly should consider in more detail respect for the refugees' rights, with an assessment of their prospects following their return under the settlement plan.

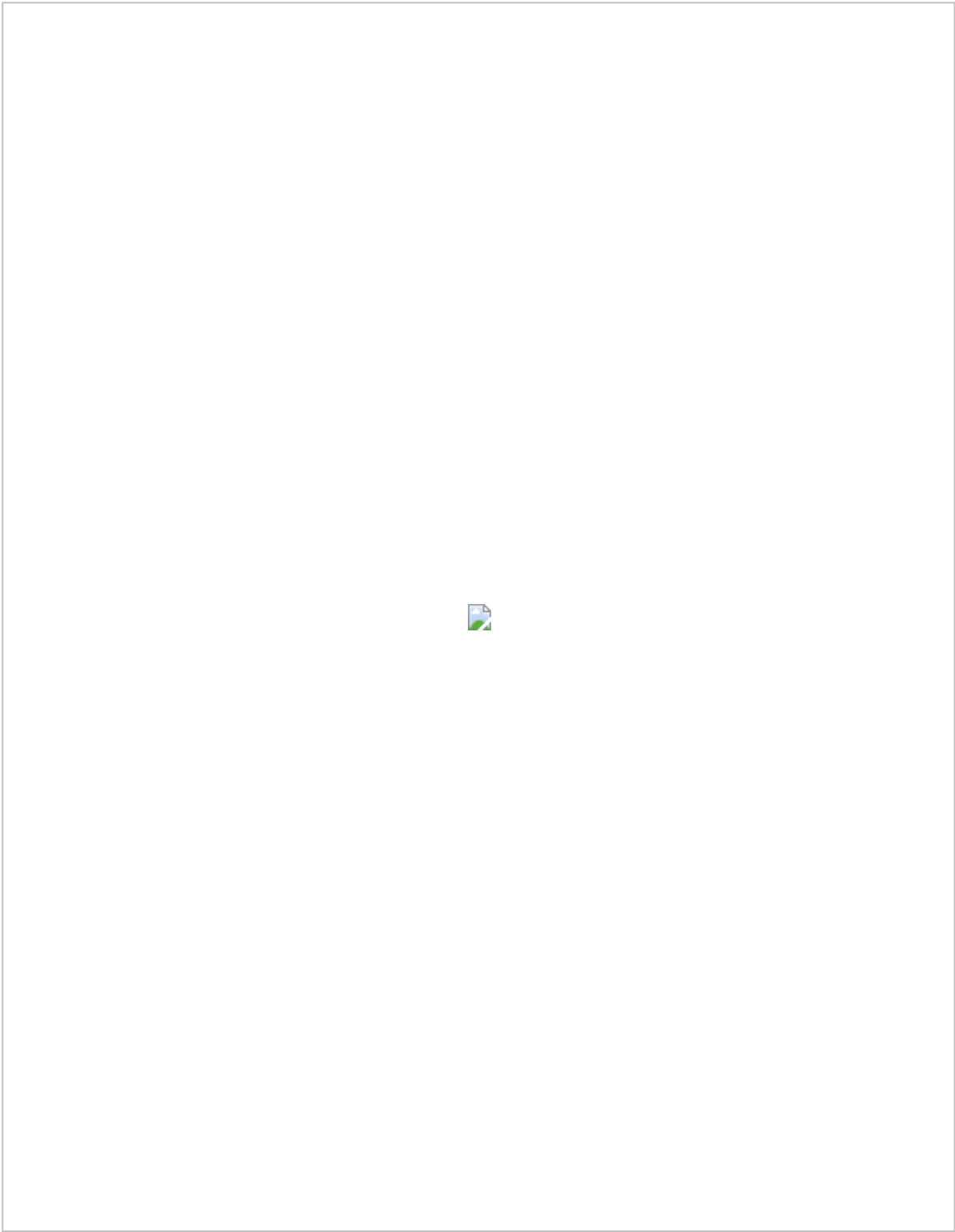
124. The situation of the civilian non-refugee population in the area under Moroccan control is also worrying, especially as far as the women are concerned. An assessment of this situation will help to anticipate developments if and when the settlement plan is implemented.

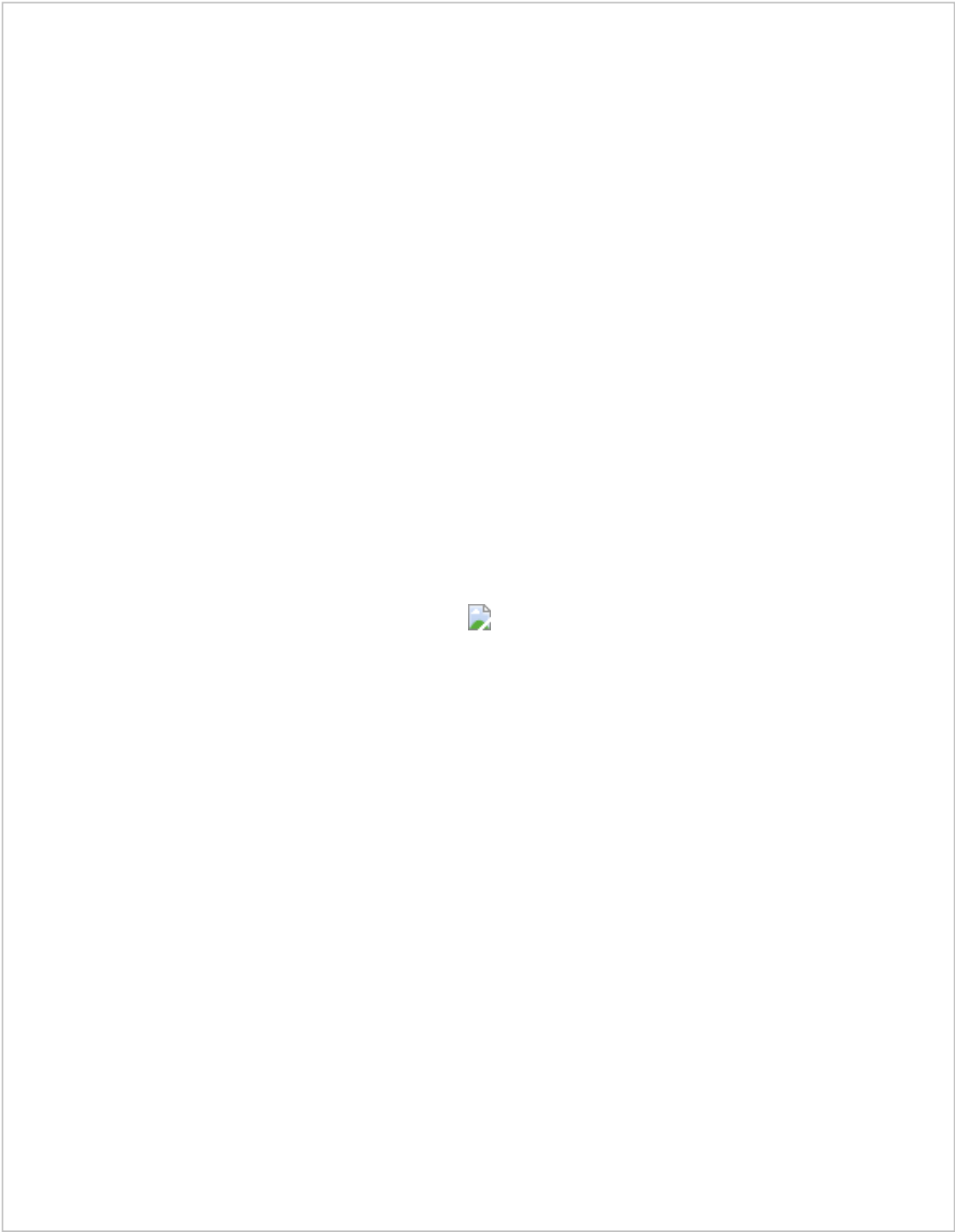
125. Consideration could be given in the future to suggesting to the Bureau of the Assembly the possibility of entering into a co-operation agreement with the parliaments of the Magreb countries, in particular Algeria and Morocco (cf. AS/Bur(2003)26 rev). Morocco is one of the countries bordering the Council of Europe area and it is therefore possible to establish special relations with it.

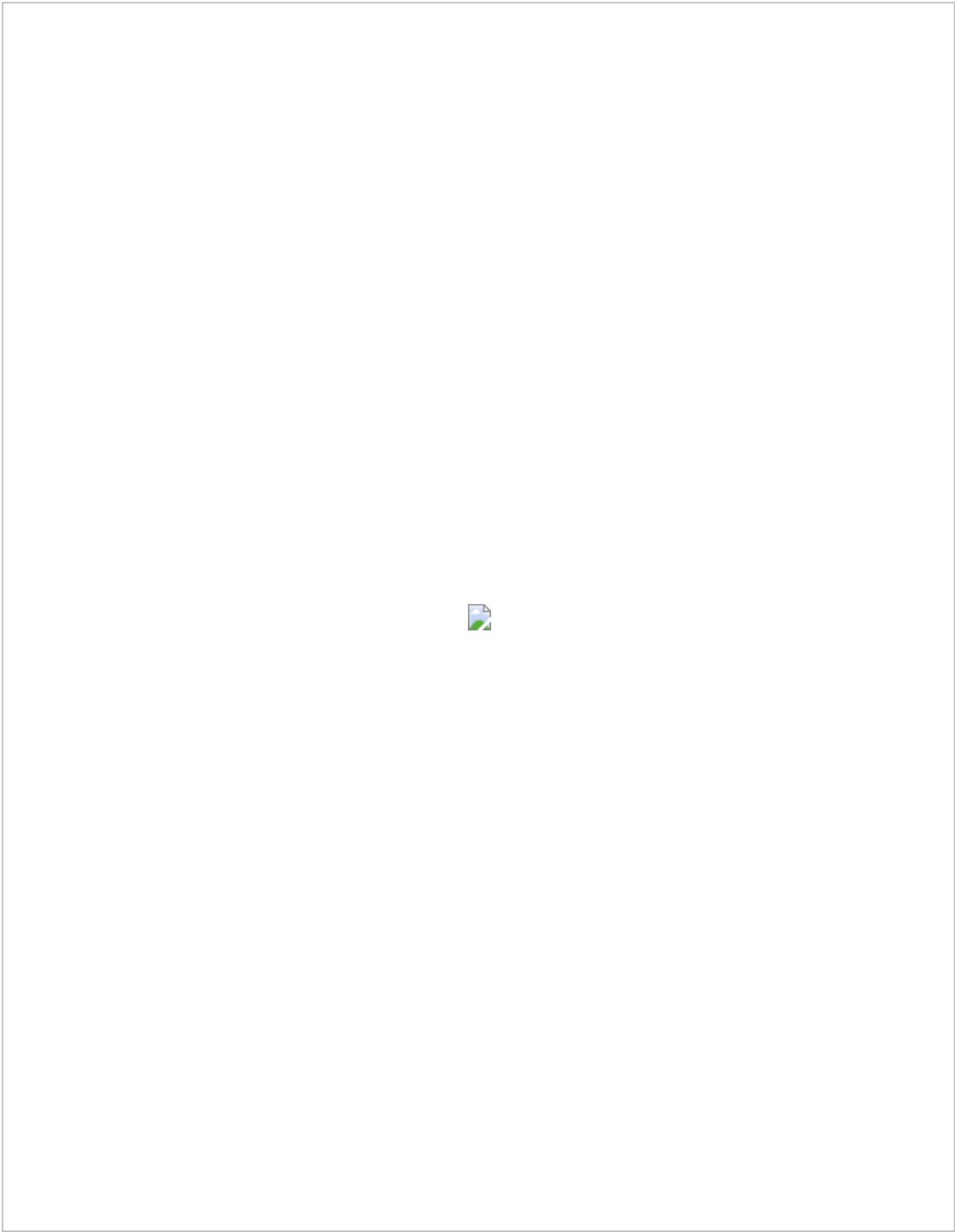
APPENDIX I

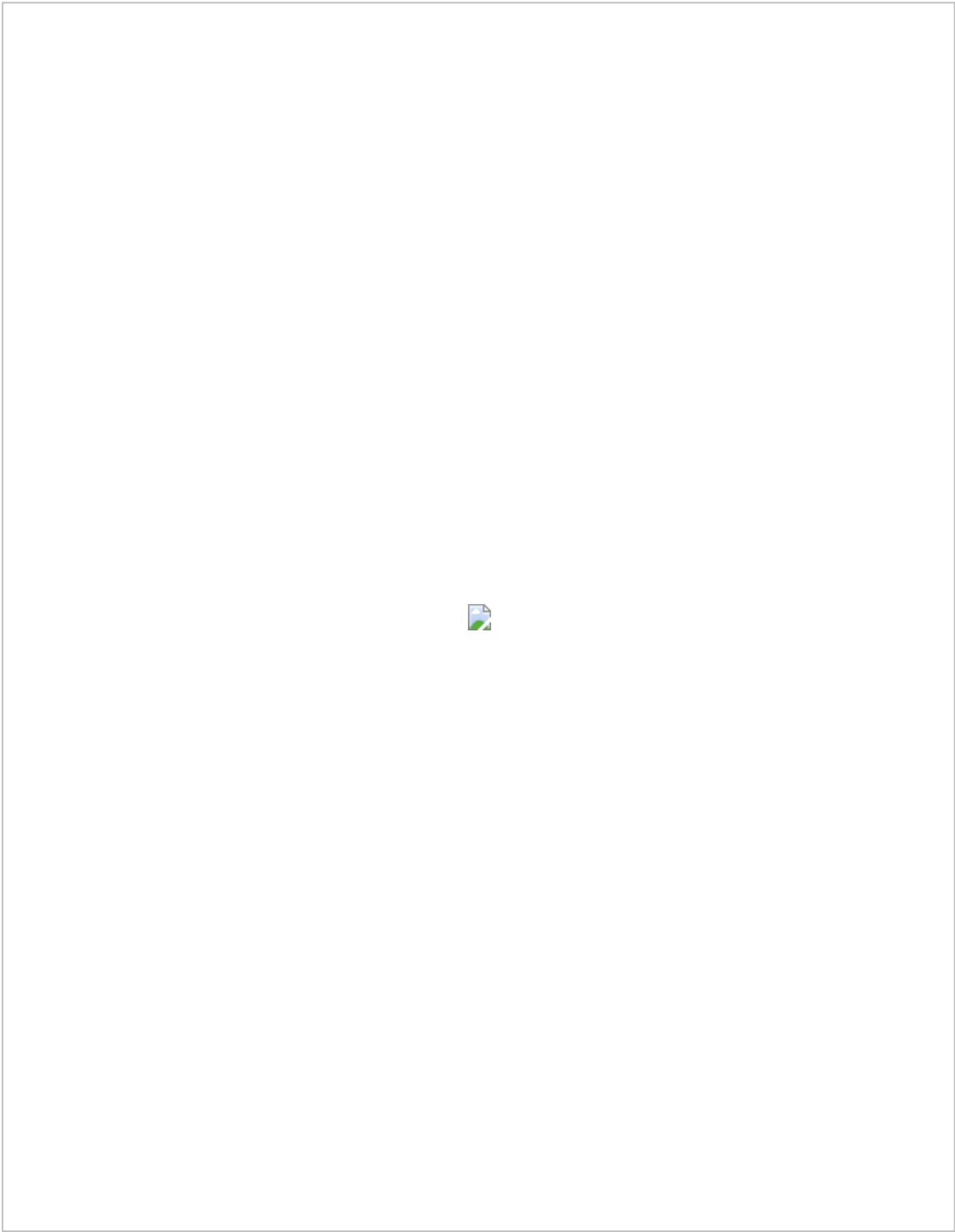
Security Council resolution 1495 (2003) The situation concerning Western Sahara

APPENDIX II











APPENDIX III

List of motions and texts by the Parliamentary Assembly of the Council of Europe

9 October 1979: Decolonisation of Western Sahara. Motion for a resolution tabled by Mr Lucien PIGNION (France, SOC).

7 February 1992: Western Sahara: Motion for a recommendation tabled by Mr Jean-Pierre FOURRE (France, SOC); Western Sahara: Motion for an order tabled by Mr Jean-Pierre FOURRE (France, SOC)

4 May 2001: Western Sahara: Motion for a recommendation tabled by Mrs Clemencia TORRADO (Spain, SOC)

14 October 2002: Western Sahara: Motion for a recommendation tabled by Mrs Eva ZETTERBERG (Sweden, SOC)

Doc. 9824, Positive experiences of autonomous regions as a source of inspiration for conflict resolution in Europe, 3 June 2003.

Reporting Committee: Political Affairs Committee

Reference to Committee: [Doc. 9590](#), Reference 2771 of 18.11.02

Draft Resolution unanimously adopted by the Committee on 4 October 2004

Members of the Committee : **Jakic** (Chairperson), **Margelov** (Vice-Chairperson), Spindelegger (Vice-Chairperson), **Ates** (Vice-Chairperson), Aguiar, Arzilli (alternate: **Masi**), Atkinson, **Azzolini**, Banáš, Berceanu, Bianco, Blankenburg, **Bokeria**, **van den Brande**, Cekuolis, Curiel Alonso (alternate: **Padilla Carballada**), Davern (alternate: **O'Keeffe**), **Dreyfus-Schmidt**, **Druviete**, Duivesteijn, Durrieu (alternate: **Loncle**), **Elo**, **Goerens**, **Goulet**, **Gross**, Hedrich, Henry (alternate: **Goris**), Hörster, **Iwinski**, Jahic (alternate: **Avdic**), **Jovašević**, **Judd**, **Kalezic**, Karpov, Klich (alternate: **Grzyb**), **Koçi**, **Kosachev**, Kostenko, **Lindblad**, van der Linden, Lloyd, Loutfi, Magnusson, **Marty**, **Matušić**, Medeiros Ferreira, **Meimarakis**, **Mercan**, Mignon, Mihkelson (alternate: **Herkel**), **Narochnitskaya**, Nemcova, **Nemeth**, **Oliynyk**, Ouzky, **Pangalos**, Petrova-Mitevskaja, Petursdottir, Pintat Rossell, Pourgourides, Prentice (alternate: **Kilclooney**), **Prijmireanu**, Prisacaru, **Puche**, de Puig (alternate: **Aburto Baselga**), Pullicino Orlando, Ranieri, **Roth**, **Severin**, Severinsen, **Seyidov**, **Slutsky**, Tabajdi, **Tekelioglu**, Torosyan, **Toshev**, Tritz, Vakilov (alternate: **Mollazade**), **Wielowieyski**, Wohlwend, **Wurm**, Zacchera.

Ex-officio: **Eörsi**, **Einarsson**, Russell-Johnston

N.B: The names of the members who took part in the meeting are printed in bold

Head of the Secretariat: Mr Perin

Secretaries to the Committee: Mrs Nachilo, Mr Chevtchenko, Mr Dossow

[1] Mr de Soto was appointed the Head of the United Nations Office in Cyprus on 16 February 2004. In the meantime, the Force Commander of MINURSO, Major General Gyorgy Száraz (Hungary) has been acting as Officer-in-Charge of the Mission.

[2] Current president of the SADR.

[3] Highly regarded former fighter of the movement, currently Frente POLISARIO representative in Spain.

[4] Abraham Serfati, a Moroccan journalist, was imprisoned after writing articles on Western Sahara. After several years in exile, he was recently able to return to Morocco.