

Part II

Implementation plan proposed by the Secretary-General
pursuant to Security Council resolution 621 (1988) of
20 September 1988

I. INTRODUCTION

43. In its resolution 621 (1988) concerning the situation in Western Sahara the Security Council authorized the Secretary-General to appoint a special representative for Western Sahara. The Secretary-General accordingly appointed Mr. Hector Gros Espiell as his Special Representative with effect from 19 October 1988. Upon his resignation, Mr. Gros Espiell, was succeeded by Mr. Johannes Manz with effect from 19 January 1990.

44. The Secretary-General also undertook preparation of the report called for in Security Council resolution 621 (1988). Having taken note of the comments and observations made by the two parties in their acceptance of the settlement proposals and after further consultations with them and with the current Chairman of OAU, the Secretary-General, on 30 June 1989, established a technical commission at United Nations Headquarters, under his chairmanship, to study ways and means of implementing the settlement proposals. On 12 July 1989, the Special Representative handed to representatives of the two parties a draft timetable for the implementation of the settlement proposals, which had been prepared by the Technical Commission. Morocco's response to the draft timetable was received on 6 October 1989 and that of Frente POLISARIO a week later.

45. The Secretary-General has carefully studied the responses of the parties, as well as the recommendations of the Technical Commission. On the basis of this information, the Secretary-General, after consultations with the current Chairman of OAU, has come to the conclusion that the settlement proposals for Western Sahara should be implemented by means of the implementation plan contained in the present report.

46. The plan is to be carried out by the United Nations in co-operation with OAU, the representatives of which will be associated with the process throughout as official observers who may submit their observations at any stage to the Special Representative of the Secretary-General for his consideration and such action as he deems appropriate. The plan is based essentially on the provisions of the settlement proposals and attempts to meet, to the greatest extent possible, the major concerns of the parties as expressed to the Secretary-General and to the Chairman of OAU during the course of consultations over the past five years. Since presenting the settlement proposals to the parties, the Secretary-General has had further meetings with them and has provided them with additional clarification on points of particular concern to them.

II. MAIN ELEMENTS OF THE IMPLEMENTATION PLAN

47. The implementation plan contained in the present report provides for a transitional period during which:

(a) The Special Representative of the Secretary-General, acting under the authority of the Secretary-General and, as necessary, on instructions from and in consultation with him, will have sole and exclusive responsibility over all matters relating to the referendum, including its organization and conduct;

(b) The Special Representative will be assisted by a United Nations support group, including civilian, military and security (civil police) units, made available by the Secretary-General and large enough to enable the Special Representative to perform his organizational and supervisory functions;

(c) There will be a cease-fire monitored by United Nations military personnel, followed by an exchange of prisoners of war under the auspices of the International Committee of the Red Cross (ICRC);

(d) Morocco will undertake an appropriate, substantial and phased reduction of its troops in the Territory;

(e) The combatants on each side will be confined to certain locations specified by the Special Representative where they will be monitored by United Nations military personnel;

(f) The United Nations will organize and conduct a referendum, and issue the necessary regulations, rules and instructions for this purpose, in which the people of Western Sahara will choose between independence or integration with Morocco;

(g) The United Nations will monitor other aspects of the administration of the Territory, especially the maintenance of law and order, to ensure that the necessary conditions exist for the holding of a free and fair referendum;

(h) Following on the proclamation of an amnesty, political prisoners will be released and all laws or regulations which, in the view of the Special Representative, could impede the holding of a free and fair referendum will be suspended to the extent the Special Representative deems this to be necessary;

(i) All refugees and other Western Saharans resident outside the Territory and wishing to return will be enabled to do so by the United Nations, after the latter has established their right to vote;

(j) The referendum should be held 24 weeks after the cease-fire comes into effect and its results should be proclaimed within 72 hours. The Special Representative will have the authority to determine whether circumstances require any alteration in these deadlines;

(k) Algeria and Mauritania will, as they have already indicated to the Secretary-General, co-operate with the Special Representative in ensuring that the transitional arrangements and the results of the referendum are respected.

The detailed modalities for carrying out the above elements in the implementation plan are described in the following paragraphs.

III. THE SPECIAL REPRESENTATIVE AND THE UNITED NATIONS MISSION FOR THE REFERENDUM IN WESTERN SAHARA

48. The Special Representative, appointed by the Secretary-General pursuant to Security Council resolution 621 (1988), will be his representative in Western Sahara for the implementation of the mandate to be conferred on the Secretary-General by the Security Council. The Special Representative, acting under the authority of the Secretary-General as described in paragraph 47 (a) above, will carry out the tasks provided for him in the settlement proposals and the present implementation plan. The Special Representative will ensure that all elements of the proposals and plan are complied with and he will, at all times, act in accordance with the terms of the proposals and the plan.

49. The Special Representative will be assisted in his tasks by a deputy special representative and by an integrated group of United Nations civilian, military and civil police personnel which he will head and direct. This group will be known as the United Nations Mission for the Referendum in Western Sahara (MINURSO). Arrangements concerning the status of MINURSO and its personnel will be made with the parties and with neighbouring States involved in the implementation of the settlement proposals. Further information on the proposed composition and tasks of the units comprising MINURSO is to be found in paragraphs 77 to 82 below.

IV. TRANSITIONAL PERIOD

50. The transitional period will begin with the coming into effect of the cease-fire and end with the proclamation of the results of the referendum. However, the United Nations would continue to have responsibilities for monitoring either the withdrawal of Moroccan troops or the demobilization of Frente POLISARIO troops, depending on the outcome of the referendum. The discharge of these responsibilities could take from four to six weeks (see para. 75 below). Thereafter, the United Nations will require a further period of four weeks to effect the withdrawal of its personnel and equipment from the Territory. MINURSO's presence in the Territory is thus expected to last for up to 35 weeks from the coming into effect of the cease-fire, subject to the authority given to the Special Representative to determine whether circumstances require any alteration in the timing of the referendum (see para. 47 (j) above).

V. CEASE-FIRE

51. When the Security Council has authorized the establishment of MINURSO, the Secretary-General will address identical letters to Morocco and Frente POLISARIO proposing a date and time ("D-Day") for the entry into force of the cease-fire. On D-Day the parties will cease all military operations, including troop movements (except as required or permitted under paras. 54 to 57 below) and any strengthening of positions. The date proposed for D-Day will be approximately 14 weeks after the date of the dispatch of the Secretary-General's letters. This timing is dictated by the need to ensure that the Military Unit of MINURSO which will monitor the parties' compliance with the cease-fire will be effectively deployed throughout its area of operations by the time the cease-fire comes into effect.

52. In his letters, therefore, the Secretary-General will ask the parties to confirm in writing by a specified date that they accept both the terms of the cease-fire and the date and time proposed. The parties will also be asked to undertake to refrain from any act which could lead to hostilities during the period between their acceptance of the cease-fire and its coming into effect.

53. After the cease-fire has come into effect, the Military Unit of MINURSO will report any violation thereof immediately to the Special Representative. The Special Representative will take the matter up with the party or parties concerned and, as necessary, report to the Secretary-General, who may bring the violation to the attention of the Security Council for such action as the Council may think fit.

VI. MOROCCAN MILITARY PRESENCE

54. To permit the holding of a referendum without military constraints, Morocco has agreed to make an appropriate, substantial and phased reduction of its troops in the Territory during the transitional period, to a level acceptable to the Secretary-General. This reduction will be effected within a period of 12 weeks beginning on D-Day. At the end of the 12-week period the Military Unit of MINURSO will verify that the Moroccan troop strength in the Territory does not exceed the accepted level.

VII. CONFINEMENT OF EACH PARTY'S COMBATANTS TO AGREED LOCATIONS

55. One week before D-Day each party will inform the Secretary-General of the strength and location of its military forces. With effect from D-Day the troops of each party, together with their arms and military equipment, will be confined to the locations described in paragraphs 56 and 57 below, plus any additional locations which may be determined by the Special Representative after consulting the parties. The troops' confinement to these locations will be monitored by the Military Unit of MINURSO. No movement outside the agreed locations will be permitted except for the purpose specified in paragraph 54 above or for routine logistic purposes or rotation, for which the authority of the Military Unit of MINURSO will be required in each case. The Special Representative will deal with

any violation of the agreed arrangements in the manner described in paragraph 53 above.

56. The Moroccan troops remaining in the Territory will, with the exceptions mentioned in this paragraph, consist only of troops deployed in static or defensive positions along the sand wall constructed by Morocco close to the eastern and southern frontiers of the Territory. All intervention forces and artillery units will have been withdrawn, as will all Moroccan air force units previously used for interdiction and offensive operations. The only exceptions to these arrangements will be:

(a) Certain logistic and support units required to support the Moroccan troops deployed along the sand wall, and not exceeding a level acceptable to the Secretary-General, will remain deployed at their present locations at Laayoune, Dakhla and Smara; they will not, however, carry weapons in the towns or circulate there in uniform, whether on or off duty;

(b) The Moroccan air force will continue to provide meteorological services, air traffic control and radio communications within the Territory but will retain only those aircraft that are essential for the logistic support of the Moroccan troops remaining in the Territory;

(c) The Moroccan navy will continue to perform such tasks as coastal patrolling.

All the above activities will be closely monitored by the Military Unit of MINURSO.

57. Frente POLISARIO troops will be confined to locations to be designated before D-Day by the Special Representative and their activities will be closely monitored by the Military Unit of MINURSO. In this regard, the Governments of Algeria and Mauritania have indicated their readiness to co-operate with the Special Representative.

VIII. ORGANIZATION AND CONDUCT OF THE REFERENDUM

58. In the settlement proposals the parties recognize that sole and exclusive responsibility for the organization and conduct of the referendum is vested in the United Nations. They have thus accepted the authority of the Organization to take the legislative and administrative steps necessary to accomplish this purpose. The Secretary-General will issue regulations to be given effect in the Territory by all concerned which essentially embody the relevant provisions of the settlement proposals agreed to by the parties. Additionally, these regulations will authorize the Special Representative, and relevant components of MINURSO acting with his consent, to issue rules and instructions, consistent with the regulations, which give detailed effect to the regulations. The regulations, rules and instructions will provide the fundamental basis for the organization and conduct of the referendum and will thus, to the extent of any incompatibility, prevail over existing laws or measures in force in the Territory.

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59. The responsibility of the United Nations in respect of the referendum can be divided into three main areas:

- (a) The identification and registration of those eligible to vote;
- (b) The establishment of the conditions and modalities for a referendum campaign in which freedom of speech, assembly, movement and the press are guaranteed;
- (c) The conduct of the voting in a manner permitting participation by all eligible voters, without interference or intimidation, and ensuring the secrecy of the ballot.

A. Identification Commission

60. To assist the Special Representative in fulfilling his responsibilities with regard to the identification and registration of those eligible to vote, the Secretary-General will appoint and issue terms of reference for an identification commission, including demographic experts, in whose work the parties and the representatives of OAU will, as appropriate, participate as official observers. The tribal chiefs of Western Sahara will also meet with the Identification Commission to contribute to its work.

B. Identification and registration of voters

61. Under the terms of the settlement proposals the Identification Commission will implement the agreed position of the parties that all Western Saharans counted in the 1974 census undertaken by the Spanish authorities and aged 18 years or over will have the right to vote, whether currently present in the Territory or outside as refugees or for other reasons. The Identification Commission, which may set up Sub-Commissions to discharge its functions in the various registration districts into which the Territory and the refugee camps will be divided, is required to update the census to provide a current basis for issuing lists of qualified voters.

62. At various stages of its work the lists prepared by the Commission will be published in the Territory and outside in areas where refugees and other Western Saharans are gathered and arrangements made for challenges to the inclusion or exclusion of any names. Any person identified as qualified to vote will at the same time be issued with a voter registration card. When the Commission has completed its compilation of the lists of those eligible to vote they will be submitted to the Secretary-General, through the Special Representative, for consideration in consultation with the current Chairman of OAU. Final lists will be issued when these are authorized by the Secretary-General. It is envisaged that the Identification Commission will complete its work before the beginning of the referendum campaign, that is by D-Day plus 18 weeks.

C. Referendum Commission

63. To assist the Special Representative in all other aspects of the organization and conduct of the referendum, the Secretary-General will appoint and issue terms of reference for a referendum commission. The Commission may establish Sub-Commissions to undertake particular responsibilities, and may co-opt as members experts in the particular subjects assigned to the Sub-Commission concerned. As in the case of the Identification Commission, representatives of the parties and of OAU will be associated with the work of the Commission and its Sub-Commissions in the capacity of official observers. In view of its responsibilities to advise on the day-to-day planning of the referendum, the Referendum Commission should commence its work as soon as possible after the Security Council has authorized the establishment of MINURSO.

D. Referendum campaign

64. As far as the establishment of the conditions and modalities for the conduct of the referendum campaign are concerned, the Referendum Commission will advise the Special Representative on the measures necessary to ensure a referendum that is free and fair, without military or administrative constraints. Such measures would include those necessary to:

(a) Guarantee freedom of movement, the security of the population and freedom of speech, assembly and the press;

(b) Permit the organization and holding of political meetings, rallies, demonstrations and marches;

(c) Publicize through available and appropriate media the issues regarding the referendum and points of view of the population;

(d) Facilitate the peaceful return to the Territory of all persons eligible to vote in the referendum;

(e) Deal with complaints that the provisions of the settlement proposals, or of the referendum regulations, or the rules or instructions issued pursuant thereto, have not been complied with;

(f) Ensure that law and order is maintained in the Territory for purposes of the referendum process through the monitoring of existing police activities and the deployment of the MINURSO Security (Civil Police) Unit and that no one can resort to intimidation or interfere in the referendum process.

E. Referendum

65. As far as the actual conduct of the referendum is concerned, the Referendum Commission will advise the Special Representative on matters such as:

- (a) The date of the referendum;
- (b) The requirements for polling stations, ballot boxes and ballot forms;
- (c) The manner and conduct of voting;
- (d) The association of the official observers from the parties and the representatives of OAU with the voting process;
- (e) The tally of the voting and the issuance of the results of the voting;
- (f) The lodging of any petitions concerning the results of the voting;
- (g) The definition and determination of offences relating to the referendum and their consequences.

66. In the performance of their functions the Identification Commission and the Referendum Commission will prepare any rules or instructions of the nature outlined in paragraph 58 above that are necessary to give effect to their recommendations and which, after approval by the Special Representative, will be issued and put into effect by all concerned.

IX. OTHER RESPONSIBILITIES OF THE SPECIAL REPRESENTATIVE DURING THE TRANSITIONAL PERIOD

67. In addition to his direct responsibility for the organization and conduct of the referendum itself, the Special Representative will also be required to satisfy himself that the necessary conditions are otherwise met in order to guarantee the organization of a free and fair referendum. He will accordingly monitor closely the manner in which the authorities involved carry out their day-to-day responsibility for other aspects of the administration of the Territory during the transitional period. If he concludes that any steps or measures would conflict with the agreed objective of holding a free and fair referendum to enable the people of Western Sahara to determine their future without military or administrative constraints, he will bring the matter to the attention of those concerned with a view to an amicable settlement. Should any differences persist the Special Representative will report the matter to the Secretary-General for such action as the Secretary-General may think fit.

68. The Special Representative will pay special attention to the arrangements made for the maintenance of law and order during the transitional period. In this respect, it is envisaged in particular that the Special Representative will have exclusive authority in all United Nations premises connected with the referendum and in their immediate vicinity, such as voter registration offices and polling stations. This authority would include the maintenance of law and order in such premises, the Special Representative being provided with United Nations civil police for this purpose. Such civil police, in cases of emergency, could call upon the Military Unit of MINURSO to render assistance to them. In other areas, the activities of the existing police forces will be closely monitored by the Security (Civil Police) Unit of MINURSO.

69. Before the beginning of the referendum campaign, the neutralization of the paramilitary units in the existing police forces (the "mobile action companies" and "auxiliary forces") will be carried out through the deposit of their weapons, ammunition and military equipment in armouries where their safe custody will be monitored by the Military Unit of MINURSO.

X. RELEASE OF POLITICAL PRISONERS AND SUSPENSION OF LAWS
WHICH MIGHT IMPEDE A FREE AND FAIR REFERENDUM

70. The Special Representative will take steps with the two parties to ensure the release, before the beginning of the referendum campaign, of all Western Saharan political prisoners or detainees and to this end an amnesty is envisaged as the first stage. In this work he will be assisted by an independent jurist appointed by the Secretary-General. Any difference concerning the release of political prisoners or detainees will be settled in a manner satisfactory to the Special Representative.

71. Before the beginning of the referendum campaign, the Special Representative will ensure that the authorities involved suspend any law or measure which, in his judgement, could obstruct the conduct of a free and fair referendum and which would not otherwise be superseded by the regulations, rules and instructions referred to in paragraph 58 above.

XI. RETURN OF REFUGEES, OTHER WESTERN SAHARANS AND MEMBERS OF
FRENTE POLISARIO ENTITLED TO VOTE

72. Following the completion of the work of the Identification Commission, all refugees who have been identified as having the right to vote in the referendum and who have expressed the wish to return to the Territory will be enabled to do so, together with their immediate families, through a programme organized by UNHCR. The Special Representative will designate a number of points at which returnees will be able to cross into the Territory. Security at these crossing-points and at reception centres established by UNHCR will be provided by the Military Unit of MINURSO. The Special Representative will also take such steps as may be necessary to ensure that the returnees will be able to take part in the referendum, without restriction or risk of being arrested, detained, intimidated or imprisoned. To this end they will be granted a general and complete amnesty.

73. Likewise, other Western Saharans, not refugees but resident outside the Territory, who are found eligible to vote by the Identification Commission, will be permitted to return to the Territory, together with their immediate families. It is the Secretary-General's intention to ask the High Commissioner for Refugees to extend his good offices to these Western Saharans and to assume responsibility for their voluntary repatriation from designated locations in neighbouring countries.

74. Frente POLISARIO combatants found eligible to vote who wish to take part in the referendum will be enabled to return, peacefully and without arms or uniforms, together with their immediate families, in accordance with the arrangements described in the two preceding paragraphs, including the amnesty. The arms, ammunition and military equipment of returning Frente POLISARIO combatants will be deposited at the locations referred to in paragraph 57 above where their safe custody will be monitored by the Military Unit of MINURSO. The disposition of these arms, ammunition and equipment will be decided after the results of the referendum are known.

XII. PROCLAMATION OF THE REFERENDUM RESULTS

75. The results of the referendum shall be proclaimed as indicated in paragraph 47 (j) above. If the decision is for independence, the withdrawal of all remaining Moroccan troops will begin within 24 hours and will be completed within 6 weeks. The withdrawal will be monitored by the Military Unit of MINURSO. If the decision is for integration with Morocco, the demobilization of any Frente POLISARIO troops who have not returned to take part in the referendum will begin within 24 hours of the proclamation of the result and will be completed within 4 weeks, under the monitoring of the Military Unit of MINURSO.

76. As soon as the results of the referendum have been proclaimed, the Special Representative will begin to reduce United Nations personnel in Western Sahara. The Special Representative and his remaining civilian and military staff will complete their withdrawal as soon as possible after all the tasks assigned to them by the Security Council have been satisfactorily carried out.

XIII. COMPOSITION AND TASKS OF THE UNITED NATIONS MISSION FOR THE REFERENDUM IN WESTERN SAHARA

77. The Secretary-General has defined the tasks of the three units (civilian, military and security) that are provided for in the settlement proposals, and which will make up MINURSO, in the light of the responsibilities of the United Nations described above.

A. Civilian Unit

78. The Civilian Unit, which is central to the operation, will comprise the office of the Special Representative and his support staff in fields such as administration, legal and legislative matters, questions relating to refugees and political detainees, information and public relations. In addition, a major part of the Civilian Unit will be responsible for the organization and conduct of the referendum. The Unit will consist largely of officials of the United Nations. It is hoped, however, that a significant number of personnel, especially personnel directly concerned with the organization and conduct of the referendum, will be made available by Governments at the Secretary-General's request.

B. Security Unit

79. The Security Unit will be made up of civil police. Their task will be:

(a) To ensure tranquillity and maintain law and order in the vicinity of, and at, voter registration offices and polling stations, to ensure that no person is denied entry for the purposes of registration or voting and, when specifically so ordered, to maintain order at other locations where activities in connection with the referendum, under MINURSO auspices or authority, are taking place;

(b) To monitor the activities of the existing police forces so as to ensure that they are acting in strict accordance with the settlement proposals and the present implementation plan, which are intended to secure the organization of a free and fair referendum without military or administrative constraints and to prevent any possibility of intimidation or interference from any quarter.

80. The Security Unit will be commanded by a Police Commissioner appointed by the Secretary-General. The members of the Unit will be provided by Governments, at the request of the Secretary-General. Its terms of reference, which will be drawn up on the authority of the Secretary-General, will define the circumstances under which members of the Civil Police Unit may in the course of their duties take offenders into custody, and the procedures to be followed thereafter. The terms of reference will also spell out the monitoring responsibility of members of the Security Unit and the procedures they are to follow in submitting the details of any infractions involved to the Special Representative for action.

C. Military Unit

81. The tasks of the Military Unit will be:

(a) To monitor the cease-fire;

(b) To verify the agreed reduction in troops;

(c) To monitor the confinement of troops of both sides to agreed locations;

(d) To monitor the custody of certain arms and ammunition;

(e) To provide security for the return of Western Saharans from outside the Territory at designated crossing-points and at UNHCR reception centres;

(f) To assist the Security Unit, as required;

(g) Depending on the results of the referendum, to monitor the activities described in paragraph 75 above.

82. To perform the above tasks the Military Unit will require military observers, infantry, an air unit and other logistics personnel. It will be under the command of the United Nations, vested in the Secretary-General, under the authority of the

Security Council. The command in the field will be exercised by a force commander appointed by the Secretary-General after consultation with the parties and with the consent of the Security Council. The Force Commander will report to the Secretary-General through the Special Representative. The normal rules in United Nations peace-keeping operations for the bearing and use of arms will apply. The Secretary-General will report regularly to the Security Council on the functioning of the Military Unit, as on the other activities of MINURSO. The military personnel of MINURSO will be contributed by States Members of the United Nations, at the request of the Secretary-General, who will consult the parties and obtain the Security Council's approval of the composition of the Military Unit.

XIV. OBSERVATIONS

83. The present report is presented to the Security Council in pursuance of paragraph 2 of resolution 621 (1988) in which the Security Council requested the Secretary-General to transmit to it as soon as possible a report on the holding of a referendum for self-determination of the people of Western Sahara and on ways and means to ensure the organization and conduct of such a referendum by the United Nations in co-operation with OAU. I believe that the implementation plan contained in the present report provides an effective means of holding such a referendum and permitting the people of Western Sahara to determine their future without military or administrative constraints. I accordingly commend it to the Security Council for such action as the Council may think appropriate in order to facilitate its implementation at the earliest possible date.

84. It will be clear from the present report that the United Nations operation in Western Sahara will be large and complicated. There are at present unknown factors and it is not possible at this stage to present to the Council even a preliminary estimate of what the cost will be. It is therefore my intention to dispatch, in the immediate future, a technical mission to the Territory and to neighbouring countries to refine the administrative aspects of the plan outlined in the present report and to obtain the information, especially information about the availability of logistic supplies and support in the Territory, which is required to prepare a further report to the Security Council containing an estimate of the cost of MINURSO, and, in due course, a detailed budget for submission to the General Assembly.

85. It will be my intention, when submitting the further report to the Security Council, to recommend that it authorize the immediate establishment of MINURSO for purposes described in the present report. At the same time, I shall recommend that, if the Council decides to set up MINURSO, its costs should be considered as expenses of the Organization to be borne by the Member States in accordance with Article 17, paragraph 2, of the Charter. I would intend to recommend to the General Assembly that the assessments to be levied on Member States be credited to a special account that would be established for this purpose.
