

United Nations  Nations Unies

HEADQUARTERS - SIÈGE NEW YORK, NY 10017
TEL.: (212) 963 1234 FAX: (212) 963 4879

REFERENCE:

18 June 2010

Excellency,

As you know, I will be visiting the capitals of the Group of Friends of Western Sahara beginning on June 21, 2010. To help your Government prepare for the discussions I wish to hold, I ask you to transmit the following reflections to the relevant authorities in strictest confidence.

The Problem

Since my appointment as Personal Envoy of the Secretary-General for Western Sahara, I have benefited from the willingness of the parties and the neighboring states to work with me and have enjoyed and appreciated the strong but general support of the Security Council. On this basis, I have made three trips to consult with the parties, the neighboring states, and other interested capitals. I have also held two informal meetings of the parties and the neighboring states as observers. These meetings have been important in keeping lines of communication open, reducing the risk of an escalation of tension, and pushing the parties toward negotiation.

Nonetheless, my conclusion at this point is that, although the parties possess the political will to meet face-to-face, they do not yet possess the political will to enter into genuine negotiations on the future of Western Sahara or to give priority attention to confidence building measures. At the most recent informal meeting in Westchester County, the Polisario Front made a modest beginning of what could become genuine negotiation by exploring with Morocco several specific aspects of the latter's autonomy proposal. Morocco for its part declined to explore the Polisario Front's proposal. As a result, the Polisario Front went no further.

At the end of the Westchester County meeting, the parties agreed with my statement that "neither party had accepted the proposal of the other as the sole basis of future negotiations." The process of seeking a settlement is occurring under Chapter VI, so neither party can be obliged to accept the proposal of the other as written. The Secretary-General and I cannot by ourselves convince the parties to abandon their unyielding attachment to mutually exclusive positions. We need specific support from both the Security Council and the Group of Friends, as outlined in the attachment to this letter.

The Issue of the Status Quo

The Security Council has recognized that the consolidation of the status quo is not acceptable in the long term. Despite this, each of the parties and at least one of the neighboring states act as if time is on their side. The members of the Group of Friends can assist in getting them to accept that, however comfortable the situation may be in the short term, regional stability, security, integration, and development will best be served by serious engagement in the search for a settlement.

The Process of Negotiation between the Parties

Morocco is a state and the Polisario Front is a movement. Nonetheless, in the current process, the parties must deal with each other as more or less equal partners if progress is to be made. This requires at least a show of mutual respect with regard to the individuals present and to the proposals they have put on the table. This has not uniformly been the case.

The Security Council has called for negotiations without preconditions and in good faith. Although it has welcomed Morocco's serious and credible efforts to move the process forward, it has not indicated that the discussions should be limited to the latter's autonomy proposal. If the process is to move into genuine negotiations, each party needs to be satisfied that its proposal was explored and discussed in detail and that an effort was made to address its concerns.

If the parties remain unwilling to show the political will to explore and discuss each other's proposals as a first step toward a more fluid and realistic discussion of the future of Western Sahara, there is little reason to hold a third informal meeting or a fifth round of formal negotiations. Indeed, successive rounds of meetings without meaningful progress would bring the credibility of the United Nations, the Security Council, and the Personal Envoy increasingly into question.

The Contribution of the Neighboring States

The Security Council has called on the parties and states of the region to cooperate more fully with the United Nations and with each other to achieve progress. Algeria and Mauritania have in fact attended the two informal meetings held to date. In practice, however, they consider themselves to be merely observers. Their delegations have attended pro forma opening and closing sessions without saying a word and absented themselves from the intervening discussions.

Mauritania's participation in the process is largely symbolic and requires no special attention at this time. This is not the case with Algeria, given the haven that it has provided for Sahrawi refugees and the political and other support that it has given the Polisario Front. Its position to date is that it will join in discussing any subject that requires approval or action on its part, as is the case with certain confidence building measures, but that it will stay out of any discussion of the future of Western Sahara, which its leaders insist must be settled between Morocco and the Polisario Front. But

stronger engagement on Algeria's part, at least in stronger acknowledgement that the status quo is not beneficial in the long term and greater support for confidence building measures, would help build momentum for real engagement by the parties.

Confidence Building Measures

In the absence of genuine negotiations on the future of Western Sahara, the implementation of confidence building measures to increase mutual trust, reacquaint long-separated Sahrawis with each other, and permit a dialogue on future perspectives has acquired increased importance.

The Security Council has called on the parties to implement prior agreements on confidence building measures and to consider additional measures. Despite this, existing measures are in jeopardy, implementation of at least one agreement in principle has lagged, and the exploration of additional measures has been stifled.

The most pressing issue is the resumption of family visits by air. The United Nations High Commissioner for Refugees (UNHCR) suspended them after Morocco objected to the inclusion of two individuals on the list for a flight scheduled for March 26, 2010. The UNHCR Plan of Action to which the parties had agreed gave UNHCR exclusive responsibility for determining who should be included, and I have asked Morocco either to let the individuals in question travel or to put the issue of the March 26 flight aside for further discussion and let the flights scheduled after March 26 proceed. I am awaiting a response. The Polisario Front is comfortable with either option.

As long as family visits by air remain suspended, it is hard to imagine the inauguration of family visits by road as agreed in principle as far back as 2008. The Polisario Front held its annual evaluation meeting with UNHCR in Geneva on May 10, 2010 and accepted the draft Plan of Action for the road option, and Morocco has agreed to the date of July 2, 2010 for its evaluation meeting.

As for the seminars, youth summer school camps, and expanded family visits for special occasions such as marriages and funerals that UNHCR has been proposing to increase contact between Sahrawis from the camps and the territory itself, there has been no action for several years. In 2007, Morocco withdrew from the first seminar, which was to have taken place in Portugal in November of that year. Over the past year, Algeria has discouraged the international NGO Search for Common Ground from exploring such events with Polisario leaders in the Tindouf region, even though it has been trying to do so at my request. Progress on confidence building measures will build momentum and serve as a clear signal that the parties can in fact work together.

Human Rights

Again, in the absence of progress on the core issue of the future of Western Sahara, the issue of human rights has assumed more importance than it otherwise would have, and it is probably the most contentious aspect of discussions within the Security Council and elsewhere. These discussions take place against the backdrop of a long history of Polisario accusations against Morocco and a shorter history of Moroccan

accusations against the Polisario Front and Algeria. Numerous reports by Amnesty International, Human Rights Watch, and others add fuel to the fire. Some members of the Security Council and the Group of Friends take a deep interest in the issue, while others judge it to be at best an unnecessary distraction or at worst an attempt to target Morocco.

Since my appointment, I have suggested to my Moroccan interlocutors that, if they wish to bring the Polisario Front to accept their vision of an autonomous Sahara, they should act to demonstrate their good intentions by being lenient toward Sahrawi independence activists instead of limiting their freedom of movement and expression. Thanks to the friendly efforts of several governments and the United Nations, Morocco resolved the case of Aminatou Haidar constructively. Since then, responding to advice from several quarters, Morocco has taken a much softer posture toward Sahrawi activists.

At the same time, Morocco has mobilized its diplomacy to highlight what it sees as the unacceptable situation of Sahrawi refugees in Algeria, accusing Algeria and UNHCR of shirking their responsibility for a census of these refugees and for their well-being and freedom and accusing the Polisario itself of continuing human rights abuses.

In addressing the human dimension of the conflict, the Security Council has noted the need for all parties to adhere to their obligations. This is a useful reminder and bears repeating.

Atmospherics

The first informal meeting in Austria restored an atmosphere of mutual respect to the process, but this was rapidly dissipated by a number of factors, not least of which was the sharp declarations of the various parties and the negative campaign in which the media of each party engaged, attacking leaders by name, levelling various accusations against each other, and criticizing each other's domestic and foreign policies. This phenomenon continues to this day and will color any future meetings if it persists.

Perspectives for a Next Informal Meeting

If, working together, we can convince the parties and the neighboring states to engage more constructively, I am thinking of holding a third informal meeting in August or September of 2010. My purpose would be to (a) foster a joint discussion of the latest guidance that the Security Council has provided in Resolution 1920 (2010), (b) engage each party separately on its proposal, using experts on forms of power-sharing ranging from total integration to total independence and everything in between to draw each party out of the narrow confines of its proposal, and (c), if possible, get the parties to engage together on a shared vision of the internal governance of Western Sahara, putting final status aside for discussion as a last issue.



Questions for Consideration

1. What specific outcomes to this conflict do you consider acceptable? The Polisario Front argues that any process that leads to a referendum with independence as an option is an acceptable outcome. Morocco argues that a negotiated autonomy is the only possible outcome. Of course, autonomy has many possible forms.

2. What is your view of the requirements for a genuine exercise of self-determination? The Polisario Front again maintains that this can come only through a referendum with independence as an option. Morocco argues that this can come through a negotiated settlement submitted to a confirmatory referendum

Action to Consider

What then is the support I seek from the members of the Group of Friends as I attempt to push the parties forward? High-level approaches to Morocco, the Polisario Front, and Algeria in the course of July would give my efforts a welcome and necessary boost. All must see that the Group of Friends and I are working along the same lines if my mission is to have any chance of success. Attached are some points that could be incorporated into such approaches.

I look forward to discussing these and other aspects of the situation in Western Sahara and North Africa in during my visit to your capital.

Please accept, Excellency, the assurances of my highest consideration.

A handwritten signature in black ink, appearing to read 'Chris Ross'.

Christopher Ross
Personal Envoy of the Secretary-General
for Western Sahara

ELEMENTS TO CONSIDER FOR HIGH-LEVEL APPROACHES

For Morocco, the Polisario Front, and Algeria:

- In the long term, the status quo is unacceptable. The risk of a drift toward extremist or criminal activities among Sahrawi youth is growing. The danger that a military or paramilitary adventure could escalate into hostilities increases the longer diplomacy fails to produce progress. The domestic costs are high, particularly in Morocco. The absence of a settlement prevents regional integration and development and comprehensive security cooperation. Prolonging the human misery of the camps is cruel. In the absence of a settlement, international recognition of the status of Western Sahara is not forthcoming.
- Confidence building measures must receive urgent attention. Family visits by air must resume immediately on the basis of the UNHCR Plan of Action. Technical meetings on family visits by road must be scheduled quickly once the annual evaluation meetings with UNHCR are completed, i.e., after July 2, 2010. Other confidence building measures proposed by UNHCR or the Personal Envoy must be considered in a timely way.
- We remain concerned about the mutual accusations of human rights violations that have become so frequent. Each party must adhere to the obligations set forth in international conventions relating to respect for human rights and the protection of refugees.
- The personal and political attacks that each side levels at others in its declarations and media sour the atmosphere for any future meetings. It would be useful for everyone concerned to avoid provocative declarations and encourage the media to suspend its attacks.

For Morocco and the Polisario Front:

- If and when the Personal Envoy convenes another meeting, you must find ways to examine and discuss each other's proposals much more fully than you did in Westchester County. Examining and discussing them does not mean accepting them, but does signal respect for the other party and an avoidance of preconditions. For each party to listen to the concerns of the other party and demonstrate a willingness to adapt its initial proposal to address them will increase the likelihood of eventually reaching an acceptable solution. Any domestic criticism can be neutralized by stating that the discussion does not mean acceptance of everything that was said.

For Algeria:

- You could do more without compromising your position. We recognize that you do not wish to negotiate the future of Western Sahara in the Polisario Front's place. Nonetheless, you could go beyond your past practice as an observer by more fully supporting the development of confidence building measures, emphasizing the dangers of the status quo, and taking other steps as appropriate.