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To the attention of Mrs. Benita Ferrero-Waldner
EU Commissioner for External Affairs.

Concerning: Morocco's Advanced Status must exclude Western Sahara

Dear Mrs. Ferrero-Waldner

Western Sahara Resource Watch follows with interest the reports issued from the meetings of the EU-Morocco Association Council, and would like to raise our concerns about the development of the EU-Moroccan talks, as they are outlined in the report from the latest meeting in Luxembourg on 13th of October 2008.

If Morocco is to approach European values this needs to be demonstrated by Morocco honouring international law and allowing the referendum on self-determination for the people of Western Sahara to go ahead.

We do not oppose closer ties between the EU and Morocco. However Morocco continues to be an illegally occupying power in Western Sahara, and the EU has a clear legal and moral obligation not to, in any way, support Morocco in its continued presence there.

The report from the Luxembourg meeting states that "the European Union invites Morocco to safeguard freedom of association and freedom of assembly, particularly in the Western Sahara". WSRW would like to point to the Office of the United Nations High Commissioner for Human Rights *Report of the OHCHR Mission to the Western Sahara and the Refugee Camps in Tindouf*, 8 Sept 2006. <http://www.arso.org/OHCHRrep2006.htm>. This report documents widespread human rights violations in the Moroccan occupied parts of Western Sahara and emphasises that the failure to hold the promised referendum on self-determination is the main reason behind these violations.

The EU must monitor the human rights situation in the occupied territories, and its approach to Morocco should be conditioned on Morocco's honouring of its international obligations.

Western Sahara Resource Watch would like to underline that self determination for the Saharawis has been addressed in 42 resolutions from the UN General Assembly since 1965, and in 64 resolutions from the UN Security Council since 1975. The 1975 International Court of Justice, in its Advisory Opinion on Western Sahara concludes that "...the materials and information presented to it do not establish ties of territorial sovereignty [...] as might affect the application of General Assembly Resolution 1514 (XV) in the decolonization of Western Sahara, and, in particular, of the principle of self-determination through the free and genuine expression of the will of the peoples of the Territory...". Several UN General Assembly resolutions have also pointed to the fact that Western Sahara is an occupied and an annexed territory, and the case has been treated in the UN General Assembly's Special Committee on

Decolonisation as an unsolved colonial issue and so-called Non-Self-Governing Territory since the 1960s.

It is clear that under customary international law, the European Union and its member states have a duty of non-recognition of the illegal Moroccan annexation of Western Sahara.

As we see from the Association Council reports, however, it appears that this duty may be breached. There is a real possibility – or, rather, danger – that the non-self-governing territory of Western Sahara will be included with Morocco for the purposes of 'Advanced Status' with the EU. Moroccan press releases have explicitly made this claim.

Unless Western Sahara is specifically excluded from any agreement regarding EU-Moroccan cooperation, then the agreement offers instead a sign of legitimisation of the illegal continued Moroccan presence in Western Sahara.

Western Sahara/SADR (Saharawi Arab Democratic Republic) is a full member of the African Union. If the EU wants to strengthen its links with the AU, it cannot involve Western Sahara, one of the members, in an agreement against its own will. The EU has to negotiate directly with SADR about matters related to the Western Sahara territory.

Other agreements with Morocco have clearly excluded the occupied Western Sahara. The then US Trade Representative Robert Zoellick clarified in 2004 that the US-Morocco free trade agreement does not cover the territory of Western Sahara. Similar statements have been made by EFTA countries, regarding the EFTA-Morocco Association Agreement.

The EU has similarly been very clear vis-à-vis Israel, that the EU-Israel Association Agreement is not to be applied to the occupied Palestinian Territories.

Several states, among them EU member states Sweden, Denmark and Ireland, have recommended their own companies to respect international law, when it comes to the respect of self-determination in Western Sahara. Norway urges their companies to stay away, in order to not violate international law, and to not undermine the UN's peace process.

Western Sahara Resource Watch, an international organisation with members in more than 30 countries, urges the EU to follow these precedents and support the UN peace process by respecting its duty of non-recognition.

We expect that the agreement coming out of the Advanced Status talks, will clearly specify that the cooperation shall not extend further south than to Morocco's internationally recognised southern border, namely 27°40' N.

Sincerely,

Sara Eyckmans

For Western Sahara Resource Watch
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