

# BRIEFING

## SAN LEON ENERGY: PADDY PROPPING THE OCCUPATION OF WESTERN SAHARA

November 2015



*Photo: Thousands of Saharawi refugees stated their position on San Leon's search for oil in their occupied homeland. 11 October 2015.*

*San Leon Energy plc operates under an oil license in Western Sahara by an agreement with the territory's occupier; the Moroccan government. In violation of international law, the company has proceeded to undertake the first ever onshore drilling operation in the history of Western Sahara under Moroccan occupation. An oil find in Western Sahara would cause irreparable damage to the UN led peace process and greatly diminish the chance of a peaceful solution to Africa's longest running conflict. This briefing documents San Leon Energy's past and present in Africa's last colony. A background note on the Western Sahara conflict is included on the final page of the briefing.*

## Key-facts

- The area widely referred to as 'Western Sahara' lies on the Atlantic coast of north-west Africa, bordered by Morocco to the north, Algeria to the north-east and Mauritania to the south and south-east. The United Nations has defined Western Sahara to be a Non-Self-Governing Territory; one that still has to complete the process of decolonisation. A 1975 ruling of the International Court of Justice declared that Morocco had no legitimate claims to sovereignty over Western Sahara and that the indigenous Saharawi people were to be granted their right to self-determination.<sup>i</sup> Just days later, Morocco invaded Western Sahara. Today, it holds three-quarters of the territory under military occupation.
- Following their right to self-determination, reaffirmed in over 100 UN Resolutions, the sovereign rights to the land and its resources lie with the Saharawi people. Accordingly, a UN Legal Opinion of 2002 concluded that any exploration or exploitation of Western Sahara's mineral resources will violate international law if not undertaken in accordance with the wishes and the interests of the people of the territory.<sup>ii</sup> In addition, international humanitarian law, including the 1949 Geneva Conventions, also applies.
- San Leon Energy plc is an Irish oil company, headquartered in Dublin, Ireland. The company was founded in 1995 and primarily acted as an investment vehicle until 2007 when it acquired its first exploration license from the Moroccan government. The company is registered on the London Stock Exchange. The firm has a wholly owned subsidiary in Morocco called San Leon (Morocco) Limited, which is the party that has signed the Morocco/Western Sahara oil exploration licenses for the firm.
- San Leon holds two onshore licenses in occupied Western Sahara, for the Zag Block and the Tarfaya Block, which it obtained from Morocco's state-owned oil company ONHYM (*Office National des Hydrocarbures et des Mines*). Both blocks are located on the border between Morocco and Western Sahara, but the larger part of each is within the territory of Western Sahara.
- San Leon is the first company in the history of Western Sahara under Moroccan occupation to drill onshore in the territory. The company commenced drilling the Laayoune-4 well on the Western Sahara side of the Tarfaya block license area on 21 August 2015. Just eight months previously, the American oil company Kosmos Energy Ltd undertook the first drilling operation in the territory's offshore.
- On 30 September 2015, San Leon announced that its exploratory drill had revealed gas shows. The company stated that it is planning to acquire further 3D seismic surveys of the prospect and may consider re-entering the well.
- The results of the Laayoune-4 drill come at a time when San Leon Energy is reported to be in uncertain financial circumstances, and to be considering take-over bids.
- In December 2006, San Leon together with two other companies - Island Oil and Gas and GB Oil and Gas - negotiated a reconnaissance license with ONHYM for the Zag Block. A year later, in November 2007, ONHYM awarded another exploration license, the Tarfaya licence, to three companies; Island Oil's subsidiary Island International Exploration Morocco (40% and operatorship), Longreach Oil and Gas Ventures (30%) and San Leon (Morocco) Limited (30%).

- San Leon took over Island Oil and Gas, the former operator of the Tarfaya Block and partner in Zag, in late 2010.
- The 7,739.50 km<sup>2</sup> Tarfaya block is located in the western part of Western Sahara, just within and adjacent to the Atlantic coast. The 14,629 km<sup>2</sup> large Zag block is located in the northeast of occupied Western Sahara. Its most eastern parts extend into lands that are not under Moroccan occupation, but are effectively under control of the Saharawi Arab Democratic Republic.<sup>iii</sup>
- San Leon Energy flat out refuses to consult the Saharawi people, stating on Irish national television that *"from our point of view, and certainly from the point of view of the organisation and the government that issues our licence, they are not a representative people"*. To the Irish TV, the company explained it did not want to take into account the wishes of the people of the territory, since that the Saharawis *"would not speak to us"*, and the people *"very much take sides"*. The point is surprising, taking into account that the Saharawis and their civil society and representative organizations have sent numerous letters to San Leon, none of which – to WSRW's knowledge - have been answered.
- In 2009, the UK-based but Oslo listed seismic services company Spectrum was awarded a contract to reprocess a preferred list of 1,400 km of the original 2D seismic shot of the Tarfaya licence. This was documented in San Leon's 2011 annual report, which read that *"to date, 15 leads have been identified, the most prospective of which are located in the north east section of the license. The results of the seismic processing are now complete and this has allowed us to plot co-ordinates for a new 500 km 2D infill seismic programme over the most prospective leads"*.
- In September 2011, Rune Eng, the CEO of Spectrum ASA – the Norwegian mother firm of Spectrum UK, stated in Norwegian business media that *"we do not want to get engaged in Western Sahara. I have no problem in stating, in retrospect, that it might have been a bad idea to take this assignment"*. He said that the London office was probably not aware of the fact that the data came from Western Sahara, and that they would not undertake further assignments, as they had originally planned.
- On 21 July 2015, San Leon and ONHYM signed a joint declaration of principles *"on investing in the Sahara region"*, which refers to principles and standards relative to hydrocarbon exploration, but also states that *"the local populations and their representatives are involved and consulted and that they will benefit equitably and effectively therefrom"*.<sup>iv</sup> From a legal perspective, the joint declaration is redundant, as ONHYM has no legal standing with regard to the parts of Western Sahara that it has incorporated in the blocks operated by San Leon.
- In March 2015, the African Union's Peace and Security Council called for *"a global boycott of products of companies involved in the illegal exploitation of the natural resources of Western Sahara"*.<sup>v</sup> On 14 October 2015, the African Union issued a Legal Opinion, concluding that the ongoing exploration and exploitation of Western Sahara's natural resources are in violation of international law. The Opinion refers to Morocco as the *"occupying power"* and states that *"only the people of Western Sahara have the right to permanent sovereignty over their natural resources"*, which includes the right to be consulted, consent to and actively participate in reaching any agreement that relates to the resources of the territory.<sup>vi</sup>

- Only a week earlier, on 9 October 2015, the UN Committee on Economic, Social and Cultural Rights had issued a strong set of recommendations to Morocco, calling for respect of the Saharawi people's right to be consulted, consent to and benefit from the resource activities in their land.<sup>vii</sup> Morocco rejected the recommendations.<sup>viii</sup>

### ***The Zag Block***

- In January 2008, San Leon signed an agreement for an eight-year reconnaissance license with ONHYM. San Leon now operates the block with a 52,5% interest. Its partners, British company Longreach (today known as PetroMaroc) holds a 22,5% share, while the Moroccan government through ONHYM holds the remaining 25%. In 2009, San Leon announced the conversion of the Zag reconnaissance license into a full exploration license "which was signed on the 18<sup>th</sup> of June in Rabat and approved for release by ONHYM on the 17<sup>th</sup> of July".
- In 2009, an aeromagnetic survey over Zag indicated some structures, including a 60 kilometer long anticline, which potentially hold hydrocarbon reserves.
- San Leon estimated in March 2010 that the gas reserves in Zag would be more than 10 trillion cubic feet, and the oil reserves at around 500 million barrels.
- The 2010 Longreach (now PetroMaroc) annual report read that "with major discoveries directly east of Zag we are confident about Zags prospects. In 2010, the company incurred approximately £194,400 (of which £174,400 was incurred in the fourth quarter) of costs related to the planning of the 2D seismic programme on the Tarfaya and Zag Basin license".
- From July 2011, seismic studies have been taking place in both Tarfaya and Zag through Novaseis, a Warsaw-based company that is 100% owned by the Dutch company Island Oil and Gas B.V. The latter firm was acquired by San Leon during the takeover of their Irish partner Island Oil and Gas in late 2010.

### ***The Tarfaya Block***

- In 2009, San Leon signed an eight-year agreement with ONHYM for the Tarfaya Block. Today, the company operates the block with a 75% stake. Its partner is ONHYM, holding the remaining 25% interest.
- The block is located "onshore and adjacent to the southern Morocco and northern Morocco Saharan coastlines in the northern Tarfaya Basin", as Longreach once put it. 'Moroccan Sahara' is the Moroccan way of formulating 'Western Sahara'.
- In 2008, the potential of the Tarfaya license was confirmed by a so-called Competent Person's Report by Netherland, Sewell & Associates which gave the license area a gross "Probable Prospective Oil Resource" of 711.3 mm (million) barrels.

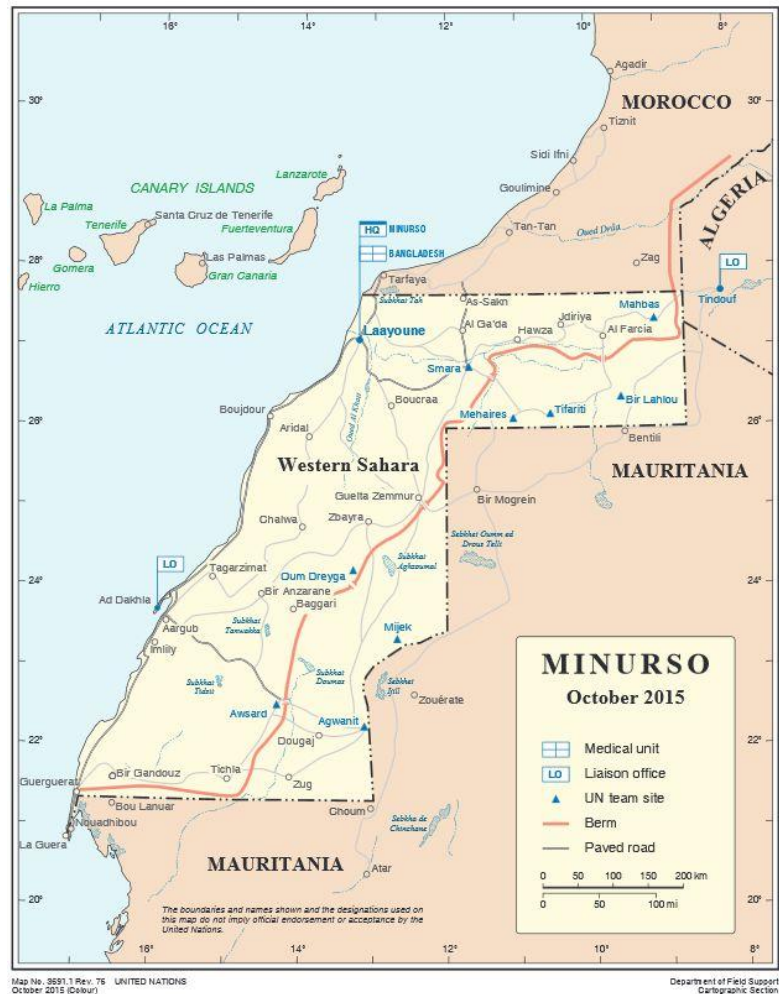
## Background to the Western Sahara conflict

The United Nations today considers Western Sahara a Non-Self Governing Territory without an administering power; a territory that still has to complete the process of decolonisation. In 1975, the country was invaded by Morocco, in blatant disrespect of the Advisory Opinion of the International Court of Justice, which stated that Morocco had no legitimate claims to sovereignty over Western Sahara, and that the Saharawi people, then the sole inhabitants of the territory, must be granted their right to self-determination.

The Frente POLISARIO, the Saharawi liberation movement that is internationally recognised as officially representing the Saharawi people, unilaterally proclaimed the Saharawi Arab Democratic Republic (SADR) in February 1976, and engaged in a civil war against Morocco. In order to avert POLISARIO's guerrilla attacks, Morocco gradually erected a military fortified wall throughout the territory. To this day, the 2000 km + long wall with adjacent mine fields, depicted as a red line on the above map, effectively divides the territory in two. The armed conflict between the POLISARIO and Morocco continued until 1991, when the UN brokered a ceasefire on the promise that a referendum on independence would be held soon after, to be carried out by the UN Mission for a referendum on the Western Sahara (MINURSO) pursuant to UN Security Council resolutions 658 (1990) and 690 (1991). Persistent Moroccan objections to UN efforts to establish an electoral roll prevented the referendum from going ahead, and several UN diplomats resigned in frustration at unacceptable Moroccan interference in all aspects of the UN's work.

Morocco's invasion and annexation of large parts of Western Sahara has led to the displacement of almost half of the Saharawi people, who today still survive in precarious conditions in refugee camps near Tindouf, Algeria. Those who stayed behind now live under the yoke of Morocco's occupation, characterized by gross human rights violations and plunder of Western Sahara's natural resources.

Following their right to self-determination, reaffirmed in over 100 UN Resolutions, the sovereign rights to the land and its resources lie with the Saharawi people. Accordingly, a UN Legal Opinion of 2002 concluded that any exploration or exploitation of Western Sahara's mineral resources will violate international law if not undertaken in accordance with the wishes and the interests of the people of the territory. In addition, international humanitarian law, including the 1949 Geneva Conventions, also applies. The Saharawi people have time and again protested against the ongoing taking of their resources.



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## Endnotes

<sup>i</sup> International Court of Justice, Western Sahara (Advisory Opinion), 16 October 1975, <http://www.icj-cij.org/docket/files/61/6195.pdf>. The concluding paragraph 162 of the Legal Opinion states that “The Court’s conclusion is that the materials and information presented to it do not establish any tie of territorial sovereignty between the territory of Western Sahara and the Kingdom of Morocco [...]. Thus the Court has found no legal ties of such a nature that might affect the application of 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.”

<sup>ii</sup> UN Security Council, Letter dated 29 January 2002 from the Under-Secretary-General for Legal Affairs, the Legal Counsel, addressed to the President of the Security Council (S/2002/161), 12 February 2002, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N02/249/87/PDF/N0224987.pdf?OpenElement>

<sup>iii</sup> The Saharawi Arab Democratic Republic (SADR) was proclaimed by the Saharawi liberation movement Frente Polisario on 27 February 1976 in Bir Lehlou, Western Sahara. The SADR is recognized as an independent state by around 80 countries worldwide and is a full member of the African Union.

<sup>iv</sup> San Leon Energy, Joint Declaration of Principles of ONHYM and San Leon Energy, 21 July 2015, <http://www.sanleonenergy.com/media/1796453/joint-declaration-of-principles-of-onhym-and-sle.pdf>

<sup>v</sup> Communiqué of the Peace and Security Council of the African Union (AU), at its 496th meeting held on 27 March 2015, on the situation in Western Sahara. See more at: <http://www.peaceau.org/en/article/communique-of-the-peace-and-security-council-of-the-african-union-au-at-its-496th-meeting-held-on-27-march-2015-on-the-situation-in-western-sahara#sthash.gHnealf7.dpuf>

<sup>vi</sup> Legal opinion on the legality in the context of international law of actions allegedly taken in the exploration and/or exploitation of renewable and non-renewable natural resources or any other economic activity in Western Sahara, 14 October 2015, <http://legal.au.int/en/content/legal-opinion-legality-context-international-law-actions-allegedly-taken-exploration-and-or-e>

<sup>vii</sup> Comité des Droits Economiques, Sociaux et Culturels, Observations finales concernant le quatrième rapport périodique du Maroc, 9 October 2015, [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolNo=E%2fC.12%2fMAR%2fCO%2f4&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolNo=E%2fC.12%2fMAR%2fCO%2f4&Lang=en)

<sup>viii</sup> Comments and Responses of the Moroccan Government to the Observations and Recommendations of the Committee on Economic, Social and Cultural Rights, published on 16 October 2015, [http://tbinternet.ohchr.org/Treaties/CESCR/Shared%20Documents/MAR/INT\\_CESCR\\_COB\\_MAR\\_21960\\_E.pdf](http://tbinternet.ohchr.org/Treaties/CESCR/Shared%20Documents/MAR/INT_CESCR_COB_MAR_21960_E.pdf)