



Submission No 108

**Review of Australia's Relationship with the
Countries of Africa**

Name: Mohamed MAIL-AININ
Ambassador

Organisation: Embassy of the Kingdom of Morocco,
Canberra

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سفارة المملكة المغربية
كانبرا

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**Senator Michael Forshaw
Chair JSCFADT
Suite R1.120
House of Representatives
Parliament House
Canberra ACT 2600.**

I have the Honour to thank you for your letter of 11th February 2011 regarding the public submission from the Australian Western Sahara Association (Submission No. 104) to be discussed by the Joint Standing Committee on Foreign Affairs, Defence and Trade.

Please find herewith a public submission (6pages) exposing the point of view of the Kingdom of Morocco on the issues raised by the aforementioned submission.


Mohamed MAIL-AININ

Ambassador



Submission No 104

Review of Australia's Relationship with the Countries of Africa

Name: Mohamed MAEL-AININ
Ambassador of the Kingdom of Morocco to the
Commonwealth of Australia, New Zealand and the
Pacific Islands

Country: The Kingdom of Morocco

Joint Standing Committee on Foreign Affairs, Defence and Trade

AFRICA ENQUIRY

Submission from the Embassy of the Kingdom of Morocco to the Parliamentary Inquiry into Australia's Relationship with the Countries of Africa

Facing the emergence of a consensus at the level of the International Community on the necessity of a mutually acceptable political settlement of the Moroccan Sahara issue, through dialogue and negotiation between the parties, including Algeria, this country tries to divert attention and shift the debate into other subjects, notably those related to Human Rights and the exploitation of natural resources.

This manoeuvre resulted in a "disinformation literature" developed by Polisario, Algeria, and unfortunately imitated by some unconditional sympathizers.

This literature is based on erroneous and over simplistic concepts. The AWSA submission is based on false information, and use of false ones.

Believing in dialogue and for raising the awareness of the public in Australia on the complex issue of Western Sahara, South Morocco, I would like, by the following Submission, to clarify aspects of this regional dispute and unveil some wrong allegations, including those regarding **the exploitation of natural resources**, subject of the Submission from the **Australia Western Sahara Association** to Parliamentary Inquiry into Australia's Relationship with the Countries of Africa.

Background:

- Having been subject to a triple colonisation (French in the central, Spanish in the North and South, and international administration over the city of Tanger), Morocco, a North African country, had to negotiate by stages the retrocession of the different parts of its national territory in conformity with the principles and objectives of the UN Charter.
- Since the retrieval of its independence in 1956, Morocco conducted a campaign of decolonisation, and thus recovered parts of its Sahara region from the Spanish occupying power: namely Tarfaya (Cintra Accord of April 1st, 1958), and Sidi Ifni (Fes Treaty of January 4th, 1969). No one at the time opposed this legitimate recuperation process, and no referendum was organized.
- Since recuperating Tarfaya, Morocco continued alone to claim back the other parts of his Western Sahara from Spain. The UN, Non-Aligned Movement, OAU, have been contacted by Morocco regarding the Western Sahara before 1 Algeria created the Polisario in 1973.
- Polisario, fostered by Algeria in cold war circumstances, did not exist during the Spanish colonial period. The only legitimate claim for the territory, at the international level, came from Morocco.

- Morocco subscribed officially, in 1963, the Sahara issue into the United Nations agenda in order to liberate this territory from Spain.
- After signing the Madrid Accord (November 1975), the treatment of the issue of the Sahara has shifted from Chapter VI (Pacific Settlement of Disputes) to Chapter VIII (Regional Arrangements) of the UN Charter. By this shift, the UN recognised a movement from a “decolonisation problem” to “the settlement of a regional dispute”.
- Taking into consideration the evolutionary and complex character of the Sahara issue, the UN is looking for a political solution to a dispute for which the Organisation has developed new concepts (negotiation, third way, mutually acceptable solution...).

Morocco is not an “occupying power”

- Considering Morocco as an occupying power is erroneous and misplaced. None of the UN Secretary General reports, nor any Security Council deals with Morocco as an “occupying power”. During more than 30 years of this artificial regional dispute, no Assembly General Resolution has conferred such a status to Morocco, contrary to the allegations of the other parties.
- Article 42 of the Hague Settlement of 1907 says: **“that a territory is considered as occupied when it is placed under the authority of the enemy’s army”**. However, the presence of the Royal Armed Forces in the Sahara is in line with the logic of their presence in all the Kingdom’s territory and responds to the obligation of protecting the populations against any foreign aggression, including the attacks perpetrated by the polisario.
- According to the 4th Geneva Convention of 1949, an occupying power is **“every state that occupies partially or totally the territory of another State and which benefits from the competences linked to the subsistence and security of these troops”**. Based on this definition, there was no war with another State in the Sahara Region, or any act of aggression to occupy that territory. Morocco alone, since its independence till 1976, opposed to Spain as an occupying power, and thus recuperated its Western Sahara by peaceful negotiation in the same way he recuperated Tarfaya and Ifni.

Allegations regarding the exploitation of natural resources:

- Contrary to the allegations by polisario, Algeria and their sympathizers, regarding the exploitation of natural resources , the opinion of the UN Legal Counsel, Ambassador Hans Corell, addressed to the President of the Security Council, in 29 January 2002, points out, in his analogy analysis, that **“in neither case was it alleged that mineral resource exploitation in such territories was illegal per se” (Paragraph 23)**, and that **“ the specific contracts which are the subject of the Security Council’s request are not in themselves illegal” (Paragraph 25)**.

- What the Legal Counsel affirms is that **“if further exploration and exploitation activities were to proceed in disregard of the interests and wishes of the people of Western Sahara, they would be in violation of the principles of international law” (Paragraph 25).**
- No recognised international body has ever qualified the exploitation of the natural resources by Morocco as acts of plundering detrimental to the inhabitants of the region. Indeed, the majority of the Sahrawi populations live in the Western Sahara and participate actively in the exploitation of its natural resources and benefit from them, and have never expressed opposition to that exploitation. Polisario does not represent Sahrawi populations living in Western Sahara and its position remains a minority.
- The region of the Sahara benefits from an ambitious program of sustainable development in the framework of a global approach that takes into consideration, in conformity with legality and the international law, as well as with the interests and the socio-economic claims expressed by the local populations, either **directly or through the elected instances and the representatives of civil society acting in the territory.**
- The local populations participate in the establishment of policies inherent to the management and exploitation of natural resources at the national level, through the **parliamentary representatives**, and at the local level, through **local officials, representatives union and professional corporations.**
- Concretely, an important budget has been devoted, since 1976, to the development of the region. **This effort that surpasses, by far, the income generated by the exploitation of natural resources**, comes as follows:
 - For the period 2001/2005, an average annual amount of 9,5 billion Dirhams was devoted to the Southern Provinces (Western Sahara), (1AUD=8MAD).
 - Since the creation of the Agency for the Development of the Southern Provinces, the State spent more than 7.7 billion Dirhams for the period of 2006-2009.
 - In the same context, three sectors illustrate particularly this global and exceptional effort deployed by Morocco in favour of the populations of these provinces, characterised by a desert and dry climate, including:
 - 1) **Urbanisation.** 2) **Basic infrastructure:** (964 Km national roads), three ports: (Boujdour, El Marsa and Dakhla) and three airports (Es-smara,, Laayoune and Dakhla). 3) **Drinking water supply.**
- **As far as the phosphates are concerned, the Phos-Bukra mine represents only a minor and insignificant portion of the sales and the reserves of the Office Sherifien des Phosphates (OCP). The maintenance of its exploitation is motivated, above all, by social considerations imposed by the necessity to preserve the jobs of the Western Sahara workers who support more than 700 families.**
- **This evidence has been confirmed by Stephen Zunes & Jacob Mundy, in their book, Western Sahara, presented by AWSA itself, on 2010. The**

authors say that in 1975: “Morocco was already the world preeminent exporter of phosphates..Morocco has eleven billion tons in working phosphate reserves and potentially fifty-eight billion more” (p34), while the “annual exports from Bukra estimated between 1.5 to 3.0 million tons, Morocco is possibly earning 80 to 150 million dollars”. The same source ads “Shortly after the cease-fire, it was reported that Morocco kept Bukra mines open just to keep the workers employed” (p35).

- The European Union, whose several States are involved in finding a solution to the Sahara conflict, just renewed for four years (2011-2015) the agreement on fishing, and for a year its related protocol. This protocol covers the territorial waters of the Sahara, despite the fact that Algeria and the Polisario have used their biased misinterpretation of the opinion of the Legal Counsel of the Secretary-General (2002).

The Moroccan Initiative for Negotiating an Autonomy Statute for the Sahara Region:

- The General Assembly identifies four distinct and equal solutions for self-determination: independence, association, integration (resolution 1541) and any other political status freely determined) (resolution 2625).
- The inapplicability of the referendum in the Sahara has been recognized by many UN officials. Since 2004, the Security Council no longer evokes the organisation of a referendum but promotes seeking a **negotiated and mutually acceptable political solution**.
- In response to this call, the Kingdom of Morocco has presented to the United Nations Secretary General, in 2007, an innovative and substantial autonomy initiative. This proposal has been well received and supported by numerous countries. It has broken the deadlock and created a new dynamic within the Security Council that qualifies it as **“serious and credible”**. UN reports have since underlined the importance of **“realism and the spirit of compromise”**, two core virtues of the Moroccan Autonomy Initiative, and called for intense and substantial negotiations on its basis.
- In close relation to the subject of the current Parliamentary Inquiry, the Moroccan Initiative guarantees that:
 - The Parliament of the Sahara autonomous Region shall be made up of members elected by the various Sahrawi tribes, and of members elected by direct universal suffrage, by the Region’s populations (19).
 - The Head of Government of the Sahara autonomous Region shall form the Region’s Cabinet and appoint the administrators needed to exercise the powers devolving upon him, under the present autonomy statute. He shall be answerable to the Region’s Parliament (21).
 - An Economic and Social Council shall be set up in the Sahara autonomous Region. It shall comprise representatives from economic, social, professional and community groups, as well as highly qualified figures (26).

- The Sahara autonomous Region will have the financial resources required for its development in all areas. Resources will come, in particular from:
 - * taxes, duties and regional levies enacted by the Region's competent authorities;
 - * proceeds from the exploitation of natural resources allocated in the region; (13)
- The Region's populations shall enjoy all the guarantees afforded by the Moroccan Constitution in the area of human rights as they are universally recognized. (25)

Concluding Remarks:

- 1- The Kingdom of Morocco remains engaged in the pursuit of negotiations and reaffirms its political will to move forward towards a political solution of compromise.**
- 2- The other parties should abandon their obstructive position and their strategy of deviation and to engage resolutely and in good faith in the pursuit of a realistic and achievable solution that will bring peace, stability and prosperity to the Maghreb Region.**
- 3- The International Community, among which Australia is one of the most important states, should support the ongoing dynamic of negotiation and denounce the unveiled strategy of Algeria and the Polisario aimed at countering the actual political dynamic and to sabotage the negotiation process.**