

**AGROPOLYCHIM
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BULGARIA**

To the Attention of: Mr. Philippe Rombaut / CEO

Madrid, 7 October, 2008

Regarding imports of phosphates from occupied Western Sahara

Western Sahara Resource Watch, an organisation with members in more than 30 countries that works in solidarity with the Sahrawi people, is aware that your company for some years has been importing phosphates from occupied Western Sahara.

We would like to make you aware of the fact that the natural resources extracted in Western Sahara do not belong to Morocco as the territory's occupying power, and to clearly underline to you that these imports from Western Sahara are highly unethical and politically controversial. They are furthermore in violation of international law.

As you perhaps know, Western Sahara has been occupied by Morocco since 1975, and since then, the majority of the local population, the Sahrawis, has been living in refugee camps in the Algerian desert. These refugees await a settlement of the conflict, but Morocco refuses to implement the peace agreements that the Moroccan and Western Sahara government have already agreed to.

In the meantime, the Moroccan state profits from natural resource exploitation in the occupied area. The Moroccan state phosphate company, OCP, has extracted phosphate rock from the area since shortly after the invasion.

While the majority fled, a minority of the Sahrawi population still remains in what are now the Moroccan occupied areas. Here, widespread human rights violations prevail. It is clear that neither the indigenous population that remains in Western Sahara, nor those who left, benefit from the Moroccan exploitation of phosphates in Bu Craa. From the Moroccan take-over of the management of the Bu Craa plant from Spanish colonial authorities, significant adverse changes resulted, with serious loss of employment opportunities for native Sahrawis. The French non-governmental organisation France Libértés, headed by Danielle Mitterrand, carried out a mission to Western Sahara in 2002 and has described these changes thoroughly in one of its reports. The France Libértés mission met with 200 former Sahrawi workers from the mines. *All* of them claimed having suffered various violations of their socio-economic rights. Regarding those who still work in the company, the report states that "[n]ot only have the Saharawi workers benefited very little if not at all, of any promotion, but they have mainly been subject to downgrading measures in the scale of the jobs they held, without any prior information, nor any reason." The result today, over 30 years later, is that the Sahrawis are systematically marginalised from this industry. Please find the France Libértés report here: www.arso.org/FL101102e.pdf.



Carrying out trade with phosphates originating from Bu Craa clearly gives the impression that your company offers legitimization to Morocco's illegal presence in the territory. The trade also contributes to finance Morocco's expensive occupation. The government in exile of the Saharawi Arabic Democratic Republic (SADR), recognized by more than 80 states, has strongly condemned international participation in the Moroccan government's resource exploitation in Western Sahara.

It is evident that the Moroccan owned OCP's activities in Bu Craa are in violation of international law. An opinion issued 29 January 2002 by the UN Under-Secretary General for Legal Affairs, Hans Corell, looks at the legality of the Moroccan offering and signing of contracts with foreign companies for the exploration of mineral resources in Western Sahara. For your ease of reference, we enclose a copy of the opinion with this letter.

Summing up international law in the field, Mr. Corell emphasises that the General Assembly has consistently condemned the exploitation and plundering of natural resources and any economic activities which are detrimental to the interests of the peoples of those Territories and deprive them of their legitimate rights over their natural resources. His final conclusion 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 applicable to mineral resource activities in Non-Self-Governing Territories. All evidence points to the fact that the phosphate industry is neither according to the local population's interests nor its wishes.

Corell also states that Morocco is not considered legally as the administering Power of the territory. Western Sahara is, however, a so-called Non-Self-Governing Territory, and the Western Sahara question is treated in the United Nations as a decolonisation issue. This implies that the Moroccan government under no circumstance has the right to act on behalf of the people of the occupied territory.

The same breach of international law would naturally also apply to any party that would ship or purchase these stolen goods from OCP. We are convinced that there are sufficiently strong legal arguments for having the question of the import of Western Sahara phosphate to be readily decided by a court of competent jurisdiction.

Indeed, several former investors in Western Sahara have acknowledged the ethical, political and legal dilemmas associated with participation in natural resource exploitation in the occupied territory. For instance, seven European shareholders divested from the US oil company Kerr-McGee, at a total value of some \$80 million, due to ethical concerns. Kerr-McGee had an oil reconnaissance agreement with the Moroccan state oil company ONHYM, for offshore oil exploration. The Norwegian government issued an excellent statement on the ethics of their project, stating that

“Kerr-McGee through its exploration activities most likely will enable Morocco to exploit petroleum resources in the area. The [Fund's Ethical] Council regarded this as a particularly serious violation of fundamental ethical norms e.g. because it may strengthen Morocco's sovereignty claims and thus contribute to undermining the UN peace process.”

We strongly recommend that you read the Norwegian government's statement, a copy of which is also enclosed with this letter.

Another oil company, TGS-Nopec, lost close to 30 of its shareholders in 2002-2003, until it pulled out of the area. Seven oil companies have to this date left Western Sahara, as a consequence of our dialogue with their shareholders, trade unions, financial partners, or with media, harbour administrations, national authorities etc.

We hope your company has already noticed that due to the ethical concerns, the world's biggest fertilizer company, Yara, decided to terminate their phosphate trade with Bu Craa phosphates in 2005.

WSRW strongly urges your company to follow the example of Yara, take responsibility as a socially responsible enterprise should, and immediately terminate phosphate imports from Western Sahara.

We believe it should also be in the interest of the Bulgarian government, who has always shown support for the Sahrawi people's legitimate right to self-determination.

If Agropolychim requires further information on Western Sahara, its legal status, the opinion of the UN General Assembly and Security Council, the situation for its refugee population or the grave violations of human rights in the occupied territories committed by the Moroccan state, please do not hesitate to contact us. We will be pleased to reply.

Looking forward to hear from you,

Sincerely yours,

Javier García Lachica
International Coordinator of WSRW
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A copy of this letter has been sent to the Bulgarian embassy in Madrid.

Attached:

- Legal opinion by the UN Secretary General for Legal Affairs, Hans Corell, dated 29 January 2002.
- Press release and recommendation from the Norwegian Ministry of Finance on Kerr-McGee, April 15th, 2005.
- Article on the withdrawal of the oil company Kerr-McGee from Western Sahara, and on the termination of Yara's importation.
- Background to the Western Sahara conflict.

Background: The Western Sahara conflict

The conflict in Western Sahara is not a detachment struggle, but one of decolonization. Western Sahara was previously a Spanish colony named Spanish Sahara. Before Spain left the territory in 1976, the area was occupied from the north by Morocco, and from the south, by Mauritania. Since the area was never formally decolonized, as the UN had demanded for over a decade, the Western Sahara is still, to this day, treated as a decolonization issue in the UN. As a colonial issue, the UN has repeatedly emphasized the Sahrawi people's right to self-determination over the Western Sahara's future territorial status.

This right is widely acknowledged: in addition to the efforts by the UN Fourth Committee (the committee for decolonization issues), the UN Security Council has passed a number of resolutions stating and reaffirming the Saharawi people's right to self-determination. This was further acknowledged by the International Court of Justice in The Hague in 1975.

In a UN negotiated peace plan from 1990, Morocco recognizes this right, which was reaffirmed in the so-called Houston Agreement from 1997. The latter agreement also includes a plan for carrying out a referendum.

While neither the UN nor any of the states in the world have acknowledged Morocco's claim to the territory, some 80 states have to this date recognized the Saharawi Arabic Democratic Republic (SADR), announced by the Polisario Front in 1976. SADR is a member of the African Union. Polisario, established as a liberation front in 1973 during the time it was still a Spanish colony, is recognized by the UN as the legal representative of the people of Western Sahara.

Today, Western Sahara is still regarded by the UN as a Non-Self-Governing Territory, and Morocco is not the legal administering Power, but an occupational power.

From 1975 there was a war between Morocco and Polisario Front. Mauritania has later withdrawn, but the armed conflict between Morocco and Polisario continued until the 1991 cease-fire. With about 90 percent of its army in Western Sahara, Morocco today controls approximately two thirds of the territory.

Following the occupation in November 1975, the majority of the Sahrawis fled their country under bombing. Today, 165.000 Sahrawi refugees are languishing in refugee camps in the warmest part of the inhospitable Algerian desert, totally dependent on foreign humanitarian aid. The population remaining in the areas under Moroccan occupation, approximately 60.000 Sahrawis, is subjected to widespread human rights violations, such as torture, forced disappearances and arbitrary detention. For more information on these violations, please see the homepages of Amnesty International.

Today, Morocco shows no intention of abiding by the peace agreements it has signed. For a long time, the key issue of the conflict was who should be eligible to vote. The Houston agreement goes into detail on this issue, but Morocco now refuses to accept the voter lists that the UN elaborated from the agreed principles. Indeed, Morocco has now gone to the point of rejecting that a referendum should take place at all, claiming, in breach of the peace agreements, and dozens of UN resolutions, that the referendum option for a Western Sahara conflict is "out of date". Polisario, on the other hand, accepts that the Moroccans living in Western Sahara should be eligible to vote. Morocco refuses even that.

Progress today is at a standstill, and intensifying Sahrawi impatience over their lengthy suffering. At the same time, the natural resources of the area are depleted, with the participation of foreign companies, in disrespect of the wishes and interests of the local population.