

To the attention of Dr. Bernd Scheifele
CEO of HeidelbergCement AG



Brussels
1 March 2018

Re.: HeidelbergCement's involvement in cement industry in Western Sahara

Dear Dr. Scheifele,

Western Sahara Resource Watch (WSRW) is privileged to write to you. WSRW's purpose is to preserve the natural resources in occupied Western Sahara for the usage of its people, the Saharawis, and support the right to self-determination for the people of the territory.

WSRW is currently writing a report about the problematic aspects of your company's operations in Western Sahara.

Western Sahara is known as Africa's last colony. For more than 40 years, the people of the territory have been noted by the United Nations as having the right to self-determination. When the former colonial power Spain abandoned Western Sahara, the Moroccan army invaded and occupied the territory despite the International Court of Justice had neglected any Moroccan claims. The United Nations Mission for the Referendum in Western Sahara (MINURSO) was established and has been present in the territory for more than 20 years, to ensure that Saharawi people will exercise their right to self-determination.

The facts of Morocco's occupation of Western Sahara are well known. The occupation fails to meet basic requirements of the *Fourth Geneva Convention*, the *International Covenant on Civil and Political Rights* and the *International Covenant on Economic, Social and Cultural Rights*, treaties that almost all countries, including Morocco, have ratified and supported.

The aspects of international humanitarian law applicable the Moroccan occupation of Western Sahara is well described by the Advocate General of the Court of Justice of the EU in an opinion of 10 January 2018.

From what we understand, the Moroccan cement company Ciments du Maroc (CIMAR) is a fully owned subsidiary of Italcementi, which in turn is a subsidiary of HeidelbergCement. Its production plant is located near the city of El Aaiún, under Moroccan occupation.

All references on the website of HeidelbergCement and its subsidiaries Italcementi and Ciments du Maroc give the impression that the city of El Aaiún and your plant is located in Morocco:

"In Morocco we operate through Ciments du Maroc 3 cement plants in Aït Baha, Safi, and Marrakech, 2 grinding centers in Laâyoune (Indusaha) and Jorf Lasfar, 5 quarries, and 29 concrete batching plants." <https://www.heidelbergcement.com/en/morocco>

On the website of Ciments du Maroc (<https://www.cimentsdumaroc.com/fr>), the reference to Western Sahara is even more particular. The website refers to the location of Laayoune in "Southern Provinces", which is the Moroccan terminology of the Western Sahara.

That is also mentioned in the presentation of the El Aaiún production: <https://www.cimentsdumaroc.com/fr/centre-de-broyage-de-laayoune> (Also accessible here: http://wsrw.org/files/dated/2018-03-01/ciments_du_maroc_website_01.03.2018.pdf). The reference to “Provinces du Sud” is made in every annual report by Ciments du Maroc from 2010 to 2016. The latest annual report also refers to the “Provinces Sahariennes”, another Moroccan term of the territory. There is no mention of the words “Western Sahara” in any context on your website or annual reports relating to your company’s operations in El Aaiún.

In a letter to your subsidiary Italcementi on 20 October 2017, we enquired about the operations in the territory, including the erroneous references to Western Sahara. We sent new letters on 19 February 2017 and 5 December 2017, with copy to the information department of HeidelbergCement. None of the letters were responded to. Find our original letter here: http://wsrw.org/files/dated/2016-10-20/wsrw-italcementi_20.10.2016.pdf

We regret to see that the errors occur still on the websites of HeidelbergCement and its subsidiaries.

We have three general concerns regarding HeidelbergCement’s operations in the part of Western Sahara currently under Moroccan occupation.

First, the construction and operation of the CIMAR cement factory in El Aaiún seems not to have been consented to by the Saharawi people. It is an accepted principle of international law that development in a territory such as Western Sahara – occupied militarily and non-self-governing – cannot be done unless there has been consent of the legitimate representatives of the inhabitants of the territory.

Second, building infrastructure in Western Sahara entrenches the occupation. Such activity gives the appearance of normality and legitimacy to a colonization that is in itself manifestly illegal. We expect that cement - potentially from your company – is used for Moroccan infrastructure, housing programmes, administration, military etc. It is pertinent to highlight that, in general, by supporting or assisting Morocco in what is an illegal continuing occupation there is the prospect of criminal liability as a matter of international humanitarian law. The continuous reference to Western Sahara as being in “Morocco”, or “Southern provinces” underlines how a company’s presence can take part in the legitimisation of Morocco’s baseless demands to that land.

Third, the Saharawi people in exile at refugee camps sees no benefit of the cement factory in Western Sahara.

All things considered, we would be grateful for an answer to the following questions:

1. How has HeidelbergCement assured itself of the consent of the Saharawi people, through their internationally recognized representative body, the Polisario Front, for the operation of the cement factory, and construction of related energy infrastructure in Western Sahara?
2. How does HeidelbergCement ensure that its activities are not used by the Moroccan government in its strategy to entrench the occupation, demographically, politically, militarily?

It is worth noting that the Court of Justice of the European Union (CJEU) on 21 December 2016 ruled that the EU-Morocco agricultural agreement is not applicable to Western Sahara, as the territory is “separate and distinct” from Morocco. As such, the CJEU echoes the 4 July 2014 Decision of Spain's High Court, the *Audiencia Nacional* which confirms that Spain, not Morocco, is the administering

power over Western Sahara, and that the "territory cannot be considered Moroccan" (Case-Law Registry N° AAN 256/2014).

Following these developments:

3. In light of the consistently erroneous geographical descriptions and maps on your company's website, annual reports and company presentations, how does HeidelbergCement assess the views of the CJEU, that Western Sahara is not part of Morocco?

Lastly, we would appreciate clarifications to the following two questions.

4. Does HeidelbergCement have any policies in place to identify which kind of users in Western Sahara are allowed to purchase – or not purchase – products made by your company?
5. Which is the exact location of the quarries that supplies the cement factory with raw materials?

We welcome the opportunity to provide you with any additional information that you may require to study this matter more closely. We thank you for your consideration of our letter and look forward to your reply.

A CC of this letter has been sent to Italcementi.

Sincerely,

/sign/.

Lydia Groche
Western Sahara Resource Watch
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