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Kehmstedt, Madrid, 22nd of October 2008

CEO Wouter De Geest
BASF Antwerpen NV
Haven 725
Scheldelaan 600
B-2040 Antwerpen
BELGIUM

Regarding imports of phosphates from occupied Western Sahara

Dear Mr. De Geest,

The international solidarity organisation Western Sahara Resource Watch (WSRW), has over recent years been monitoring the importation to Europe of phosphates from a Moroccan state phosphate company's operations within Bu Craa, occupied Western Sahara.

According to the WSRW branch in Belgium, BASF Belgium has 2 weeks ago received approximately 25.000 tons of phosphates originating from the Bu Craa mines. The phosphates were unloaded of a vessel, the Novigrad, at the harbour of Ghent.

WSRW researchers were on October 9th in contact BASF Belgium, but were unable to get any confirmation on the aforementioned, nor to get answers to questions relating to the purchases. Mr. Roland de Clerck told them to submit their questions through an online form. We believe however, that a direct and lucid clarification on such matters is both in the interest of BASF, as a socially responsible enterprise, and the Western Saharan people.

We kindly ask you to clarify the following questions:

- Could you confirm that BASF Belgium has indeed imported phosphates from the Bu Craa mines?
- Are our sources correct in stating that the received volume was 25.000 tons?
- How many times during the last 5 years has BASF imported from the Bu Craa mines? (please specify by volume and date of receipt)
- Since the vessel carrying the phosphates from El Aaiún to Ghent is now heading for Kiel, could you please clarify whether the vessel was

emptied in Ghent, or whether parts of the vessel's cargo were shipped to Kiel?

- On which plant is BASF processing this phosphate?
- And is the final product destined exclusively for the Belgian markets? If no, which other markets?

It is by no means our purpose to put BASF on the spot. But we think it is important to emphasize 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 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 people, the Saharawis, have 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. A minority of the Saharawi people still remains in what are now the Moroccan occupied areas, where they are subject of widespread human rights violations.

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 Western Sahara since shortly after the invasion. 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.

Carrying out trade with phosphates originating from Bu Craa clearly gives the impression of a 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.

The same breach of international law would naturally also apply to any party that would ship or purchase these stolen goods from OCP. Consequently, we deem it of high importance to get clarifications on the abovementioned questions.

If BASF 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 Western Sahara Resource Watch. They will be pleased to reply.

Looking forward to hear from you as soon as possible for clarifications on the above questions,

Sincerely yours,

Margot Keßler
Former Euro-Parliamentarian

Javier García Lachica
International Coordinator,
Western Sahara Resource Watch

A reply can be sent to either Javier García Lachica at j.g.lachica@gmail.com or +34-(0)615 917 339 or to Margot Keßler at telephone: +49-(0)36338-42905 or +49-(0)173-3700878

Attached:

- Legal opinion by the UN Secretary General for Legal Affairs, Hans Corell, dated 29 January 2002.
- 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 Saharawi 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 Saharawis fled their country under bombing. Today, 165.000 Saharawi 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 Saharawis, 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 Saharawi 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.