

Mr. Marius Kloppers

Chief Executive Officer
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Brussels, August 22, 2010

Regarding PCS phosphate imports from occupied Western Sahara

Dear Mr. Kloppers, CEO of BHP Billiton,

We are writing following the announcement of BHP Billiton's interest in acquiring PotashCorp (PCS). As a potential new owner of that company, we expect you to address an issue which is of great concern to us, PCS's phosphate imports from occupied Western Sahara.

PCS has imported phosphates from Western Sahara for processing in Geismar, Louisiana, for decades. We would like to inform you that trade with and transportation of mineral resources from occupied Western Sahara is politically controversial, highly unethical and potentially against international law.

Most of Western Sahara is occupied by Morocco since 1975. However, to this day, no state or international organization recognizes Morocco's sovereignty over Western Sahara. The United States and Canada, among others, have been very clear that they do not recognize Moroccan sovereignty over Western Sahara. The United Nations still consider Western Sahara as a Non-Self Governing Territory pending the process of decolonisation. Furthermore, the UN have repeatedly stated that the illegal occupation must end and that the Sahrawi population is entitled to freely exercise their right to self-determination through a free, fair and transparent referendum.

The occupation of Western Sahara has resulted in enormous suffering and deprivation for the Saharawi people, the rightful owners of the land and the natural resources of Western Sahara. Approximately 165,000 Saharawi are languishing in refugee camps in the inhospitable Algerian desert since 1975. The Saharawi population remaining in areas under Moroccan occupation is subjected to grave human rights violations, such as torture, forced disappearances and arbitrary detention.

By importing phosphates from Western Sahara, PCS thus supports the continuation of the illegal occupation and contributes to undermining the UN peace process. Money from phosphate extraction and trade goes directly to the Moroccan state-owned company located in Western Sahara, OCP. This kind of support makes Morocco less inclined to contribute to finding a solution to the occupation, and makes delaying tactics and attempting to profit from the existing situation more attractive. The

phosphate trade in Western Sahara therefore increases the risk of further armed conflict, destabilization and suffering in the region.

Morocco's control and exploitation of Western Sahara also hurts the Saharawi's labour rights and their economic development. According to a report by the French organization France Libertés - Fondation Danielle Mitterrand, the Saharawi have been systematically marginalized from the phosphate industry in Western Sahara. In 1968, before Morocco took control over the phosphate mines, all 1600 workers in the industry were Saharawi. Today, the latest figure we have, is that 1568 of the 1734 workers are Moroccan settlers who have illegally been moved into the territory.

The companies involved in this trade should furthermore be aware that the trade is in violation of international law. The International Court of Justice in its 1975 *Western Sahara Advisory Opinion* established that Morocco has no legal claim to Western Sahara. That same opinion affirmed that the Saharawi population has a right to self-determination, which includes, inter alia, the right of permanent sovereignty over its natural resources. Permanent sovereignty over natural resources is a customary principle of international law. Numerous resolutions of the United Nations Security Council and General Assembly and a legal opinion by the former UN Under-Secretary General of Legal Affairs, Mr. Hans Corell on 29 January 2002 affirm this position (Find his letter to the Security Council on www.arso.org/Olaeng.pdf). Because the Saharawi people have not been able to exercise their right to self-determination, and because they have not been properly consulted, trade with Morocco of natural resources emanating from Western Sahara is a violation of the Saharawi's right to permanent sovereignty over their resources.

Businesses around the world have realized their ethical obligations and have stopped importing natural resources from occupied Western Sahara. For example, Yara, the world's biggest fertilizer company, terminated the imports to Norway in 2005 for ethical reasons, and have stated that they await further imports until the conflict is solved. A dozen shipping companies have also stated only the last years that they will not carry out such transports. In the 1980's even BHP itself abstained from oil exploration offshore the territory of Western Sahara due to the political situation in the territory. The situation, as you perhaps know, has not changed since then.

WSRW knows that Morocco's plunder of Western Sahara is an increasing concern among the ethical investor community worldwide. Only earlier this year, Scandinavian investors started excluding PCS from its portfolios of ethical reasons, due to its failure to put a stop to the Western Sahara imports.

Therefore, we appeal to BHP Billiton to demonstrate its attachment to international legality, human rights and basic standards of corporate social responsibility by tackling PotashCorp's involvement in shipping phosphate of Western Sahara origin, upon acquiring the company.

We urge BHP to issue a statement that upon acquiring PotashCorp, all phosphate-imports from occupied Western Sahara will be terminated. We hope to hear from you whether this is something that your firm intends to do.

In order to present our concerns more clearly, we will ask for a meeting with your firm as quickly as possible, preferably this week in Melbourne. A meeting in Melbourne can be arranged directly with

the secretary or the Australian Western Sahara Association, Cate Lewis, at mobile +61 407-288-358, lewis.cate@gmail.com.

Alternatively we can meet representatives of your firm in London, or in Louisiana, USA, where PCS has its operations. If that is the case, the meeting can be arranged via the undersigned. Feel free to suggest any other location for a meeting, as our organisation is represented in 36 countries.

Looking forward to hear from you.

Yours sincerely,

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