

To  
Mr. Ian Hansen, Managing Director  
Wesfarmers Chemicals, Energy & Fertilisers  
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Oslo

08. December 2011

## **Regarding imports from Western Sahara**

Dear Mr. Hansen

As you perhaps know, the Norwegian Government owned Pension fund, this week announced the exclusion of Potash Corp and FMC Corp from their portfolios due to the firms' imports of phosphate rock from Western Sahara. The imports was found to be a "particularly serious violation of fundamental ethical norms".

Please find the recommendation from the fund's Council on Ethics here:

[http://www.regjeringen.no/upload/FIN/etikk/2011/Rec\\_phospahte.pdf](http://www.regjeringen.no/upload/FIN/etikk/2011/Rec_phospahte.pdf)

In order to further understand a) the scope of the current and future imports from Western Sahara by Wesfarmers Ltd, b) the nature and effect of your much mentioned RTO technology investment vis-à-vis your overall production, c) the statements from the Norwegian government's pension fund's Council on Ethics regarding your firm, and d) your firm's interpretation of the legality and ethics of the trade, we would appreciate an answer to a handful questions.

The recommendation from the Council on Ethics states the following:

"Another company in the GPFG portfolio which also imports phosphate from Western Sahara, the Australian company Wesfarmers Ltd., has nevertheless committed itself to making the necessary changes in its production process so that the need to buy phosphate from Western Sahara will be eliminated."

As a source for this statement, the Council on Ethics uses your 2009 Sustainability Report:

[http://media.corporate-ir.net/media\\_files/irol/14/144042/asx/WES09-098%202009%20Sustainability%20Report.pdf](http://media.corporate-ir.net/media_files/irol/14/144042/asx/WES09-098%202009%20Sustainability%20Report.pdf)

However, after carefully reading the mentioned sustainability report, we see no reference to support the claim that that your firm has issued a commitment to *eliminate* the imports from Western Sahara. The only reference to Western Sahara trade is that your firm is investing in technology that will "enable us to broaden our phosphate rock supply base". To the contrary, from what we understand, your firm has openly stated that it will *not* commit to eliminate the imports until you find out effective the new process is.

1) *Has your firm since 2009 ever stated that you intend to eliminate the imports from Western Sahara?*

2) In a statement from 20 May 2011, the construction of the \$5 million RTO technology investment was still not begun. It was stated that the purpose of the technology was to “reduce our reliance” on this rock. No reference was made to elimination of the imports.

<http://www.csbp.com.au/Home-Corporate/News-and-Media/CSBP-continues-work-to-diversify-phosphate-rock-su.aspx>

The same applies to the 2011 Sustainability Report.

*Does your firm intend to eliminate the imports from Western Sahara, as the Council on Ethics states?*

3) The Council on Ethics writes “The company’s decision is, as far as the Council on Ethics understands, the result of a dialogue between the company, some of its investors and interest groups.” The Norwegian Support Committee for Western Sahara understands that your firm has had meeting with both the Frente Polisario representative to Australia, as well as with a representative of the Saharawi trade union for journalists. The Australian Western Sahara Association has – as a shareholder – presented their case at the annual meetings of your firm, protesting and questioning the trade. We find it interesting that your firm and shareholders repeatedly refer to meeting society groups with your management. Yet, the imports are being maintained. We are concerned that such references might, inappropriately, give the impression that the dialogue has been fruitful or that the firm has positively responded to the demands of civil society or the rights of the Saharawi people.

*In order to understand your statement correctly: are you here referring to meetings with OTHER civil society groups than the ones mentioned by us above? If yes, which?*

4) *How many tonnes of phosphates have CSBP been importing from Western Sahara annually during the years 2009, 2010 and 2011 and what was the annual value of this import?*

5) *Does CSBP plan further initiatives to reduce the imports from Western Sahara, or is it solely limited to the RTO technology of 5 million Australian dollars?*

6) *When will the RTO technology, which was first announced in 2009, be finally operative?*

7) *What volume (in percentage of CSBP’s total imports) does CSBP expect to source from Western Sahara during the years after the new technology has been installed?*

8) *Does CSBP today have a long term agreement for purchase of phosphates of Western Sahara origin? If yes, when does this agreement expire?*

9) Your firm states in several reports that you wish to “reduce” the dependence on such phosphates. *Does this mean that CSBP plans to enter into agreement(s) for deliveries from occupied Western Sahara once the current agreement expires?*

10) According to a UN Legal Opinion, written by the UN Legal Counsel in 2002, it would be in violation of international law to carry out such activity if was in the disregard of the wishes and interests of the people of Western Sahara. *What has CSBP done to assure whether the*

*trade of Western Sahara phosphate is in accordance with the wishes and interests of the Saharawi people?*

11) It seems to us that CSBP has a different opinion on the legality of the trade as that of the Council on Ethics. In the mentioned 2009 Sustainability Report, which the Council on Ethics referred to, your firm wrote: “we have obtained both internal and external legal opinions regarding the purchase of phosphate rock from this region and are satisfied that it is not in breach of international law.”

The existence of such “independent legal advice” is repeated in the 20 May 2011 statement <http://www.csbp.com.au/Home-Corporate/News-and-Media/CSBP-continues-work-to-diversify-phosphate-rock-su.aspx>

*Which “external legal opinions” are you here referring to? Who wrote them? Could you forward us a copy of this legal advice?*

Since the matter of the Norwegian government’s ownership in the phosphate importing firms, including in Wesfarmers Ltd, now has become of a matter of public interest in Norway, we have published this letter to Wesfarmers on our webpages, [www.vest-sahara.no](http://www.vest-sahara.no), and hope for your understanding.

Looking forward to hear from you,

Sincerely,

/sign./

Erik Hagen  
Director,

Norwegian Support Committee for Western Sahara

A copy of this mail has been sent to:

- Communications Manager, Wesfarmers Ltd, Christine Dargie, [cdargie@wesfarmers.com.au](mailto:cdargie@wesfarmers.com.au)
- Sustainability manager, Wesfarmers Ltd, Cameron Schuster [cschuster@wesfarmers.com.au](mailto:cschuster@wesfarmers.com.au)
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