

Brussels
14 March 2014

To the attention of Mr. Andrew G. Inglis
CEO, Chairman of the Board of Directors
Kosmos Energy Ltd.
C/O Kosmos Energy LLC
8176 Park Lane
Suite 500
Dallas, Texas 75231

Re: Participation in unethical oil exploration on the coast of occupied Western Sahara

Dear Mr. Inglis,

Western Sahara Resource Watch (WSRW) has taken note of Kosmos Energy's plans to commence exploration drilling in the coastal waters of occupied Western Sahara in October this year.

As is evident from your website and position statement, dated February 2014, regarding hydrocarbon exploration offshore Western Sahara, you are aware that the Boujdour Block is located in the area of Western Sahara that is under Moroccan occupation. Morocco's continued presence in the area is in violation of the UN Charter and numerous UN Resolutions – documents which are also referred to in your company's position paper on Western Sahara.

We would like to point you to a key-element is missing in that position paper. As it correctly notes, the UN considers Western Sahara to be a Non-Self Governing Territory. What the paper fails to mention is that the people of the territory, the Saharawi people, have been accorded the right to self-determination – a right confirmed over several decades by the International Court of Justice in numerous cases, a right reiterated in more than a hundred UN resolutions. However the exercise of that right has been continuously blocked by Morocco.

It is astonishing that the essential element of the right to self-determination is missing from Kosmos' position paper, which does go to great lengths to attempt to demonstrate that the hydrocarbon exploitation would be to the benefit of the Saharawis and that they would even be in agreement with such development. However, it completely misses the very essence of the right to self-determination: the right to determine the future status of the territory and its possessions.

The UN Legal Opinion on mineral exploration and exploitation in Western Sahara (S/2002/161) that is frequently cited in your position paper concluded that the wishes and interests of the Saharawi

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Western Sahara Resource Watch works to raise awareness of the illegal occupation of Western Sahara and to support the recognition of the Saharawi people's right to self-determination.

people are the basis to determine the legality of any such activity. Ironically, the Opinion came in direct response to the exploration work carried out by your former partner Kerr-McGee on the very same Boujdour block in occupied Western Sahara.

The Opinion confirms that Morocco is not the administering power of Western Sahara, and states that the Opinion is done by analogy; as if Morocco were the administering power. Because – the Legal Counsel concluded on the basis of well-established law – any possible limitation of the powers of such entity acting in good faith would certainly apply to an even greater degree to an entity that did not qualify as the Administering Power but only *de facto* administered the Territory. The author of the Opinion has on numerous occasions underlined that distinction in the text. It is this *de facto* status which Morocco has over a part of Western Sahara.

Morocco's *de facto* administration of parts of Western Sahara, a term that is far too distinguished to describe what is in fact a brutal and illegal occupation, has little legal significance, and is not recognised as a *de jure* administration by any State in the world.

Morocco continues to trample the most basic human rights of Saharawi that live under the yoke of its occupation. Approximately 160,000 Saharawi refugees that fled during the war continue to live in inhumane conditions in Algerian refugee camps, located in the most inhospitable part of the Saharan desert.

This is the regime that Kosmos chooses to team up with for activities in a territory that many have fled, while their relatives remain in a climate of constant terror. This is the government that Kosmos chooses to partner with, and co-sign a Joint Declaration of Principles with. And it is this same government which, according to your company, is expected to carry out stakeholder-consultations – through a body created by the King of Morocco - that would prove that the Saharawi people want hydrocarbon development. One can hardly expect the Economic, Social and Environmental Council (CESE) to act as an independent body, with its employees handpicked and appointed by the network of the Moroccan King.

It should be underlined that Morocco is in no position to speak on behalf of the Saharawi people, or to even conduct consultations of the Saharawi people. Firstly, because a significant part of Saharawi society is residing in refugee camps in southwest Algeria, as a direct consequence of Morocco's invasion and subsequent annexation of their homeland. Second, because the Saharawis living under Moroccan occupation do not get a chance to speak their mind without risk to their physical safety. While the Kosmos-ONHYM Joint Declaration underlines the need for Morocco to follow "international norms", Morocco during the Universal Periodic Review session at the UN Human Rights Council in 2012, specifically rejected the proposal from one of the member states to "ensure that the procedures governing registration of civil society organisations, including organisations advocating for the Saharawi people's right to self-determination, are in conformity with international standards". Saharawi cannot register organisations, political parties, trade unions etc for the defence of their legitimate rights, as would be the prerequisite for the fulfilment of the UN Legal Opinion. So even if Morocco and Kosmos had tried to assess whether the oil development is in accordance with the wishes of the people, Morocco has rendered such a process impossible through the limitations it has placed on the expression of the Saharawi's opinions.

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Kosmos seems adamant that its activities are carried out to the benefit of the people of the territory – but here again it misses the point of self-determination completely. It is not up to Kosmos to determine whether or not its activities would be beneficial, or in the interest or the wishes of the Saharawi people, nor is it for Moroccan King, government or any of the institutional bodies to make such assertions. It is the Saharawi people, the sole and original inhabitants of Western Sahara, who have the right to self-determination over their territory and its natural resources. The wishes of the Saharawi people cannot be ignored, and are a key-point to understanding the entire concept of self-determination.

Kosmos does mention that it is committed to listening to all stakeholders. The term stakeholder would be highly inappropriate to describe the Saharawi people, as the people of the territory in which Kosmos is undertaking business activities.

Kosmos has obviously taken Morocco's position - including its views on granting autonomy to a territory over which it has no legal claim - as a point of departure. **We would be grateful to hear from Kosmos what has been done to seek the consent from the Frente Polisario, the other party to the conflict, and how their views have been taken into account. Similarly, we would like to hear from Kosmos how it sees that civil society in Western Sahara can freely express their will regarding this issue, in a context where Morocco in the UN Human Rights Council is openly and specifically stating its refusal to follow international minimum norms.** The UN puts the two parties on equal footing in the mediated peace talks. As a self-described "responsible corporate citizen", continuously referring to the UN in its own position paper, we do not see why Kosmos would not do the same.

In choosing to align itself with the Moroccan government, through agreements and in joint-statements, Kosmos Energy has turned itself into a political actor in the conflict over Western Sahara. The non-political position would be to support the UN-led talks, and await the outcome before doing business in Western Sahara. Instead, Kosmos has decided to back the untenable claims of a government dedicated to silencing the Saharawi's just call to exercise their right to self-determination; the most fundamental human right of all.

In line with the UN 2002 legal opinion, we appeal to Kosmos Energy to reconsider its involvement in occupied Western Sahara.

We hope to hear from you that your company is intending to do exactly that, and look forward to your response to our two questions above.

For your information, this letter will be published on our webpages, www.wsrw.org.

(sign.)

Sara Eyckmans

International Coordinator, Western Sahara Resource Watch

Belgium

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