

6 January 2017



Sea Tank Chartering AS
Skuteviksboder 22
N-5035 Bergen
Norway

Attention: Mr. Sigbjørn Tysse

Dear Mr. Tysse:

The illegal export of fish oil products from occupied Western Sahara

The board of directors and members of Western Sahara Resource Watch (WSRW) have the privilege to extend to you, and the owners and employees of your firm, our sincere expression of good faith. We are writing in a matter of critical importance and therefore seek your reply at the earliest possible moment.

On January 5 of this year, the motor vessel *Key Bay* arrived at El Aaiun, a seaport on the coast of Western Sahara. The ship, under charter by your company, is a chemical products tanker registered in Gibraltar. It is expected that the *Key Bay* will carry of fish oil products into a European port, something it has done in the recent past. (See “Fish oil cargo to arrive EU – despite court decision” (10 September 2016) at: www.wsrw.org)

Western Sahara is a territory in Africa whose people have the right of self-determination. Those people – the Saharawi - have been assured that right, and its meaningful exercise, as a matter of international law, the specific commitment of the United Nations organization, and by a 1988-91 agreement between them (their representative organization), the United Nations and the Kingdom of Morocco. Despite this, Morocco remains illegally present in the territory, and has prevented the carrying out of an act of self-determination. We say *illegally* because the International Court of Justice concluded in 1975 that Morocco has no territorial claim or right to what was then the Spanish Sahara and remains now Africa’s last colony.

The ocean fishery in occupied Western Sahara is an important source of employment and of modest revenue for Morocco as occupier. The fishery serves to support the settlement of Moroccan nationals into the territory, and is a basis for Morocco to engage other states and the European Union in its annexation project. That is true also of fisheries products, such as fish oil, processed and exported from the territory.

On 21 December 2016, the Court of Justice of the European Union followed the 1975 conclusion of the International Court, and noted as a matter of international law – and therefore European Community law – that Morocco has no right or claim and therefore no ability to be legally present in or to act in respect of Western Sahara. The EU Court of Justice also noted that any development, trade or export of Western Sahara's resources requires the prior consent of the people of the territory. The result of this is that Morocco, and corporations acting under Morocco's ostensible jurisdiction in the occupied area of Western Sahara have no ability or legal capacity to contract for the sale and transport of natural resources derived from the territory.

Fish oil, and processed fish oil products, are one such resource.

There are two reasons why Sea Tank Chartering AS should not be involved in any aspect of what is the illegal export of commodities and resources from Western Sahara. The first is ethical. The resources on offer for carriage out of the territory do not belong to those who would purport to sell them to foreign purchasers. The sale of resources damages the prospects for meaningful exercise of self-determination, impeding the United Nations organization's efforts to bring to a final end colonialism in Africa. A second reason is legal, more accurately, legal risk. With the EU Court of Justice definitively concluding that Morocco is not present in Western Sahara in any capacity to sell its resources, European Union based firms and persons are at risk of having their contracts voided. This voiding of contracts, including for carriage of resources out of the territory, entails several things, including loss of reputation, the prospect of an asset such as a ship being seized under civil detention in legal proceedings in EU ports, and claims for compensation.

Our request is that the *Key Bay* not load fish oil products at El Aaiun. We are aware that such a cargo is not intended to become your company's property. However, the circumstances of Western Sahara's occupation and attendant human rights abuses are grave. Any contribution to the illegal export of the territory's resources, however modest, is surely something all right-thinking people would be sure to avoid.

We kindly request that you give this matter your urgent consideration. We are hopeful of your early reply, before the *Key Bay* takes on fish oil products and the matter becomes more serious.

Sincerely yours,

Anna Lucia Angelillo
Board member
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www.wsrw.org

c: His Excellency Ambassador Christopher Ross, Personal Envoy of the United Nations
Secretary-General for Western Sahara

Her Excellency Ambassador Kim Bolduc, Special Representative of the United Nations Secretary-General for Western Sahara, and Head, MINURSO