

Brussels  
9 February 2015

Ballance Agri-Nutrients  
161 Hewletts Rd  
Mt Maunganui 3116  
New Zealand

To the attention of Mr. Mark Wynne,  
CEO of Ballance Agri-Nutrients  
Via: [mark.wynne@ballance.co.nz](mailto:mark.wynne@ballance.co.nz)

### **Request for comments – Pending report on phosphate imports from occupied Western Sahara**

Dear Mr Wynne,

Western Sahara Resource Watch is writing to you regarding Ballance Agri-Nutrients phosphate imports from occupied Western Sahara.

Our research demonstrates that your company received at least three shipments of phosphate from the Bou Craa mine in Western Sahara during the calendar year 2014. We have determined that those shipments totaled minimum 156,000 tonnes, making Ballance Agri-Nutrients a sizeable importer of phosphate rock from occupied Western Sahara for last year.

In the coming weeks, WSRW will publish a follow-up report to its “P for Plunder” report of 2014. The revised edition of the report will offer information about the importing companies, and about the estimated volume and market value of the imports. Given the estimated size of Ballance Agri-Nutrients’ imports, the company will surely be featured in that report.

We refer to our letter of 4 May 2014, outlining our general concerns about Ballance Agri-Nutrients’ imports over the years, and the ethical, political and legal implications connected to your purchases. In your answer to us on the 6 May 2014, you claim to not contravene “a United Nations legal opinion”.

The United Nations legal opinion you refer to must surely be the 2002 Legal Opinion by the UN Legal Counsel, which we referred to in our letter to you. That same Legal Opinion clearly states that any such operation will be in violation of international law if it taking place in the disregard of the wishes of the territory. Please read the conclusion of that opinion ([www.arso.org/Olaeng.pdf](http://www.arso.org/Olaeng.pdf))

That is why we asked Ballance the following question:

**What has Ballance done to seek the consent of the people of Western Sahara, who are the legitimate owners of the phosphates?**

We do not see a reply to that question in your letter to us. We would therefore like to ask that same question again, and look forward to your reply. Until Ballance explains and documents how this trade takes place in the respect of the wishes of the people of the territory – the owners of the phosphates – we recommend you to not make references to having support in international law. Until we see such documentation, we will keep referring to your company failing to ascertain the wishes of the people has been respected, and that your company therefore undermines international law.

We are working on an update to the report from last year, and would be grateful if, before this February 12, Ballance in addition can clarify the following matters:

1. Is it correct that Ballance Agri-Nutrients received 3 shipments of phosphate from occupied Western Sahara during 2014, amounting to approximately 156,000 tonnes?
2. What volumes has Ballance Agri-Nutrients imported from Western Sahara in 2013, 2012 and 2011?
3. What steps, if any, has Ballance Agri-Nutrients taken to assure itself of the continuing consent of the Saharawi people to such purchases, consistent their right to self-determination, the 2002 UN Legal Opinion (S/2002/161) and international humanitarian law?
4. When does Ballance's purchase agreement with OCP for phosphates from Western Sahara expire?
5. Does the contract specify any volumes that are to be taken by Ballance? If yes, what volumes are to be taken annually?

We maintain that it is not in Ballance Agri-Nutrients' interest to be associated with colonialism, an illegal occupation, grave human rights violations and impermissible resource exploitation in Western Sahara. By refraining from importing until the status of the territory has been settled, your company will help to create the circumstances that will allow the people of Western Sahara to freely and fairly determine their political future, as is their right under international law. Others, of course, have done this, and numerous investors continue to give up or refrain from acquiring share interests in the few remaining companies involved in the trade.

Please let us know if our questions above are not clear, or if you require additional information to respond to them. WSRW looks forward to hearing from you.

Yours sincerely,

Sara Eyckmans  
International Coordinator  
Western Sahara Resource Watch

A copy of this letter was sent to;

- Chair of Ballance, Mr. David Peacocke, via [dpeacocke@ballance.co.nz](mailto:dpeacocke@ballance.co.nz) and [directors@ballance.co.nz](mailto:directors@ballance.co.nz)