

15 March 2018
Brussels

FML Ship Management Ltd
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Cyprus
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Dear Sirs:

Regarding your company's participation in a transport of phosphate rock from occupied Western Sahara

We have the honour to present our compliments. We are writing regarding a transport of phosphate rock from Western Sahara and the role of FML Ship Management Ltd in this regard.

The transport in question was on board the bulk vessel *Ocean Century*, departing Western Sahara in May 2018 with an estimated 53,000 tonnes of phosphate rock destined to the ports of Napier, Dunedin, Wellington and Tauranga, New Zealand.

Western Sahara Resource Watch (WSRW) is an independent, non-governmental organization based in Brussels. Our work consists of factually and neutrally researching and commenting on matters about natural resources in Western Sahara. Western Sahara, as you may know, is often referred to as *Africa's last colony*. It was invaded by Morocco in 1975, and is divided by the world's longest fortified structure, the 'berm', which features some five million landmines, and stretches 2400 kilometres across the territory. The berm is garrisoned by an estimated 60,000 Moroccan armed forces. Across the berm, across the border to Algeria, half the Saharawi population reside in six refugee camps.

In 1991, the United Nations, by agreement of Morocco and the Polisario Front, committed to deliver a self-determination referendum for the Saharawi people, something assured for them in a decolonizing world as a basic human right. But that referendum has not yet come to pass, and all the while, phosphate mineral rock from the occupied area of Western Sahara continues to be exported. The Saharawi people, including civil society organizations and their democratically elected government, have been outspoken in protesting the mining, export and ocean transport of the phosphate commodity. The value of the cargo aboard the vessel operated by your company corresponds to a substantial part of the humanitarian aid that the refugees rely on annually.

The UN Legal Counsel commented in 2002 that any exploitation of natural resources in Western Sahara would be in violation of international law if the people do not consent to it. The Court of Justice of the European Union has come to that same conclusion in its three consecutive rulings since 21 December 2016.

Not only is this a matter of international law and ethics, but also of real financial risk for the involved companies. On 1 May 2017, the bulk vessel *NM Cherry Blossom*, containing a cargo of 54,000 tonnes of phosphate rock was detained in the port of Port Elizabeth, South Africa, while the vessel was on its way to New Zealand. The ship departed El Aaiun on the Atlantic coast of Western Sahara in April and stopped in Port Elizabeth to refuel. In South Africa, Saharawi authorities, the government of the Saharawi Republic in some combination with the Sahara people's organization, the Polisario Front, obtained a court order to detain the cargo. In February 2018, the South African High Court ruled SADR was the owner of the entire cargo aboard of the NM Cherry Blossom, and that the ownership was never lawfully vested in OCP SA or Phosphates de Boucraa SA, who were not entitled to sell the phosphate rock. From what WSRW has obtained from court records, the firm Furness Withy Chartering alleges that the costs of the vessel's detention amount to US \$10.300 every day. By the time the vessel was released, the charterer had lost around US \$3.5 million.

We contact you for two reasons in relation to the vessel that your company operated.

First, to protest the mentioned incident that your company was involved in. We ask your company to not undertake such transports again in the future. This recommendation, and the mention of your company, will appear in a WSRW report to be published in April 2019. The report outlines the companies behind all transports of phosphate rock from the territory since 1 January 2018.

Second, we kindly ask your company to respond to the following questions.

- 1) Did your company seek the consent of the representatives of the Saharawi people prior to undertaking this transport?
- 2) Does your company currently have plans or agreements for further transport of such goods from Western Sahara?
- 3) Based on the recent legal developments and on the general international law concerns relating to such transports, will your company introduce measures to avoid taking part in similar transports from Western Sahara in the future?

The answers to the questions will be made available on our website www.wsrw.org.

We look forward to your reply, which can be sent to the email coordinator@wsrw.org. Please let us know what information we might offer further to what we have written above.

With sincere regards,

Sara Eyckmans
Coordinator
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coordinator@wsrw.org