

New York, 10 April 2020

To Caterpillar Inc.  
Att: Ms. Kate Kenny  
Corporate Media Relations and Public Affairs  
Manager



**Re: Caterpillar Inc. and Western Sahara**

Dear Ms Kenny,

We, at Western Sahara Resource Watch, present you with our compliments. We are writing to you regarding the presence of the Caterpillar agency Tractafric Equipment Corporation in the Non-Self Governing Territory of Western Sahara, and the observation of Caterpillar equipment at the Bou Craa phosphate mine.

We are currently writing a news story for our website [www.wsrw.org](http://www.wsrw.org) regarding the matter, and we are getting in touch with some questions below regarding the relationship between Caterpillar and Tractafric Equipment Corporation, and, seemingly, the provision of MT3300 trucks to Morocco's state-owned OCP for use at the mentioned mine.

On Tractafric's website, the company presents itself as a Caterpillar-licensed business. On the same website, however, Tractafric is using the map of Western Sahara merged with that of Morocco: <https://www.tractafrictae.com/fr/?lsometric=574124808145adeddf18d2be4e094a91#.XpCpHsgzZRY>. This is in contradiction of UN maps and cartography: <https://www.un.org/Depts/Cartographic/map/profile/africa.pdf>.

Furthermore, Tractafric states it has an office in the capital city of Western Sahara (El Aaiún, or Laayoune in French), but that the city is "located in Morocco": <https://www.tractafrictae.com/en/page/root/notre-reseau/1148/maroc.html#.XpCpiMgzZRY>

However, the above-mentioned city and office are not located in Morocco, but in the part of the territory of Western Sahara that Morocco has illegally occupied since 1975. Western Sahara is regarded by the United Nations as a Non-Self Governing Territory, which still awaits decolonization, and one without a legally accepted administering power in place. Its people, the Saharawi, have been accorded the right to self-determination - a right restated in now more than 100 UN resolutions, but the exercise thereof is continuously being blocked by Morocco. The war between the Kingdom of Morocco and Frente Polisario has resulted in a military division of the territory and a ceasefire that is being monitored by the UN.

Meanwhile, Morocco continues to trample the most basic human rights of Saharawis that live under the yoke of its occupation. <https://www.washingtonpost.com/politics/2020/03/12/video-contradicts-morocco-justification-brutal-beating-western-sahara/>

Approximately 200.000 Saharawi refugees continue to live in inhumane conditions in Algerian refugee camps, located in the most inhospitable part of the Saharan desert, due to the illegal occupation.

The United Nations, the International Court of Justice and the Court of Justice of the European Union all state that Morocco does not have any legal basis, sovereignty or international mandate to administer the territory. Legal opinions from the United Nations, as well as separate court rulings from the EU Court of Justice also state that economic activities

in Western Sahara have a paramount legal prerequisite to be fulfilled in order for trade activities inside or affecting occupied Western Sahara to be permissible under international law: consent must be sought from the Saharawi people. This means that the Saharawi people must consent to any commercial activity taking place on their occupied homeland.

The Moroccan state-owned company OCP operates the controversial Bou Craa phosphate mine in the territory. Numerous private and public investors qualify this mine as being operating in violation of international law, as consent has not been obtained. In the case of the bulk vessel *NM Cherry Blossom*, The High Court of South Africa ruled that OCP has no right to export such phosphates from the occupied territory.

WSRW has received images of MT3300 trucks operating in the mine:

[https://www.wsrw.org/webpics/2018-12-27/caterpillar\\_unitrig1\\_609.jpg](https://www.wsrw.org/webpics/2018-12-27/caterpillar_unitrig1_609.jpg) The images were taken a few years back, possibly 5 years ago. We understand that these trucks originate from your company.

Given that Caterpillar according to its website stands for “uncompromisingly high ethical standards the company has upheld since its founding in 1925” **we would be grateful if you could provide an answer to the following questions from our association:**

1. What is the nature of the commercial relationship between Caterpillar and Tractafric Equipment Corporation?
2. As a corollary of the internationally recognized right to self-determination of the people of Western Sahara, and given the legal requirement of obtaining the free, prior and informed consent of the people of Western Sahara with regard to activities or businesses in their land – as put forth by several UN Treaty bodies and the EU Court of Justice – what steps has Caterpillar taken to obtain the consent of the people of Western Sahara through their political representative, the Polisario Front, when authorizing its name to be used by a company that is present in the occupied territories of Western Sahara?
3. In Tractafric’s website, the map of Western Sahara is merged with that of Morocco, and statements indicate that Western Sahara’s capital city is located in Morocco. This is in contradiction of the legal opinion and cartography of the UN. Will you request this error to be rectified and aligned with the UN position?
4. Has Caterpillar supplied equipment (including trucks) for use at the Bou Craa mine in Western Sahara? If yes, what kind of equipment?
5. Does Caterpillar today have any contractual obligations to deliver equipment (e.g. trucks) to the OCP mine in Bou Craa?
6. Does Caterpillar today have any obligations to carry out maintenance on equipment currently functioning in relation to the OCP mine in Bou Craa?
7. If yes at question 6, what do these obligations consist of?
8. If yes at question 6, has Caterpillar assessed the ethical and legal risks involved in providing machinery or equipment to an entity that may use these to extract natural resources without respecting the Saharawi people’s right to consent?

Western Sahara Resource Watch is convinced that it is not in the interest of Caterpillar to become associated with the continued colonization and occupation of Western Sahara, neither by providing equipment that could be used to mine in the occupied territory, nor allowing licensed businesses to use its name to help legitimize the Moroccan military occupation of the territory, and will thus hinder the peace process.

We look forward to hearing from you soon. Your response will be included in an article that we publish about Caterpillar on 1 May. We look forward to a response before that date, for inclusion in our article.

A copy of this letter has been sent to Tractafic Equipment Corporation.

Sincerely,

Charles Liebling, New York  
Western Sahara Resource Watch