

Committee, in addition to credible international organisations such as Human Rights Watch, Amnesty International, and others.

Partnering with Morocco for economic activities in the occupied territory, offers its military presence in Western Sahara an air of normalcy. To do so, effectively convolutes the UN's efforts to decolonise Western Sahara, and as such contributes to the continued insecurity and instability of the wider Maghreb region – a process that has now seemingly begun.

We would be grateful for your answer to the following questions:

1. *What exactly was the scope and purpose of the “external assessment” that Tuhana has carried out on the New Zealand imports of phosphate rock from occupied Western Sahara?*
2. *Does Tuhana agree with the formulation found in Ballance Agri-Nutrients’ annual report that the Tuhana assessment is “validating our supplier’s operations in Western Sahara against United Nations criteria”?*
3. *Will Tuhana share the assessment for public scrutiny? If not, why?*
4. *Will the assessment be shared with the people of Western Sahara through their UN-recognised representative, the Polisario Front? If not, why?*
5. *What are the terms of reference used in this assessment?*
6. *How does the assessment relate to the right of the people of Western Sahara to self-determination, and consequently, the right to sovereignty over the territory’s natural resources?*
7. *Which “United Nations criteria” supposedly validate OCP’s operations in occupied Western Sahara, according to the assessment?*
8. *Has Tuhana travelled to the territory of Western Sahara as part of the assessment? If so, did Tuhana obtain the prior permission of the UN-representative of the people of Western Sahara, the Polisario Front, to undertake such visit?*
9. *Does Tuhana agree with the UN that Western Sahara does not have an administering power?*
10. *What UN criteria supposedly apply to importing phosphate rock from an occupied territory without an administering power, through a contract with a third country, against the will of the people of the territory?*
11. *What is your assessment of the legal status of Western Sahara under international law?*
12. *What is your assessment of the legal status of Morocco’s presence in parts of Western Sahara under international law?*
 - a. *Does Morocco have sovereignty over Western Sahara?*
 - b. *Is Morocco the administering power of Western Sahara as defined by the UN Charter? If yes, please explain how Tuhana has come to this conclusion.*
 - c. *Is Morocco occupying parts of parts of Western Sahara under international humanitarian law? If so, can Morocco act directly through its state-owned enterprises in Western Sahara or does it have to establish a separate and distinct military authority as the Israeli government did in relation to the West Bank in 1967?*
13. *Has Tuhana seen the contracts that the New Zealand farmer cooperatives have with Phosboucraa/OCP, relevant to their imports? In which legal capacity does Phosboucraa/OCP sign those contracts? Is Moroccan domestic law the applicable law to those permissions or contracts?*

We live at a time when basic principles of international law are under pressure. We believe that New Zealand farmers – and consultancy firms like yours - should not be associated with the continued colonisation, occupation, grave human rights violations and armed conflict in the last colony in Africa. It is very problematic - ethically, politically as well as legally - when commercial interests cooperate with the Moroccan authorities to do business in the occupied territory. This is well understood by the investment community: over the past decade, many companies have been excluded from investor portfolios over their involvement in the phosphate trade from occupied Western Sahara. Dozens have stopped importing from the territory and have started sourcing elsewhere: through experiencing with different exporters, different blends or upgrading grinding machinery, these firms managed to find alternatives. There is no reason why this should be impossible for the New Zealand cooperatives. Where there is a will, there is a way.

Please do not hesitate to contact us should you require any further information. We thank you in advance for your consideration and look forward to your response.

Sincerely

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