Morocco’s exports of phosphates from occupied Western Sahara

International fertilizer companies import controversial phosphate rock from Western Sahara, under illegal Moroccan occupation. This report uncovers which of them were involved in the trade in 2022.
Executive Summary

All life on the planet, and so all agricultural production, depends on phosphorus. P. The element is found in phosphate rock and turned into fertilizers.

For the people of Western Sahara, their P does not grow into benefits. It’s rather the opposite.

For the tenth year in a row, Western Sahara Resource Watch publishes a detailed, annual overview of the companies involved in the purchase of phosphates from occupied Western Sahara. The illegally exploited phosphate rock is one of the Moroccan government’s main sources of income from the territory it holds contrary to international law. The Saharawi people have been consistently outspoken against the trade, both in the UN, generally, and to specific companies.

The list we present in this report is complete for calendar year 2022, naming all shipments of phosphates from occupied Western Sahara. A total of 23 vessels departed the territory with 1.25 million tonnes of phosphate rock. A slight decrease from the 1.4 million tonnes of 2021. To compare Morocco’s average export from the occupied territory during the years 2012-2018 was 1.6 million tonnes.

Morocco has since 2021 carried out large investments in the port and in the Bou Craa facilities. Since the occupation began in 1975, Morocco has only sold raw phosphate rock. In a few years from now the phosphates will also be exported in a more valuable, processed form. This will further make the trade more lucrative in the future. Morocco’s income from the Bou Craa mine has risen significantly since 2021, particularly as a consequence of Russia’s invasion of Ukraine. It is hard to know the exact value of the trade, but WSRW guesses it could be in the range of 327.7 million to 695.5 million USD for the year 2022.

The massive exports to Mexico that began in July 2021 continued throughout 2022. The Mexican imports constituted 46% of all rock exported from the occupied territory in 2022. The importer in Mexico in 2018 announced that it had stopped such imports due to its “commitment to overall social responsibility”, and now fails to respond to mails. The imports to India, Mexico and New Zealand constitute over 92 percent of the entire trade with Western Sahara conflict minerals.

It is disappointing to observe Incitec Pivot having taken in another shipment into Australia, the first such shipment in 6 years to the country. The company failed to respond to a request from WSRW to immediately halt all purchases and all shipments of Western Sahara phosphates until a solution to the conflict has been found. Investors are requested to engage or divest unless action is taken.

A group of Saharawi refugees in October 2023 demonstrated against the Australian company Incitec Pivot which had bought a cargo of conflict minerals from a mine on their land, from the occupation government.
The Controversy

Morocco’s claim to Western Sahara has been rejected by the International Court of Justice. To date, the UN considers Western Sahara to be a Non-Self-Governing Territory – a colony without an administering power. According to the UN, the permanent sovereignty over natural wealth and resources is a basic constituent of the right to self-determination. The UN Legal Office has analysed the legality of petroleum exploration and exploitation in Western Sahara, a resource extraction activity that is of a similar nature to phosphate mining. The UN concluded that ‘if further exploration and exploitation activities were to proceed in disregard of the interests and wishes of the people of Western Sahara, they would be in violation of the international law principles applicable to mineral resource activities in Non-Self-Governing Territories.’

The UN Treaty Body on Economic, Social and Cultural Rights and the UN Human Rights Committee have both emphasized the need of obtaining the Saharawi people’s consent to the realization of developmental projects and [resource] extraction operations.

A series of rulings in the European Court of Justice, the latest of 29 September 2021, affirms the Saharawi peoples right to consent, and establishes that this consent must be obtained from the legal representative of that people, the Polisario Front.

Yet only weeks after the 1975 invasion of the territory, the phosphate rock of the Bou Craa mine in Western Sahara was being exported to fertilizer companies overseas. The Bou Craa mine is managed by the Office Ché寻松 des Phosphates SA (OCP), now known simply as OCP SA. Morocco’s national phosphate company and today responsible for one of that country’s main sources of income from Western Sahara.

Phosphates de Boucraa SA (Phosboucraa) is a fully owned subsidiary of OCP. Its main activities are the extraction, beneficiation, transportation and marketing of phosphate ore of the Bou Craa mine including the operation of a loading dock and treatment plant located on the Atlantic coast at El Aaiún. OCP puts its production capacity in Western Sahara at 2.6 million tonnes annually and estimates the Bou Craa reserves at 500 million tonnes. Bou Craa contributes around 6% of OCP’s total extracted volumes, and around 20% of its total export of phosphate rock. OCP claims that the Bou Craa mines represent only 2% of all phosphate reserves exploited by Morocco.

The exceptionally high quality of Western Sahara’s phosphate ore makes it a much coveted commodity for producers of fertilizers. However, that tale could be coming to an end. The Bou Craa phosphate deposit consists of two layers. OCP’s own reports from 2014 and 2016 contradict themselves whether only the top layer is being exploited or if the mining has already proceeded to the second layer which is of lower quality. What is clear is that Morocco has practically sold all of the high quality phosphate that ought to have been available to the Saharawi people upon realizing their right to self-determination.

OCP claims that Phosboucraa is the largest private employer in the area, citing 2,029 employees in 2019 – and 75 percent are said to be ‘locals’ (without specifying whether they are Saharawis or settlers). It also alleges that Phosboucraa is a major provider of economic viability and well-being of the region’s inhabitants. OCP equally boasts the social impact of Phosboucraa, in terms of providing pensions to retirees, medical and social advantages to employees, retirees and their families. etc. OCP presents the purported economic and social benefits as a justification for its exploitation of phosphate mines outside of Morocco’s long-settled internationally recognized borders.

Morocco uses the Bou Craa phosphates for its political lobby-work to gain the support of other countries for its illegal occupation. An official Moroccan government document leaked in 2014 literally states that Western Sahara’s resources, including phosphate, should be used to ‘implicate Russia in activities in the Sahara.’ The document goes on to say that ‘in return, Russia could guarantee a freeze on the Sahara file within the UN.’

“Western Sahara has been under Moroccan occupation since 1975 and is on the United Nations’ list of non-self-governing territories that should be decolonised. The UN’s legal counsel stated in January 2002 that exploration of mineral resources in Western Sahara without local consent would be in breach of the international Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.”

Swedish government pension fund AP-Fonden, upon exclusion of PotashCorp and Incitec Pivot from its portfolios.

“Agrium’s purchase of phosphates from Western Sahara by means of a long-term contract with OCP constitutes an unacceptable risk of complicity in the violation of fundamental ethical norms, and thereby contravenes KLP’s guidelines for responsible investment.”

Norwegian insurance company KLP regarding its divestments from Agrium Inc.

“The company’s exploitation of phosphates in Western Sahara is considered to violate the UN Charter article 73, the Hague Convention article 55, the Corell Opinion and therefore also UNGP principle 12 and OECD MNE art. 40”

MP Pension, Denmark. Decision to exclude OCP from investment universe, 17 January 2019.

“Operations in occupied territory (Western Sahara)”

Fonds de Compensation commun au régime général de pension, Luxembourg, 23 November 2018. in reference to exclusions of all involved fertilizer importing companies.

“Human rights violations in Western Sahara”

PGB Pensionsfonds, the Netherlands. third quarter of 2015, upon excluding OCP SA from its portfolios.

“Nutrien is excluded for breaches of international norms through its continued sourcing of phosphate rock from occupied Western Sahara, without the consent of the Saharwi people.”


“The Council does not believe that the company has been able to show that the business is consistent with the interests and wishes of the local population. Based on an assessment that further dialogue will not be productive, the Council has recommended that the AP Funds divest Agrium.”

Swedish Ethical Council. 9 April 2015, explaining why all Swedish government funds have now divested from Agrum Inc.

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In 2022, 1.2 million tonnes of phosphate rock was transported from Western Sahara. WSRW traced the entire flow. After the detention of vessels in South Africa and Panama in May 2017, no vessels have taken those traditional shipping routes.
### Methodology

This report is based on data gathered through continuous vessel tracking. The amounts of phosphate loaded into ships were ordinarily calculated to be 9% of the ship's overall cargo (and bunker fuel and stores) capacity expressed in deadweight tonnes (DWT). Ships were tracked and confirmed to have arrived at stated destinations. Where possible, estimated loaded amounts were checked against official documents in importing countries.

WSRW believes that it has detected, tracked, and accounted for all vessels departing from El Aaiún harbour for 2022. However, WSRW cannot exclude the possibility that one or more vessels have gone undetected.

#### Adjusted price estimates

WSRW has for the 2022-2020 editions of the P for Plunder report: most likely applied a price estimate for Bou Craa phosphate rock that was too low. For lack of better sources, WSRW until 2021 applied the value of phosphate rock as referred to by Index Mundi. However, data obtained through the years suggests the price for Bou Craa rock to be substantially higher than the average international market price. From the 2021 edition of the P for Plunder report onwards, we have added 10% to the Index Mundi price. The average Index Mundi price for phosphate rock in 2022 was 266-16 USD per tonne. As such, in this report, the price for phosphate rock from Bou Craa is calculated at an average of 332-32 USD per tonne.

WSRW still considers this to be a guesstimate. The price of phosphates and fertilizers have increased dramatically since the Russian invasion of Ukraine.

For one shipment in 2021, we suspect the price could have been as high as 234 USD/tonne, almost double of the Index Mundi price for that month. Internal OCP documents from 2019 that were revealed online suggested a cargo price of Bou Craa rock between 153 and 161 USD/tonne. This was substantially higher than the 98.5-102.5 USD/tonne in 2018. WSRW’s projection of 91 million tonnes of exported phosphate rock from Bou Craa in 2019 was in the volume of “processed” phosphates as mentioned in an OCP prospectus in 2014. After the unusually low level of exports in 2019, the 2020 volume was more in line with the levels we have observed in the past. WSRW’s approximations regarding the exported volumes for 2015, 2016 and 2017 are confirmed to be in the ballpark by OCP’s latest Prospectus, issued in 2018.

#### Fluctuating export levels

In general, WSRW’s calculations for recent years are confirmed in OCP’s own reports. Until 2022, the export of phosphate rock averaged 11 million tonnes annually considerably less than the production capacity of 2.6 million tonnes. In the late 1970s production stopped for three years during armed conflict in the territory.

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### Imports per importing country

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<thead>
<tr>
<th>Importing Country</th>
<th>2021</th>
<th>2022</th>
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<tbody>
<tr>
<td>New Zealand</td>
<td>547,000</td>
<td>347,000</td>
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<tr>
<td>China</td>
<td>572,336</td>
<td>572,000</td>
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<tr>
<td>India</td>
<td>52,000</td>
<td>5,500</td>
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<tr>
<td>Russia</td>
<td>61,000</td>
<td>61,000</td>
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<tr>
<td>Australia</td>
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<td>33,000</td>
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<tr>
<td>The Philippines</td>
<td>225,900</td>
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### Clients per nationality of (parent) company

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<thead>
<tr>
<th>Nationality</th>
<th>2021</th>
<th>2022</th>
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### Value per importing country

<table>
<thead>
<tr>
<th>Importing Country</th>
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<th>2022</th>
</tr>
</thead>
<tbody>
<tr>
<td>New Zealand</td>
<td>85.50 million</td>
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<td>China</td>
<td>15.03 million</td>
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<tr>
<td>Japan</td>
<td>2.96 million</td>
<td>57,000</td>
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<tr>
<td>Mexico</td>
<td>2.93 million</td>
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<tr>
<td>The Philippines</td>
<td>30.34 million</td>
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<tr>
<td>Australia</td>
<td>17.57 million</td>
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<tr>
<td>India</td>
<td>141.02 million</td>
<td>141.02 million</td>
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<tr>
<td>Mexico</td>
<td>272.55 million</td>
<td>272.55 million</td>
</tr>
<tr>
<td>New Zealand</td>
<td>211.86 million</td>
<td>211.86 million</td>
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</tbody>
</table>

Figures in metric tonnes.
"Companies buying phosphate from Western Sahara are in reality supporting Morocco’s presence in the territory, since the phosphate is sold by the state-owned Moroccan company OCP and it must be assumed that the revenues generated by the operation largely flow to the Moroccan State. In its present form, OCP’s extraction of phosphate resources in Western Sahara constitutes a serious violation of norms. This is due both to the fact that the wishes and interests of the local population are not being respected and to the fact that the operation is contributing to the continuance of the unresolved international legal situation, and thus Morocco’s presence and resource exploitation in a territory over which it does not have legitimate sovereignty."

Council of Ethics of the Norwegian government’s pension fund, upon excluding Innophos Holdings Inc from its investment universe in January 2015.28
Key suppliers pulled out

The 12-year long practice of Swedish companies supplying drilling equipment to the operation of the controversial Bou Craa mine in occupied Western Sahara came to an end in 2020.

EPIROC/ATLAS COPCO

‘We do not have any agreements for maintenance or supply for the Bou Craa mine in Western Sahara and we have no plans to supply the mine in the future’, Epiroc wrote WSRW. This has since been verified from several sources.

Epiroc is a rather new Swedish company established in 2018. The company was created as a result of a decision of the Swedish company Atlas Copco to split out its former business of mining equipment. At the time of the split, Atlas Copco had been selling and servicing equipment to the controversial mine in Western Sahara for several years. Its first sales to the operation took place in 2006, and the deal was revealed by WSRW only in 2013.

Though Atlas Copco and Epiroc did not comment on the matter for a long time after Epiroc’s establishment, it was a common understanding among the owners of both companies that the contract with OCP had been taken over by Epiroc as was the case with other Atlas Copco contracts. A letter to Epiroc in November 2019 was not responded to; but when confronted by the Business and Human Rights Resource Centre the company stated that it was ‘looking into this issue at present’.

Also Atlas Copco confirmed that it is not involved in the mine. ‘Atlas Copco has no operations in Western Sahara. The customer for the Bou Craa mine and Atlas Copco has agreed that there will be no new orders from the mine in the future’, Epiroc wrote WSRW. This has since been verified through the provision of civil engineering to the Foum el Oued Technopole project near El Aaiun. This project envisages the creation of a technological hub to advance the economic development of the ‘Southern regions’ in particular through the industrial development of Phosboucraa. WSRW has written to the company four times, latest in May 2022, but has not received a response.

CATERPILLAR

Trucks of the US company Caterpillar have been observed actively transporting phosphate rock in occupied Western Sahara. The trucks are of the type MT3300, made by a company called limited, in which it was taken over by Caterpillar. An official licensed Caterpillar agency was established in El Aaiun in the occupied territory through the industrial development of Phosboucraa. The company claims that it will not share any information regarding the Bou Craa site. While forthcoming on past activities in the territory thyssenkrupp does not respond to whether it will refrain as a matter of policy from becoming involved again. The company’s approach seems to be that ‘there were no employees or other trade restrictions on the EU for deliveries to the Western Sahara region at the time and there are still none.’

IFM

Equipment of the German automation technology company IFM electronic has been reported to be used in the conveyor belt. WSRW contacted the company three times in 2021-2022, without response.

OCP’s helpers at the mine

SIEMENS ENERGY

German engineering company Siemens delivered installed and commissioned 22 wind turbines to the 50 MW Foum el Oued wind park in occupied Western Sahara in 2015. The park was commissioned by Morocco’s national agency for electricity ONEE and built in partnership with the Moroccan wind energy company NAREWA – owned by the King of Morocco. The Foum el Oued farm supplies nearby Phosboucraa’s energy needs. OCP today boasts that Phosboucraa is 100% wind powered. In other words: all energy required for the exploitation and transport of the phosphate rock in Western Sahara is now generated by wind mills delivered by Siemens Gamesa. The green energy production is thus making Morocco’s SOG more lucrative. Siemens Energy states that it has extended the maintenance contract for the Bou Craa site, which involved again. The company’s legal requirement put forth by the EU Court of Justice. The company will not share any information regarding the Bou Craa site. While forthcoming on past activities in the territory thyssenkrupp does not respond to whether it will refrain as a matter of policy from becoming involved again. The company’s approach seems to be that ‘there were no employees or other export restrictions on the EU for deliveries to the Western Sahara region at the time and there are still none.’

THYSSENKRUPP

The German industrial conglomerate informed in a mail to WSRW in 2021 that thyssenkrupp Mining Technologies has refurbished three stackers and two reclaimers on the phosphate stockpad of the Bou Craa site, which involved an inspection and the engineer- ing, supply and construction of components to be replaced to extend the operational lifetime of the machines. The company claims that there are no further contracts in Morocco and in other countries.

The Spanish company Siemens Gamesa, controlled by the German company Siemens Energy, is providing all the energy needed at Morocco’s illegal phosphate mining operation in Western Sahara. Refugee Khadija Bedihi confronted Siemens during its 2018 and 2020 Annual Meetings of shareholders, but the company did not respond to her questions.

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Morocco is heavily investing in increasing the profits from the export of the conflict mineral. The investment includes a new, sheltered port, a wharf, and a large production unit to process the raw phosphates.

In 2016, the king of Morocco inaugurated a series of structuring projects in and near the phosphate port of El Aaiún, from where OCP currently only exports phosphate rock. The overall aim is to diversify Phosboucraa’s operations, from exporting raw material to producing intermediary products and phosphate-based fertilisers.

According to OCP the USD 2.2 billion investment envisioned the construction of a chemical plant with a production capacity of one million tonnes of fertiliser per year. The facility would be equipped with a sulfuric and a phosphoric acid production unit and a granulation unit. Parallel to that, a new port would be developed in addition to a washing unit and storage facilities, while new extraction methods would be introduced at the mining site itself.

A recent official OCP document confirms that work on the new phosphate port and washing plant is currently ongoing. This is also verified from sources on the ground and satellite images. The company states it is “considering” new storage and handling capacities, a new drying plant dedicated to export and reiterates the intent of developing “a fully integrated fertiliser production unit that is expected to start operations by 2023 with a capacity of one million tonnes.”

In 2020, OCP also reported to be rolling out a reverse flotation process in Bou Craa to enrich phosphate that is of low phosphorous content, to make it economically more viable and exploitable. This corroborates earlier statements by OCP that it has proceeded to exploit deeper layers of the open-pit mine, which are said to be of lower quality.

Apace with the expansion of Phosboucraa’s operations, a scientific hub focussing on the development of “the southern provinces” baptised Technopole is also being developed in Foum El Oued on a 600 ha plot of land. The main company involved in the construction of the new port is Archirodon from Netherlands/Greece. It reported that its works for Phosboucraa take place in ‘Morocco’ were to last from 2019 to 2023 through a contract worth USD 450 million. The company did not respond to WSRW letters in 2019 and 2022. Archirodon has written letters to the Members of European Parliament at the request of the Moroccan Ambassador to Greece asking them to reject initiatives that “challenge the territorial integrity of Morocco.”

Other companies involved include Eccher/DEAL (Italy), SYSTRA (France), TERRASOL (France), Bygging-Uddemann AB (Sweden), Jan de Nul Group (Belgium), Katakevastiki J. Dimitriou Ltd (Greece), Geotehnika SARL (Morocco), COWI AIS (Denmark), Negri France (France), Tectone Group (Morocco). Other recent involvement related to the port or the exports: Daewoo E&C and Korea Port Engineering Corp (South Korea), Tecalemit Flexibles (France), Mobilis (France), DV Offshore (France), GM Equipements (Morocco), DEME Group (Belgium). Further details on these companies can be found on WSRW’s website. WSRW has also recently discovered the involvement of Italian company Bedeschi.

Bygging Uddemann wrote to WSRW that it was unaware that its equipment was going to be used in Western Sahara. “We cannot control nor guarantee in which territories or countries our clients decide to use their equipment,” the company told WSRW. “We have delivered construction equipment on purchase basis to our Greek client (Archirodon Group) [...] for the purpose of international caisson construction works”, the company told. COWI failed to answer questions, but confirmed it had entered into a consultancy contract in 2019 with “a private international contractor.” The company shortly retorted that “we identified no legal obstacles.”

The new fertiliser factory and port is located 2.5 kilometers south of the existing wharf. The main parts of the port structure were already in place as of 2022, whereas the foundations of some of the industrial units are about to be completed.
OCP SA is a Moroccan state-owned company which since 1959 has operated the mine in Western Sahara through its subsidiary Phosphates de Boucraa SA. It is OCP that claims to own the cargo in the South African court. Funded by the plunder from Western Sahara every year, OCP has contracted a large troop of global law firms and PR firms to defend its case and help manage perceptions of its operations.

**The Saharawi Arab Democratic Republic (SADR)**

The Saharawi Arab Democratic Republic (SADR) represented the people of Western Sahara in the court. SADR is not recognized as a UN member state, but is a full-fledged member of the African Union. The republic represents both the people of Western Sahara that fled after the Moroccan invasion, and those who still live under Moroccan illegal occupation. The state's structure overlaps with that of the Frente Polisario which the UN recognizes as the national liberation movement of the territory.

**Vessel**

NM Cherry Blossom 9703565

**Flag:** Marshall Islands

**Estimated cargo phosphate rock:** 55,000 tonnes

**Operator:** AM Nomikos

**Departed:** El Aaiun, Western Sahara, 13 April 2017

**Detained:** Port Elizabeth, South Africa, 1 May 2017

**Released:** 8 May 2018

**Cargo auctioned**

Court ordered an auction on the cargo, an auction that closed on 19 April 2018. The cargo was bought back by the charterer.

**The case of the looted goods**

On 1 May 2017, an incident took place in South Africa that is highly relevant even to this date. That day, the bulk vessel NM Cherry Blossom was detained in Port Elizabeth under court order, on the application of the Saharawi Arab Democratic Republic (SADR). The vessel had only planned a brief visit in order to take on fuel for the long journey from Western Sahara to New Zealand. But a short time after it had entered port, the SADR government made application to the South African High Court, claiming the 55,000 tonne cargo was illegally mined and exported from Western Sahara by the Moroccan government.

On 15 June, a three-judge panel of the High Court in Port Elizabeth confirmed the acceptability of the order of 1 May 2017, and decided that the case was to continue to a trial. The central legal issue for the Court was the question of rights to the cargo. Who owns it, and could the New Zealand importer have legally purchased it if it had been warned over the years by Saharawi authorities?

**OCP SA** Morocco’s state-owned phosphate company bought back the cargo from the importing company Ballance Agri-Nutrients, thus acting as the owner in the legal proceedings. That July however, OCP decided to drop defending its right to the cargo, accusing the South African court of “a transparently political opinion and committing ‘a serious abuse of power’ as such allegedly undermining ‘the UN resolution process’.”

On 25 February 2018, the High Court confirmed that the 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 to Ballance Agri-Nutrients.

It is the first such case regarding the pilage of the territory’s resources. It illustrates the increased legal and financial risk of companies taking part in Morocco’s illegal plunder. This risk had already augmented after the judgment of the Court of Justice of the EU on 21 December 2016 concluding that Western Sahara has “a separate and distinct” status to any country in the world, including Morocco.

The value of the NM Cherry Blossom’s cargo was around 5 million USD. To compare, the 2020 budget of UNHCR Algeria, which manages humanitarian aid to the refugee camps in Algeria, whose inhabitants are the real owner of the rock, is USD 37 million.

In 2017 while waiting for the legal case to proceed, the charterer had complained to the court about the financial loss caused to the shipping company for the delay. From what WSRW has obtained from court records, the firm Furness Withy Chartering alleges that the costs of the vessel’s detention amounted to 10,300 USD/day. The vessel was finally released in May 2018, after 370 days of detention. The charterer lost around 3.5 million USD.

The stop-over in South Africa was a one-off incident for the New Zealand-based importer Ballance Agri-Nutrients. All New Zealand-bound vessels had normally travelled westwards via South America and the Pacific. To WSRW’s knowledge, ships to New Zealand had never before travelled via South Africa and the Indian Ocean. After the detentions of vessels in South Africa and Panama, no vessels have taken these routes.
A massive change has taken place in the client base since 2011.

The number of importing companies dropped from 15 in 2011 to 7 by 2022.
The Moroccan take-over of Bou Craa mine

**Peak P**

Phosphate is a vital component of the fertilizers upon which much of the global food production and food security depends. For some time now, there has been concern about the world population’s reliance on a finite supply of phosphorus, and the implications of this for agricultural productivity, food prices and nutrition particularly in developing countries. The term ‘peak phosphorus’ has joined the concept of ‘peak oil’ in the lexicon of 21st century scarcity. There are no substitutes for phosphorus in agriculture. Morocco, with or without Western Sahara, controls the world’s biggest phosphate reserves and is the second largest producer of phosphates in the world. The increasing global need for phosphate rock and fertilizers was a contributing factor in the oddly fluctuating market price of the commodity in 2008. As global food demand and food prices have increased, there has been an added demand for phosphate.

1947: Western Sahara’s phosphate reserves are discovered 130 kilometres southeast of El Aaiûn in a place called Bou Craa. The discovery of phosphate reserves is the first potential source of mineral revenues for the colonial power Spain.71

July 1961: The Empresa Nacional Minera del Sahara is founded in order to operate the mine, which is owned by a Spanish public industrial sector company. May 1968: The company is renamed Fosfatos de Bucraa S.A. also known as Phosboucraa or Fos Bucraa.

1972: Spain starts to operate the mine. Many Spaniards find employment in the mines, as did the Saharawis, the native population of the Spanish Sahara, as the territory is known at the time.

1975: Mounting international pressure to decolonise forces Spain to come up with a withdrawal strategy from Spanish Sahara. A UN mission that was sent to Spanish Sahara in view of an expected referendum predicts that Western Sahara could very well become the world’s second largest exporter of phosphates after Morocco. Maintaining a claim to the phosphate deposits is a key consideration for the colonial power. Failing to decolonise Western Sahara properly, by allowing the people of the territory to exercise their right to self-determination, Spain strikes a deal through the Madrid Accords: it illegally transfers administration over the territory to Morocco and Mauritania, while retaining a 35% share of the Bou Craa mine. No state in the world, the UN, nor the people of Western Sahara recognises the transfer of authority from Spain to the two states. Mauritania withdraws in 1979, admitting it had been wrong to claim and to occupy the territory. At the same time in 1975, recouping his authority after two failed coups d’état, Morocco’s King Hassan II orders the Moroccan army to invade Western Sahara. The King may have hoped that this would give Morocco as much leverage to determine world phosphate prices as OPEC has over oil prices.72

1 January 1976: The Madrid Accords come into effect and after a transition period of 16 months OCP would take over the management of the mines.73

2002: Spain sells its 35% ownership of Bou Craa

2014: OCP files for public subscription on the Irish Stock Exchange an inaugural bond issue of USD 1.55 billion.74 It files a similar debt financing prospectus on the Exchange a year later.75

2020: In November, Morocco violated the 1991 UN-brokered ceasefire arrangement with the Polisario Front. Armed clashes ensued. Polisario declared war a few days later, urging all countries in the world and public and private sector to refrain from any activity of any kind in the Sahrawi Territory that has become an open war zone.76

2023: Morocco continues to operate the mine in occupied Western Sahara. The average exports over the last years have generated an annual income somewhere in the range from 50 to 655 million from a mine which is not theirs.

“**We bought the vessel Golden Keen with charter party attached early 2017 and regretfully West-Sahara was not excluded in the charter party we assumed. The vessel was time chartered out to a third party for the remainder of 2017, and therefore we were not in a position to stop the trade out of West Sahara on this particular vessel. For new charter contracts we enter into we include an exclusion of West Sahara. [...] We have also included in our policy to exclude cargoes from West Sahara, expanding beyond standard contract clauses.”**

Golden Ocean Management AS in February 2018, regarding a 79,000 tonnes shipment to the USA in August 2017.77

“**Being headquartered in Asia, we confess we knew nothing about Western Sahara. We have only had this one charter ... but now that we understand the issue we will not directly contract any more business out of there”**

Jinhui Shipping to South China Morning Post regarding a New Zealand-bound shipment, 2008.78

“**We have a separate clause excluding trade in Western Sahara”**

Seven Seas Carriers, 2015.79

“**An unfortunate mistake”**

Uglands Rederi regarding a transport done by a chartering company in 2015.80

“**A regrettable situation”**

Belships ASA regarding a transport to Innophos in 2021.81

“**We have excluded Western Sahara as a territory for trade”**

Spar Shipping on 10 January 2019.82
Companies involved in the trade

Eight companies and cooperatives were involved in the imports of Western Sahara phosphates rock in 2022.

1 O.C.P SA
(Morocco/Ireland)

O.C.P SA is a Moroccan state-owned company, which since 1975 has been in operation of the mine in Western Sahara. The work is carried out through its subsidiary Phosphates de Boucraa S.A.

Primarily a state-owned company, it is not possible for foreign investors to buy shares in OCP. However, OCP bonds have been offered to Moroccan investors via the Casablanca Stock Exchange since 2014. Several institutional investors have since excluded OCP from their portfolios for its involvement in Western Sahara.

OCP’s affairs at the Irish Stock Exchange are managed by Barclays, Morgan Stanley, and JP Morgan, multinational financial services corporations based in the UK and USA.

The company has commissioned the firms SenatorSHJ, DLA Piper, Co-vin & Burling, Palacio y Asociados, Edelman, and Dechert LLP to advocate the supposed legality of OCP’s operations in Western Sahara. Besides carrying out lobbying campaigns, the mentioned companies also write reports that allege the legal solidity of the Bou Craa exploitation on the grounds of being supposedly beneficial to the Saharawi people. None of these reports have been made available to Saharawis or to WSRW.

2 INNOPHOS HOLDINGS
(USA)

In spite of earlier promises, the US company Innophos Holdings in 2021 resumed imports of phosphate rock from occupied Western Sahara into Mexico. The company became the leading importer during the second half of 2021. That trend continued through 2022, when the company received nine shipments, totalling 522,000 tonnes of phosphate rock. The volume constitutes 41.6 percent of all rock exported from Western Sahara in 2022.

“The phosphate is stained with blood,” stated the ambassador of Western Sahara to Mexico. The company has previously been involved in the same trade. This happened in two different ways. On one hand, its subsidiary Innophos Mexicana imported directly to Coatzacoalcos until 2015. On the other hand, the company was involved in the former trade to the US, by being the main customer of the PotashCorp’s factory in Geismar, Louisiana. The product was shipped from PotashCorp to Innophos through a pipeline. The PotashCorp plant, which had provided Innophos with Saharawi phosphate, was closed by the end of 2018 by Nutrien, the merger of PotashCorp Inc. and Agrium Inc.

From 2010 to 2023, WSRW sent Innophos eight letters about the company’s purchases, without receiving a reply. Until its former exit from the trade in 2019, Innophos was the subject of multiple divestments from shareholders. A lengthy analysis for the ethical exclusion of the firm was prepared by the Council on Ethics of the Norwegian Government Pension Fund in 2015. For the same reason, the company has also been kicked out of the portfolios of the Luxembourg Pension Fund and Danske Bank, among others.

In 2018, the company announced its departure from Western Sahara trade. ‘As part of Innophos’ commitment to overall social responsibility and good corporate stewardship, Innophos will no longer indirectly participate in a raw material supply chain which sources phosphate rock from the Western Sahara region in Africa, an area from which the Company has not directly purchased raw materials for more than three years.’ Innophos Holdings wrote in a press release.

The vessel Milos IMO 9472098, observed in Sagunto, Spain, on 13 February 2022, a week before it arrived in occupied Western Sahara to pick up an estimated 55,000 tonnes of phosphate rock for Mexico.
The bulk ship Oceanmaster is observed at the port of Napier, New Zealand, in August 2021, during its mission to offload an approximately 55,000 tonnes of phosphate rock for OCP’s client Ballance Agri-Nutrients.

Ballance Agri-Nutrients Limited manufactures, markets and distributes fertilizer and related products in New Zealand. The company has two phosphate manufacturing plants, one in Mount Maunganui and the other in Awana, New Zealand. It is a farmer-owned cooperative, and not registered on any stock exchange. The Ballance factories have been using Western Sahara rock since the 1980s. The firm signed a long-term supply agreement with OCP in 1997. Ballance claims that its ‘executives and Board members visit the Western Sahara on a regular basis’.

During the course of 2022, Ballance received five shipments of phosphate rock illegally excavated in occupied Western Sahara. The cargoes have an observed combined volume of 297,000 tonnes worth around USD 156 million. The import volume in 2022 is approximately the same as in 2021, which was the highest level ever recorded to this company since WSRW started the daily monitoring in 2012. Earlier years, the Balance imports have ranged between 104,000 and 215,500 tonnes. WSRW has annually contacted Ballance from 2015 but has never received an answer to its questions. In 2014, Ballace did write to WSRW that ‘the United Nations does not prohibit trade in resources from Western Sahara. Nor does such trade contravene a United Nations legal opinion’.

The company however has a short statement on its website in explanation of its exports from Western Sahara. Here Ballance compares Western Sahara to the small island of Tokelau – an incorrect parallel, as in 2012. The Ballance imports has ranged between 104,000 and 215,500 tonnes since WSRW started the daily monitoring in 2012. None of the letters sent by WSRW to PPL since 2015, have ever been answered.

1. The operations should promote economic advancement and provide direct and indirect benefits to the inhabitants of the territory and to the territory itself. Working conditions should be non-discriminatory. The operations should be conducted rationally and sustainably to ensure long-term access to resources.
2. WSRW knows of only one UN Framework that is specifically applicable to the exploitation of mineral resources in Western Sahara, and that is the UN Legal Opinion of 2002. That opinion clearly concludes that any exploitation of the territory’s resources is to be done in line with the wishes and the interests of the people of Western Sahara in order to be lawful. It is the element of wishes – the corollary of the right to self-determination – that has been translated by different UN Treaty Bodies and the EU Court of Justice to the need for consent. It is this key-element that Ravensdown keeps ignoring and concealing.

In its 2022 Integrated report, Ravensdown indicated to be in the process of adopting the UN Guiding Principles in agricultural supply chains, and it is in this framework that the cooperative’s stance is ‘Conscious that in terms of the UNGPs we are directly linked to the unresolved issue of self-determination in Western Sahara. This issue fundamentally underpins all consideration of human rights in Western Sahara. Ravensdown also referred to an assessment that had been undertaken of the ‘supply of phosphate rock from the OCP mine at Phosphate in Western Sahara’ and stated that a full human rights due diligence assessment by an independent third party has been commissioned by our industry’. The independent assessor’s view is that OCP has demonstrated that it is taking clear responsibility in identifying and managing human rights risk within their company. Ravensdown claims the cooperative has not responded to WSRW’s questions on the matter.

2. Ravensdown Fertilizer Co-operative Limited is a producer of agricultural fertilizers that operates as a farmer owned co-operative that is not listed on any stock exchange. The company normally imports to its plants in Christchurch, Napier and Dunedin, New Zealand.

WSRW tracked two shipments to Ravensdown during 2022, containing an estimated cargo of 101,000 tonnes with a net value of around USD 57.76 million. The imports in 2022 are thus back more at the level of earlier years (2012-2018) when the volume was in the range of 100,000 to 215,000 tonnes. WSRW last contacted the company about the trade on 14 February 2023.

The company told WSRW that it is ‘concerned that the international political situation regarding the status of Western Sahara requires resolution at the international level. The relevant obligations under international law and with respect to United Nations processes are complex and disputed and we believe that any questions you have are more appropriately directed towards New Zealand’s Ministry of Foreign Affairs and Trade’.

In its 2022 Integrated Report, Ravensdown wrote in relation to the imports from Western Sahara that ‘to manage supply risks we continued to explore additional sources of phosphate rock’ and that they were trialling several different types of rock. WSRW has asked the company whether its objective is to have such sources as back-up supply or whether it is looking to replace the Western Sahara imports as advised by the New Zealand government, but has not received a reply. A statement from the company in June 2021 clarifies that the trialling has so far been unsuccessful.

The company’s position on importing from Western Sahara however appears unchanged. The company keeps referring to an unsource ‘UN Framework’ for managing resources in territories like these’ supposedly dictating that

4. PARADEEP PHOSPHATES LTD

Paradep Phosphates Limited (PPL) produces, markets and distributes phosphate-based fertilizers and by-products for agricultural use. The company was established in 1981 and from 1993 has been solely owned by the Government of India. In 2002, 74% of the shares were bought by Zuari Maroc Phosphates Pvt. Ltd a 50-50 joint venture of Zuari Agro-Chemicals Ltd and Adventz Group of India and Maroc Phosphate SA – a wholly owned subsidiary of OCP. Today, PPL operates as a subsidiary of Adventz Group of India and Maroc Phosphate SA.

PPL is headquartered in Ichhannaherwa, India and receives its phosphate rock at the port city of Paradip, approximately 120 kilometers to the east. According to WSRW’s research, PPL received a shipments of phosphate rock from occupied Western Sahara throughout 2022. This constitutes only 2% of the volume it had imported the year before. The import of 2022 is estimated at USD 120 million.

A prospectus filed by PPL in 2021 indicates that the company entered into a long-term supply agreement with OCP on 1 January 2021 for the phosphate rock for its client Paradip in India. The ship is operated by Reederei Zurich AG, Switzerland.

The bulk vessel Magia (IMO 9710036) spotted in Valencia, Spain, in January 2022, shortly before it proceeded to occupied Western Sahara. There it picked up 55,550 tonnes of phosphate rock for its client Paradip in India. The ship is operated by Reederei Zurich AG, Switzerland.

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For the first time in 6 years, the Australian company Incitec Pivot Ltd, also referred to as IPL, imported phosphate rock from the occupied territory. Incitec is thus the only stock exchange registered company to have done this in 2022.

The imports into Australia are the first of a kind since Incitec seemingly had phased out such purchases in 2016.

IPL is an Australian multinational corporation that engages in the manufacturing, trading and distribution of fertilizers. The company’s fertilizer segment includes Incitec Pivot Fertilisers (IPF), Southern Cross International (SCI) and Fertilizers Elimination (Elim).

Incitec Pivot had previously imported from Western Sahara for three decades. Since 2003, when Incitec Pivot arose out of a merger between Incitec Fertilizers and Pivot Limited, the company imported continuously until 2006.

Incitec Pivot has its headquarters in Melbourne, Victoria, Australia, and is registered on the Australian Securities Exchange. Today, Incitec Pivot is the largest supplier of fertilizer products in Australia, but also markets its products abroad, such as in India, Pakistan and Latin America. IPL manufactures a range of fertilizer products, and used the Saharawi phosphate for its so-called superphosphate products produced at plants in Geelong and Portland.

The shipment in 2022 came on board the vessel Clipper Isadora in September. The company confirmed to local trade unionists that the ship had origin in Western Sahara and that it contained 33,000 tonnes of rock from the Bou Craa mine.

Incitec Pivot had told the Australian Western Sahara Association in December 2017 that there had been no imports since December 2016, as it now sources its phosphate rock in Togo. WSRW has indeed not tracked any shipments to the company from 2016 to 2022.

WSRW wrote IPL in 2019, requesting clarity as to whether it would avoid importing from the territory in the future. The letter was not answered. WSRW wrote again Incitec Pivot in 2022 and 2023. The letters were not responded to.

WSRW has tracked a vessel with phosphate rock to Isabel, the Philippines, with cargo from Western Sahara.

On 6 March 2022, at 1AM in the morning, the vessel San Nicolas docked at the port referred to as ’Philphos Installation’ berth number 1, with a probable cargo of around 37,000 tonnes of phosphate rock. It took the ship more than 2 weeks to offload the cargo. The same harbour received a single cargo on 12 October 2020. WSRW has not observed other vessels to Isabel than these two shipments.

Philippine Phosphate Fertilizer Corporation is a fertilizer company based in Makati, Metro Manila which is 30% owned by the government of Nauru. The remaining 70% stake is in the hands of Philippine business magnate Salvador Zamora II.

WSRW wrote to Philphos on 12 March 2021 and 24 February 2023, but has not received a response.

The first ever recorded transport of phosphate rock from occupied Western Sahara to Israel arrived at the port of Ashdod on 29 March 2022. The cargo aboard Keremcan Oba was the smallest that WSRW has ever recorded from Western Sahara. It could have carried no more than 5,500 tonnes of phosphate rock - only 10% of what constitutes an average shipment from the territory.

It is not known to Western Sahara Resource Watch which company in Ashdod is behind the imports.
Companies under observation

Some companies have in the past been identified and named as importers. The following companies have not been involved in the trade during recent years, but WSRW sees a risk that they would resume purchasing.

Morocco’s exports of phosphate rock from occupied Western Sahara to a Chinese-owned company in Brazil will not happen again, according to the Chinese importing company.

In 2021, Western Sahara Resource Watch (WSRW) wrote that it had tracked shipments of phosphate rock from occupied Western Sahara to an industrial compound in Cubatão, Brazil.† A fleet of trucks was seen transporting the cargo the 20 minutes from the port, until they passed through security gates of the large industrial area.

From what WSRW learned from sources in Santos, in fact two importers were behind the incidents. One of the two companies, Copebra, a subsidiary in Brazil of the company China Molybdenum, did not respond to a Brazilian media request following the revelation.11 WSRW also contacted China Molybdenum earlier in 2021, with no response.12 However, the company’s investors have been more successful.

WSRW has been in contact with three of the owners of China Molybdenum who have all received this same information from the investor relations department of the company. The company has stopped the purchases.

“We made contact with the company in order to learn more about the incident. We had a good dialogue with the company, where they assured us that it was a one-time incident, and that it is a topic that they are following closely. The company clarified that it will not purchase phosphate without first having carried out further due diligence,” Kiran Aziz, senior analyst in KLP Asset Management in Norway told WSRW.

Another China Molybdenum investor had received the response that no further imports will take place.

The Chinese company has allegedly clarified to the owners that the incidents were not part of a long term agreement.

WSRW has identified three shipments to Brazil in 2020 and two in 2019, with a total cargo of around 166,600 tonnes. No shipments of phosphate rock have been made from Western Sahara to Brazil since December 2020.

From what WSRW learned from sources on the ground in Brazil in December 2020, was that another company – Cesari Fertilizantes (Cefértil), part of Grupo Cesari – also was involved in the imports of rock from the territory. That company denied to Brazilian media its involvement. The Brazilian Cesari group, owner of Cefértil, replied that Cefértil does not use Saharawi phosphates for its formulations. ‘In addition to this, our industrialization and storage contracts contain specific clauses in which the customer is responsible for the origin of the product,’ the company explained. Grupo Cesari’s large industrial area in Cubatão offers storage facilities to more than one company, including companies that are not part of Cesari’s portfolio. One such company is Mosaic Fertilizantes, the Brazilian subsidiary of Mosaic Company, the USA’s largest phosphate-based fertilizer producer. In 2015, Mosaic informed that it would no longer import phosphate from Western Sahara. That position has also been confirmed to WSRW in 2019.
A cargo of phosphate rock to Estonia in October 2021 was the first import into Europe for five years. The imports in 2021 was the first known export of conflict minerals from Western Sahara to Estonia ever recorded.

The responsible company EuroChem Group is a Russian-owned company headquartered in Zug, Switzerland, with production facilities in several countries internationally. Its subsidiary in Lithuania – Lifosa – used to import from Western Sahara for decades, until the trade stopped in 2016.

EuroChem wrote to WSRW at the time that “increasing the Group’s self-sufficiency in phosphate rock has been a priority for both strategic and social considerations” and that “likely to be of interest to Western Sahara’s self-sufficiency in phosphate rock has been a priority for both strategic and social considerations.”

However, the company ignored the journalist’s further questions, although they had promised to answer them. EuroChem not only has a fertilizer factory inside the Sillamäe port itself but also has logistics services via rail or truck to Europe and Russia.

The former EuroChem trade to Lithuania happened via its subsidiary Lifosa AB which became a subsdiary of EuroChem in 2020.

WSRW has been in dialogue with both Lifosa and EuroChem Group since 2010. But the company’s initial reluctance to thoroughly respond to WSRW’s questions resulted in Lifosa in 2011 being removed from the list of companies adhering to the UN Global Compact.

The company stated in March 2012 that it was seeking to implement ways to diversify external purchases. In 2013-2014, the trade to Lithuania was around 400,000 tonnes annually.

WSRW has not observed any shipments to Lifosa since October 2016.

In a telephone conversation with Estonian media, a local employee of EuroChem confirmed that Nazerin’s transport had arrived at EuroChem.

Western Sahara Resource Watch was present when the cargo ship Nazerin offloaded phosphate rock from occupied Western Sahara in the Estonian port of Sillamäe on 18 October 2021.

However, the company ignored the journalist’s further questions, although they had promised to answer them.

In 2020, EuroChem opened its €70 million brand new port terminal in Sillamäe. At the time that “increasing the Group’s self-sufficiency in phosphate rock has been a priority for both strategic and social considerations” and that “likely to be of interest to Western Sahara’s self-sufficiency in phosphate rock has been a priority for both strategic and social considerations.”

However, the new transport contradicts this statement.

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Companies no longer involved

Some companies have in the past been identified and named as importers. These have not been involved in the trade since 2012 or have publicly stated they’d halt all further purchases, and WSRW sees little risk that they would resume purchases.

Impact Fertilisers Pty Ltd
(Australia/Switzerland)

Australian phosphate importer Impact Fertilisers imported phosphates from Western Sahara, at least from 2002 through 2012. The company imported the rock to Hobart, Tasmania. In 2010 the company became part of Ameropa, a Swiss privately-owned grain and fertilizer trading company. Western Sahara groups in both Australia and Switzerland campaigned against the company for many years. In 2013 Impact announced it had halted the imports from Western Sahara. WSRW has not observed shipments to Impact since August 2012.

Impact Fertilisers in Tasmania has not imported since the arrival of Alycia in Hobart harbour on 7 August 2012.

Nidera Uruguaya S.A.
(Uruguay/The Netherlands)

The Uruguayan company Nidera Uruguaya S.A., subsidiary of Dutch trading company Nidera NV, received one vessel containing phosphate rock from Western Sahara in 2009. WSRW confronted Nidera Uruguaya with the information about the 2009 vessel in a letter 21 June 2010. As no answer was received, new letters were sent to the parent company in the Netherlands in October 2011. The outcome of the following correspondence with Nidera was a statement from the company underlining that ‘If our subsidiary in Uruguay again needs to import phosphate rock in the future, the matter which is now brought to our attention is something we shall definitively take into consideration’. The company at the time also stated that its subsidiary in Uruguay had not received any phosphate rock from Western Sahara during the years 2007, 2008, 2010, 2011.
Some companies that have previously been on WSRW’s observation list, were later moved over to the list of companies that are no longer involved. The reason for this is that such a long time has passed since a shipment took place that we expect them not to be engaged again. These are Petrokemija PLC from Croatia (last shipment in 2001), Tata Chemicals from India (last shipment in 2001), Zen Nah from Japan (last shipment in 2006) and Agropolychim AD from Bulgaria (last shipment in 2008). None of these companies have responded to requests from WSRW.

Yara International ASA (Norway)

Yara is the world’s leading supplier of mineral fertilizers. It used to be a large importer of phosphates from Western Sahara in the past, but has since decided not to import from Western Sahara. The main motive for the decision to cease doing so has been that the Norwegian government urges Norwegian companies not to trade with goods from Western Sahara due to concerns of international law. The company has today as a policy only to import or trade with phosphates from Morocco proper, not from the Bou Craa mines.

“We hope the country will be liberated; then the population there will profit from us quickly receiving their phosphates,” Chief Communication Officer Bente Slaatten told. 130

Mosaic Co (USA)

Mosaic Company is headquartered in Minnesota, USA, and listed on the New York Stock Exchange. WSRW confirmed 15 shipments from occupied Western Sahara to Tampa, Florida, USA in the period from 2001 to 2009. Tampa is home to the headquarters of Mosaic’s phosphate operations and many of the firm’s phosphate production facilities.

On 25 August 2010, Mosaic informed WSRW that it had received its last shipment of Western Sahara phosphate rock on 29 January 2009 and that it ‘has no plans’ to import from the territory again. 130 Mosaic confirmed to the Swedish investor and shareholder Nordea that it had halted imports. Mosaic has now disclosed that they have discontinued their purchase of phosphate from Western Sahara, which also has been independently confirmed. The company has acknowledged the human rights issues involved with importing phosphate from Western Sahara. Nordea wrote. 131

Wesfarmers Ltd (Australia)

Wesfarmers Limited is one of Australia’s largest public companies, headquartered in Perth, Western Australia. The company is listed on the Australian Securities Exchange. Its fertiliser subsidiary, Wesfarmers CSBP, was a major importer from occupied Western Sahara for at least two decades. Earliest known imports of Saharawi phosphates by CSBP date back to 1990.

In 2009, the firm announced it would ‘reduce the company’s dependency on phosphate rock from Western Sahara’. The company said it would invest in new technology that would make it possible to use other phosphate sources. CSBP did, however, leave open the possibility that the imports could continue, albeit to a limited degree, depending on price and availability of alternative sources. 131 This decision followed a wave of European divestments over ethical concerns on trade in phosphate from occupied Western Sahara. Wesfarmers used to import between 60 and 70% of its phosphates from Western Sahara.

Wesfarmers has on numerous occasions since shown a will to phase down imports from Western Sahara, but has not committed categorically to completely stop imports. As the de facto imports seem to have stopped, some investors have returned to the company.

WSRW has not observed any shipments to Wesfarmers since it started its daily monitoring of vessels in October 2011.

Yara’s last imports took place in 2008, on this vessel. Here the African Wildcat is on its way to dock in Herøya, Norway to offload.

BASF SE (Germany/Belgium)

BASF was one of the leading importers through the 1990s. It received its last known shipment to Belgium in 2006. 134 BASF’s sustainability centre was confident such import did not violate international law, but confirmed to WSRW that it would not expect more imports. A part of BASF’s phosphate demand is covered by Moroccan phosphate delivered by Office Chérifien des Phosphates (OCP). OCP has been a reliable supplier of phosphate from mines in the Kingdom of Morocco for over 20 years. In spring 2006 OCP contacted us because of a supply shortage at the Moroccan mine from which BASF usually receives the phosphate. OCP offered a temporary replacement order with phosphate in an alternative quality from a different mine operated by OCP in the Western Sahara region which we accepted. For the time being, this was an isolated replacement delivery from this territory which we do not expect to be repeated in the future. 134

BASF is not known to have imported since the arrival of the bulk vessel Novigrad on 7 October 2008. Here seen discharging Saharawi phosphate in Ghent harbour, Belgium.

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Other companies

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Morocco’s PR partners

In defense of their phosphate imports from Western Sahara, several companies have referred to legal opinions by different law firms to justify their trade. These legal opinions are systematically used by the international phosphate importers to legitimize their imports vis-à-vis shareholders. The confidential analyses are said to establish that the local people benefit from the industry. However, the local people – the owners of the phosphates – are themselves not allowed to see the opinions, and are thus unable to assess their veracity. All aspects related to Terms of Reference, methodology or findings are thus impossible for the Saharawis to question.

As the opinions allegedly have found Morocco’s exploitation of the Saharawi people’s resources lawful, WSRW believes that there is little reason to withhold them from the Saharawis.

Five international lobbying law firms are behind such undisclosed opinions:

- Covington & Burling LLP is an international law firm with offices in Europe, USA and China, which advises multinational corporations. Among its clients is OCP. Both the Belgian importer BASF and the Spanish importer FMC Foret referred to Covington & Burling’s legal opinion made for OCP but neither wished to disclose the report. BASF at the time (November 2008) urged WSRW to contact Covington & Burling for further questions. WSRW contacted the firm in February 2008, but received no reply. When phoning the company to ask for a meeting, Covington & Burling replied that they “would not engage with you at all regarding anything at all. You’re not my client, and as far as I can see you have no interest or stake in our company”.

- It should be noted that Covington & Burling will travel around the world to defend the unethical trade to shareholders looking into divesting stake in our company.”

- More recently, the law firm DLA Piper teamed up with the firm Palacio y Asociados to provide OCP with another legal opinion to justify the trade. Based on statements from the importing companies, this second opinion seems to follow the analysis of the Covington & Burling opinion, citing potential benefits to the ‘local population’ as a validation of the exploitation and subsequent trade to take place. As part of the work on the legal opinion, DLA Piper had also commissioned EPMS, a professional service company, to study the economic and social impacts of OCP’s operations, and their sustainability “in the region”.

- DLA Piper is an international law firm that has offices in around 30 countries throughout the Americas, Asia-Pacific, Europe and the Middle East. Palacio y Asociados is headed by Spain’s former Minister of Foreign Affairs and former MEP Ana Palacio and has offices in Madrid, Brussels and Washington.

- WSRW contacted both firms with the request to share their legal opinion with the Saharawi people. DLA Piper replied that it could not share the opinion that “was written for the benefit of Phosphates de Bou Craa S.A. and its holding company. Office Cherifien des Phosphates S.A. due to legal privilege”. Ana Palacio, head of Palacio y Asociados, wrote back to express her disagreement with WSRW’s analysis and also cited legal privilege. Palacio herself sits on the international advisory board of OCP.

- In November 2015, PotashCorp named the firm Dechert LLP and Palacio y Asociados as co-authors of a legal opinion. Dechert is an international law firm headquartered in Philadelphia, USA, with offices in 14 countries.

- Up until August 2014, PotashCorp had named DLA Piper as the partner of Palacio y Asociados. It is not clear whether the Dechert-Palacio opinion is different from the DLA Piper-Palacio opinion. The missing link between the two could be Myriam González Durántez, wife of Britain’s former Deputy Prime Minister Nick Clegg, who represented OCP when working at DLA Piper, but who is said to have taken the OCP contract with her when she moved to Dechert. OCP has reportedly paid an estimated USD 1.5 million for work carried out by both Dechert and DLA Piper.

- Dechert replied to WSRW’s letter of 8 February 2016 that it could not disclose its legal opinion for OCP due to client confidentiality.

- WSRW has asked Dechert and Palacio y Asociados whether their client would consent to waiving privilege, as the confidentiality of the legal opinions has already been given up by making their existence public. WSRW never received a reply to that request.

- From 2019, a New Zealand lobby firm, SenateSHJ, started representing OCP in New Zealand, handling the Moroccan company’s public relations in the country. WSRW wrote SenateSHJ four times from 2020 to 2023. No answer has been received.

- The 2022 Annual Report of Ballance Agri-Nutrients revealed that the Fertilizer Association of New Zealand had contracted Tuhana Consulting Ltd to carry out “an external assessment” in relation to the imports from occupied Western Sahara. According to Ballance that assessment was “validating our supplier’s operations in Western Sahara against United Nations criteria”. WSRW wrote Tuhana on 16 February 2023, inquiring about the scope and content of the assessment. The referred to “UN criteria” and how/whether Tuhana had related to the status and legal framework pertaining to Western Sahara. Tuhana responded with a single vague sentence that “The work with our clients is ongoing and we will be in touch with stakeholders in due course.” OCP has failed to answer requests from Saharawis to share copies of the reports.
Morocco pushes for more toxics in EU farmlands

In the spring of 2019, the European Parliament and the European Council adopted a Regulation limiting the amount of contaminants such as cadmium contained in fertilizers. The aim is to limit the EU population’s exposure to this heavy metal due to its adverse health effects, particularly in terms of its potential of causing cancer. Phosphate fertilizers are responsible for 60% of current cadmium deposits to crops and soils within the EU, as documented in a February 2017 study by the European Parliament’s Policy Department. The regulation now caps the cadmium level at 60 mg/kg. Starting from 16 July 2022, the sale of phosphate-based fertilizers containing more than 60 mg of cadmium per kg of P2O5 will be barred throughout the EU. Further tightening of restrictions on cadmium will be considered in July 2026. Member States are still permitted to use stricter limitations, which is already the case in countries like Germany, Finland, Denmark, Czech Republic, Hungary, Netherlands, Sweden and Slovakia.

The original proposal by the EU Commission was stricter: a 60 mg/l of phosphate at the date of the deal application, 40 mg/kg three years later, and 20 mg/kg after another 12 years. This proposal was accepted by the European Parliament, albeit with an adjusted timeline (60 mg/kg in six years after date of application, 20 mg/kg in 16 years). But Member States such as Spain, Italy, Poland, Portugal and the UK opposed any limits below 60 mg/kg, while the fertilizer industry mounted tough opposition. Ferocious counter-lobby however also came from Morocco.

The phosphate rock managed by OCP – thus including the Western Sahara rock – is said to contain on average between 29.5 to 72.7 mg/kg. The European Parliament’s Policy Department paints an even bleaker picture, citing levels of 58-200 mg/kg. Since the initially proposed regulation would have resulted in the nullification of that sales figure over time, OCP unleashed an intense counter-lobby. OCP argued that there is not enough scientific proof to underpin the idea of limiting cadmium levels, and suggested the EU to even raise cadmium levels to 80 mg/kg, far higher than the suggestion of the EU Commission. On 5 May 2016, OCP sent a letter to the Commission, stating it disagreed with the proposal. OCP also lamented that “major fertilizer producers […] had not been consulted”. The irony is that OCP itself refuses to seek the consent of the people of Western Sahara upon plundering their territory’s phosphate rock.

OCP retained Dechert and the PR firm Edelman to lobby against the EU proposal. Edelman has worked for OCP and its clients which aim to justify OCP’s activities in occupied Western Sahara and the illegal export trade in Saharawi phosphate. While the final Regulation will thus not result in a complete market loss for OCP it does seem that Western Sahara phosphate rock will no longer be welcome on the EU market. There is consensus among researchers that the cadmium content in phosphate rock from Bou Craa is considered around 100 mg/kg. Cadmium levels from the Khouribga mine in Morocco proper are estimated at around 46-63 mg/kg, while those from rock coming from Youssoufia also in Morocco are considered to be higher than 120 mg/kg.

Recommendations

To the Government of Morocco:
- To respect international law and immediately terminate the production and exports of phosphates from occupied Western Sahara until a solution to the conflict has been found.
- To respect the right to self-determination of the people of Western Sahara, through cooperating with the UN for a referendum for the people of the territory.
- To compensate the Saharawi people for the benefits it has accrued from the sales of phosphate rock from the illegally occupied territory.

To the purchasers of phosphates from Bou Craa mine:
- To immediately end all purchasing of phosphate illegally exploited and exported from occupied Western Sahara.

To the governments of the importing countries:
- To clearly state to the involved importing companies that they should refrain from imports from Western Sahara and to assist these businesses in diversifying their supply base.

To the Government of New Zealand:
- To immediately proceed to quantify the cost and take measures to retrofit Riversend’s and Balance Agri-Nutrients’ processing facilities to enable use of alternative sources.

To the suppliers of the Bou Craa mine and constructors of the new phosphate port:
- To immediately terminate all works, supplies and maintenance.

To the shipping companies transporting phosphate rock out of Western Sahara:
- To refrain from shipping commodities out of Western Sahara.
- To install a provision in shipping contracts preventing the use of vessels for transporting commodities out of the territory.

To investors:
- To engage with the mentioned companies, and divest unless action is taken to halt the imports.

To Covington & Burling, Dechert, Tuhana, DL A Piper, SenateSH, KPMG, Edelman and Palacio y Asociados:
- To publish all reports written for OCP and its clients which aim to justify OCP’s activities in occupied Western Sahara and the illegal export trade in Saharawi phosphate.
- To refrain from defending Morocco’s plunder of the territory by stopping the undertaking of assignments to legitimate its continuation.

To the European Union:
- To assess trade in products originating in Western Sahara and adopt policies that ensure such trade is consistent with the Court of Justice of the EU judgment of 21 December 2016 and with the duty on States under international law not to recognize Morocco’s sovereignty over occupied Western Sahara.
- To develop business advisory guidelines warning of the legal and reputational risks of doing business with Moroccan interests in the territory.
- To ensure European companies adhere to the principles established in the Court of Justice of the EU judgment of 21 December 2016, assuring that EU companies do not purchase phosphates from Western Sahara.

To the United Nations:
- To create a UN administration to oversee or otherwise administer Western Sahara’s natural resources and revenues from such resources pending the self-determination of the Saharawi people.

A 100-kilometer-long conveyor belt from the Bou Craa mine to the coast. The rubber belt was maintained by the German company Continental AG until the company departed the territory in 2020.
## Annex 2: The shipping companies behind the controversial phosphate transports, 1 January 2022 to 31 December 2022

<table>
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<tr>
<th>No.</th>
<th>Vessel Name</th>
<th>IMO</th>
<th>Flag</th>
<th>Departure (importer)</th>
<th>Arrival</th>
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The table shows the owners and operators that WSRW has been able to confirm as having a connection to the cargo vessels at the time when the transport from Western Sahara took place. The companies that operated/owned these vessels at the time of the publication of this report, or who operate/own the vessels today, did not necessarily have a link to the vessels at the time of the shipment.

WSRW has contacted most of the operators representing the 23 vessels. Letters from WSRW and answers are found on https://www.wsrw.org/en/news/shipping-company-responses-to-the-report-p-for-plunder-2023
<table>
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<tr>
<th>No.</th>
<th>Vessel Name</th>
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<td><a href="mailto:franco@franco.gr">franco@franco.gr</a></td>
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“The Court's conclusion is that the materials and information presented to it do not establish any tie of territorial sovereignty between the territory of Western Sahara and the Kingdom of Morocco or the Mauritanian entity. Thus the Court has not found legal ties of such a nature as might affect the application of General Assembly resolution 1514 (XV) in the decolonization of Western Sahara and, in particular, of the principle of self-determination through the free and genuine expression of the will of the peoples of the Territory.”

International Court of Justice, 16 Oct 1975