

Caterpillar Inc.

Att: Kate Kenny, Corporate Media Manager

501 Southwest Jefferson Avenue

Peoria, Illinois, 61630

United States of America

Brussels, 17.03.2021

RE. CATERPILLAR'S INVOLVEMENT IN OCCUPIED WESTERN SAHARA

Dear Ms Kenny,

We, at Western Sahara Resource Watch, present you with our compliments. We hope that this message finds you well in the current phase of the COVID-19 crisis.

We are writing to invite Caterpillar to comment on its business activities in occupied Western Sahara. WSRW is in the process of writing an update report on the 2020 phosphate exports from the territory, and Caterpillar will be featured. Accordingly, we would be grateful for your answers to the questions below, so that we may accurately present your views on the matter.

The Caterpillar agency Tractafic Equipment Corporation is present in the Non-Self Governing Territory of Western Sahara, and Caterpillar equipment has been observed at the Bou Craa phosphate mine.

On Tractafic's website, the company presents itself as a Caterpillar-licensed business. On the same website, however, Tractafic is using the map of Western Sahara merged with that of Morocco.¹ This is in contradiction of UN maps and cartography.² Furthermore, Tractafic states it has an office in Laayoune, which is the capital city of Western Sahara (El Aaiún, or Laayoune in French), but that the city is "located in Morocco".³

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. The situation on the ground has however changed dramatically in recent months. The ceasefire agreement between Morocco and Frente Polisario has come to a halt mid-November, and armed conflict has resumed in the territory.

Incentivized by its exploitation of the territory's resources, Morocco has little interest to genuinely take part in the UN-mediated peace process. Meanwhile, the lingering conflict continues to have a high human and humanitarian cost: over 170,000 Saharawis are stuck in refugee camps in neighbouring Algeria, surviving in harsh desert conditions, and dwindling humanitarian aid. Saharawis who live under the yoke of Morocco's occupation are victims of serious human rights violations that have been reported by the UN

¹ <https://www.tractafictae.com/fr/?isometric=574124808145adeddf18d2be4e094a91#.XpCpHsgzZRY>

² <https://www.un.org/Depts/Cartographic/map/profile/africa.pdf>

³ <https://www.tractafictae.com/en/page/root/notre-reseau/1148/maroc.html#.XpCpiMgzZRY>

Human Rights Committee, in addition to credible international organisations such as Human Rights Watch, Amnesty International, and others. Just two weeks ago, Freedom House published its annual update report on the status of civil and political rights in the world, ranking Western Sahara alongside Syria and North Korea.

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, recommendations by UN Treaty Bodies 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.

WSRW has received images of MT3300 trucks operating in the mine.⁴ The images were taken a few years back, possibly 5 years ago. We understand that these trucks originate from your company.

According to its website, Caterpillar stands for “uncompromisingly high ethical standards the company has upheld since its founding in 1925”. In that spirit, we are sending you the questions we had sent in April 2020, but were not answered. We would still be grateful if you could provide an answer to the following questions:

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.

⁴ https://www.wsrw.org/webpics/2018-12-27/caterpillar_unitrig1_609.jpg

We'd be grateful for your response by 1 April 2021, allowing us to include it in our upcoming report. We look forward to hearing from you. Naturally, we remain at your disposal should you have any further questions.

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

Sincerely

Sara Eyckmans

Coordinator, Western Sahara Resource Watch

coordinator@wsrw.org