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 2020.
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 eighth 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 2020, naming all shipments of phosphates from occupied Western Sahara. A total of 22 vessels departed the territory with 1.1 million tonnes of phosphate rock, approximately the same level as in the record-low 2019. To compare, Morocco’s average export from the occupied territory during the years 2012-2018 was 1.8 million tonnes.

The trade to OCP’s joint venture in India and to two farmer cooperatives in New Zealand remains relatively stable from the year before, representing 64% and 20%, respectively.

After vessels transporting Western Saharan phosphate were detained in Panama and South Africa in 2017, still no shipment has gone via Cape of Good Hope or through the Panama Canal.

Two of OCP’s key suppliers to the Bou Craa mine, Continental and Epiroc, have both in 2020 ended their long engagement in the territory after pressure from investors.

After a review of sources in importing countries, WSRW has concluded that the price that Morocco earns from the trade could be approximately twice as high as we have reported in previous editions.

WSRW calls on all companies involved in the trade 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.
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 oil and gas 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.

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 Chérifien des Phosphates SA (OCP), now known simply as OCP. Moroccan national phosphate company and today responsible for one of that country’s main sources of income from Western Sahara.

Phosphates de Boucraa S.A (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 – yet only 5% are Saharawis. The remaining 95% are deemed ‘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 “cannot be decolonized”. The document goes on to say that in return, “Russia could guarantee a freeze on the Sahara file within the UN.” Morocco’s illegal occupation of Western Sahara has been under 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 OCP SA from its portfolios.

“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.”

Nykrekt Realkredit Group, Denmark, explaining its exclusion of Nutrien, April 2018.

“Human rights violations in Western Sahara”

PGS Pensioenfonds, the Netherlands: third quarter of 2015, upon excluding OCP SA from its portfolios.

“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 Agrium Inc.

“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.
In 2020, 1.12 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.
The Moroccan take-over of Bou Craa mine

1943: Western Sahara's phosphate reserves are discovered 150 kilometres southeast of El Aaiún in a place called Bou Craa. The discovery of phosphate reserves is the first potential source of mineral revenues for the colonial power. Spain.

July 1962: 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 1966: 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 was 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.

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.

1976: The company is renamed Fosfatos de Bucraa S.A. also known as Phosboucraa or Fos Bucraa.

2002: Spain sells its 35% ownership of Bou Craa.


2020: In November, Morocco violated the 1991 UN-brokered ceasefire arrangement with the Polisario Front. Armed clashes ensued. Polisario declared a 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.

2021: Morocco continues to operate the mine in occupied Western Sahara. The average exports over the last years have generated an annual income of around USD 350 million from a mine which is not theirs.

Large plans
For years, OCP has been announcing that it will modernise the Bou Craa mine, exploit deeper phosphate layers, create higher added-value products for export, increase the El Aaiún harbour capacity for phosphate activities and expand alleged social and sustainable development projects in the Bou Craa area.

OCP states that it plans to invest USD 2.2 billion in Phosboucraa. The aim is to diversify Phosboucraa’s operations from exporting raw material to producing intermediary products and phosphate-based fertilizers by 2022.

The stated main objective is to develop its industrial capacity, by working on three axes: the mining site itself, the construction of a chemical plant, and work on the port infrastructure. A production capacity of one million tonnes of fertilizer per year is envisioned. The new chemical plant will include a sulfuric acid production unit, a phosphoric acid unit and a granulation unit. In addition, new extraction methods will be introduced. A washing unit will be built and storage facilities will increase. The investment also includes a new sheltered port and a wharf.

As of 2019, construction work in the port of El Aaiún is reported to be taking place. OCP also reports that it is rolling out a reverse flotation process in Bou Craa to enrich phosphate that is of low phosphorous content, to provide all energy needed for the belt system.

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...
The Exports

<table>
<thead>
<tr>
<th></th>
<th>2020</th>
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</tr>
</thead>
<tbody>
<tr>
<td>Exported amount of phosphate</td>
<td>1,123,000 tonnes</td>
<td>1,038,200 tonnes</td>
</tr>
<tr>
<td>Value of exported phosphate</td>
<td>$170.8 million</td>
<td>$180.8 million</td>
</tr>
<tr>
<td>Value of largest single shipment from the territory</td>
<td>$9.6 million</td>
<td>$12.6 million</td>
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<tr>
<td>Value of smallest single shipment from the territory</td>
<td>$1 million</td>
<td>$2.2 million</td>
</tr>
<tr>
<td>Number of ships that departed with phosphate from the territory</td>
<td>22</td>
<td>20</td>
</tr>
<tr>
<td>Average amount of phosphate exported in each ship</td>
<td>$7,600 tonnes</td>
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</tr>
<tr>
<td>Average annual phosphate price of Bou Craa rock (per tonne)</td>
<td>$152.1</td>
<td>$175.92</td>
</tr>
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</table>

Methodology

This report is based on data gathered through continuous vessel tracking. The amounts of phosphate loaded into ships were ordinarily calculated to be 95% of the ship’s overall cargo (and normally calculated to be 97% of loaded into ships were ordinarily calculated to be 95%).

WSRW believes that it has detected and accounted for all vessels departing from El Aaiún harbour for 2020. However, WSRW cannot exclude a possibility that one or more vessels have gone undetected.

Adjusted price estimates

WSRW has in previous 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 last year applied the value of phosphate rock as referred to by Index Mundi. However, WSRW has for a while speculated that the price could be far higher. Trade data from importing countries that WSRW has studied supports that theory, suggesting that the price of the Bou Craa rock could be anything from 129 to 201 USD per tonne in 2020. For one shipment in 2019, we suspect the price could have been as high as 25 USD/tonne.

WSRW started daily monitoring in 2011. Our first report put OCP’s exports of phosphate mined in Bou Craa at 1.6-2.2 million tonnes in 2012-2013. WSRW’s projection of 2.1 million tonnes of exported phosphate rock from Bou Craa in 2014 was confirmed in the volume of ‘processed’ phosphates as mentioned in an OCP prospectus. After the unusually low level of exports in 2015, the 2016 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 projection of 2.1 million tonnes by the late 1990s. WSRW decided not to include a shipment to Japan in P for Plunder 2019, presuming it was probably not carrying phosphate rock. The vessel most likely contained 10,200 tonnes of rock at a value of 2.2 million USD.

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Fluctuating export levels

In general, WSRW’s calculations for recent years are confirmed in OCP’s own reports. Until 2006 the export of phosphate rock averaged 1.1 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, only gradually achieving 2.6 million tonnes by the late 1990s. WSRW started daily monitoring in 2011. Our first report put OCP’s exports of phosphate mined in Bou Craa at 1.6-2.2 million tonnes in 2012-2013. WSRW’s projection of 2.1 million tonnes of exported phosphate rock from Bou Craa in 2014 was confirmed in the volume of ‘processed’ phosphates as mentioned in an OCP prospectus. After the unusually low level of exports in 2015, the 2016 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 projection of 2.1 million tonnes by the late 1990s. WSRW decided not to include a shipment to Japan in P for Plunder 2019, presuming it was probably not carrying phosphate rock. The vessel most likely contained 10,200 tonnes of rock at a value of 2.2 million USD.

Value of exported phosphate

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Average amount of phosphate exported in each ship

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Errors in P for Plunder 2019

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The Importers, 2020

<table>
<thead>
<tr>
<th>Rank</th>
<th>Corporation</th>
<th>Home country of (parent) company</th>
<th>Import destination</th>
<th>Number of shipments</th>
<th>Amount of phosphate purchased (tonnes)</th>
<th>Value of phosphate purchased (USD)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Paradeep Phosphates Ltd</td>
<td>India/Morocco</td>
<td>Paradip, India</td>
<td>14</td>
<td>719,136</td>
<td>$109.38 million</td>
</tr>
<tr>
<td>2</td>
<td>Ballance Agri-Nutrients Ltd</td>
<td>New Zealand</td>
<td>Tauranga/Bluff, New Zealand</td>
<td>3</td>
<td>177,000</td>
<td>$26.92 million</td>
</tr>
<tr>
<td>3</td>
<td>Unknown (probably China Molybdenum)</td>
<td>Brazil</td>
<td>Santos, Brazil</td>
<td>3</td>
<td>96,200</td>
<td>$14.65 million</td>
</tr>
<tr>
<td>4</td>
<td>Ravensdown</td>
<td>New Zealand</td>
<td>Lyttelton/Dunedin/Napier, New Zealand</td>
<td>1</td>
<td>55,000</td>
<td>$8.37 million</td>
</tr>
<tr>
<td>5</td>
<td>Unknown</td>
<td>China</td>
<td>Fangcheng, China</td>
<td>1</td>
<td>39,400</td>
<td>$5.99 million</td>
</tr>
<tr>
<td>6</td>
<td>Unknown (probably Philphos)</td>
<td>Philippines</td>
<td>Isabel, Philippines</td>
<td>1</td>
<td>29,700</td>
<td>$4.52 million</td>
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<tr>
<td>7</td>
<td>Unknown (possibly Itochu)</td>
<td>Japan</td>
<td>Moji, Japan</td>
<td>1</td>
<td>6,600</td>
<td>$1.00 million</td>
</tr>
</tbody>
</table>

“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 Innophos Holdings Inc. in January 2015.39

The nationalities behind the shipments

<table>
<thead>
<tr>
<th>Registered owner home country</th>
<th>Number of vessels</th>
<th>Volume of cargos</th>
<th>Value of cargos</th>
</tr>
</thead>
<tbody>
<tr>
<td>Marshall Islands</td>
<td>9</td>
<td>403,645</td>
<td>$139,404.5</td>
</tr>
<tr>
<td>Panama</td>
<td>4</td>
<td>228,940</td>
<td>$48,217.4</td>
</tr>
<tr>
<td>Liberia</td>
<td>4</td>
<td>201,611</td>
<td>$39,055.0</td>
</tr>
<tr>
<td>Hong Kong</td>
<td>2</td>
<td>161,240</td>
<td>$17,860.3</td>
</tr>
<tr>
<td>Singapore</td>
<td>2</td>
<td>108,900</td>
<td>$16,563.6</td>
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<tr>
<td>United Kingdom</td>
<td>1</td>
<td>53,700</td>
<td>$8,167.7</td>
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<table>
<thead>
<tr>
<th>Operator, nationality of controlling interest</th>
<th>Number of vessels</th>
<th>Volume of cargos</th>
<th>Value of cargos</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unknown</td>
<td>5</td>
<td>275,815</td>
<td>$4,982,709.5</td>
</tr>
<tr>
<td>Hong Kong</td>
<td>2</td>
<td>172,302</td>
<td>$26,206.8</td>
</tr>
<tr>
<td>Germany</td>
<td>2</td>
<td>150,800</td>
<td>$17,631.8</td>
</tr>
<tr>
<td>South Korea</td>
<td>2</td>
<td>107,840</td>
<td>$16,412.4</td>
</tr>
<tr>
<td>Greece</td>
<td>2</td>
<td>86,200</td>
<td>$13,134.4</td>
</tr>
<tr>
<td>China, Cyprus, Denmark, Singapore, South Africa, Taiwan, Turkey, United Arab Emirates</td>
<td>1 each</td>
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</table>

<table>
<thead>
<tr>
<th>Group owner, registered nationality</th>
<th>Number of vessels</th>
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<tr>
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<td>254,965</td>
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<td>5</td>
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<td>$35,826.8</td>
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12
Key suppliers pulled out

The 12-year long practice of Swedish companies supplying drilling equipment to the operation of the continental 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 2008, and the deal was revealed by WSRW only in 2013.4

Though Atlas Copco and Epiroc did not comment on the matter for a long time after Ericsson’s establishment, it was a common understanding among the owners of both companies that the contract with OCP had been taken over by Ericsson as was the case with other Atlas Copco contracts. A letter to Ericsson in November 2019 was not responded to but when confronted by Business and Human Rights Resource Centre earlier this year, 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 for delivery of equipment, spare parts and service to Western Sahara. Atlas Copco wrote WSRW in a mail on 18 September 2020. This was confirmed to the Business and Human Rights Resource Centre in a letter 9 March 2020. Atlas Copco has no operations in Western Sahara. The mining equipment business is now part of a separate publicly traded company, Ericsson AB. [...].

There is no service performed by Atlas Copco personnel in Western Sahara, the company wrote.42

CONTINENTAL

The German company Continental is no longer supplying OCP with key parts for its 10 km long conveyor belt that carries phosphate rock from the phosphate mine to the coast. The exit came as a consequence of Continental’s subsidiary ContiTech not renewing its agreement with OCP. The announcement was made in a correspondence with Western Sahara Resource Watch (WSRW) in February 2021.43

The contract, arranged for ContiTech to supply replacement parts to the conveyor installations of OCP had already expired on 30 June 2020. Continental and OCP had been in dialogue for well over a year to renew the contract. In January 2020, the company confirmed to WSRW that talks were ongoing and that the issue of Western Sahara would be addressed in the negotiations.

WSRW has been in dialogue with Continental since 2017. With time, other groups picked up our concerns over the company’s involvement. Several German NGOs appealed to the company in March 2020 to ‘comply with its corporate responsibility and not to provide economic support for Morocco’s occupation of parts of Western Sahara in violation of international law’. Continental furthermore responded to shareholder questions around the issue at its 2020 AGM.44

Continental’s involvement in Western Sahara started in 1971 when the territory was still colonised by Spain. In that year, ContiTech delivered an ST 2500 Stahlcord conveyor belt to a plant manufacturer that was contracted by the mine operator. After Morocco had invaded and annexed parts of the territory, ContiTech entered into a framework agreement with OCP to ensure replacement demands for the conveyor belt when needed. The agreement covered all OCP’s sites, including the phosphate mine in occupied Western Sahara.

SIEMENS

German engineering company Siemens has delivered installed and commissioned 22 wind turbines to the 50 MW Foum el Oued wind park in occupied Western Sahara in 2013. The park was commissioned by Morocco’s national agency for electricity. ONGE. Siemens collaborated with the Moroccan wind energy company NAREVA — owned by the King of Morocco — for its work on the Foum el Oued farm, which supplies nearby Phosphocas’s energy needs. OCP today boasts that Phosphocas is entirely ‘solar – wind powered’. In other words: all energy required for the exploitation and transport of the phosphate rock in Western Sahara is generated by wind mills delivered by Siemens. The green energy production is thus making Morocco’s plunder of the territory even more lucrative.45

In 2018, Siemens confirmed to WSRW that it has extended the maintenance contract for the Foum el Oued park for a further 15 years. WSRW has asked Siemens several times – in writing and at its AGMs — to clarify whether the people of Western Sahara have consented to their operations – a legal requirement put forth by the EU Court of Justice. The company never responds to that question yet claims that its work is to the benefit of the ‘local population’. At the same time, Siemens says it ‘refrains as a matter of policy from taking positions or making judgements on questions of international law’ which is hard to square with the act of engaging in business deals with a state that has no legal mandate to be in Western Sahara.46

WORLEY

In 2019, the Australian company Worley Ltd took over the Energy Chemicals and Resources Division of the American firm Jacobs Engineering Inc. and as such inherited the ownership of a 50/50 joint venture company with OCP called JESA (Jacobs Engineering SA). The latter is described as a Moroccan construction and engineering firm. JESA has projects in Morocco and in other African countries. JESA is also connected to OCP’s projects in occupied Western Sahara including development of Phosphocas’s helpers at the mine

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

OCP’s helpers at the mine

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The case of the looted goods

OCP SA is a Moroccan state-owned company which since 1955 has operated the mine in Western Sahara through its subsidiary, Phosphates de Boucraa SA. It is OCP that claimed to own the cargo in the South African court.

FURNESS WITHEY CHARTERING and MAERSK

The charterer of the transport vessel to New Zealand was Furness Witherby Ltd, a London-based shipbroker, and the cargo ship operating for the charterer was Furness Witherby's chartering subsidiary, WSWR. The firm has specialized in dry bulk cargoes.57

The value of the cargo was around 5 million USD. The value of the phosphate rock was estimated to be 55,000 tonnes.58

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.60 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 acceptably purchased it after it had been warned by the SADR of its illegal origins?61 This was the question of rights to the cargo: Who owns it, and could the New Zealand importer have acceptably purchased it after it had been warned by the SADR of its illegal origins?

On 19 April 2018, the cargo was bought back by the charterer.
A massive change has taken place in the client base since 2011.

The number of importing companies dropped from 15 in 2011 to 7 or 8 by 2020.
"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.

"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.

"We have a separate clause excluding trade in Western Sahara."

Seven Seas Carriers, 2015.

"An unfortunate mistake"

Uglands Rederi regarding a transport done by a chartering company in 2015.

"We do not want our vessels to be used in Western Sahara."

Wagle Chartering, 2009, after revelation.

The bulk vessel NM Cherry Blossom (IMO 9703655) was detained in South Africa for 370 days for carrying phosphate rock from occupied Western Sahara. This was the last vessel to take the route from Western Sahara around the south tip of Africa.

"We have excluded Western Sahara as a territory for trade", stated the Norwegian shipping company Spar Shipping on 10 January 2019. The company undertook transports in 2015 and 2017. The photo shows the company's headquarters.

On 23 June 2020, protestors in Christchurch, New Zealand, blocked roads to prevent trucks from transporting phosphate rock from occupied Western Sahara to the fertilizer factory of Ravensdown.
Companies involved in the trade

Seven or eight companies and co-operatives were involved in the imports of Western Sahara phosphates rock in 2020.

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 SA.

A primarily 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 2011, and to international investors through the Irish Stock Exchange since 2014. Several institutional investors have since blacklisted 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 SenateSHJ, DLA Piper, Covington & Burling, Palacio y Asociados, Edelman and Dechert LLP to advocate the suppositious 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.

Saharawi refugee Senia Bachir Abderahman on 1 February 2020, for the twenty-third time asked OCP for copies of reports commissioned by OCP which the importing companies have claimed document the legality of their operations. She has received no reply.

Kiran Adriatic is here observed off the Canary Islands in January 2019, just prior to entering Western Sahara waters. The vessel picked up 54,050 tonnes of phosphate rock that WSRW believes was shipped both to Ballance Agri-Nutrients and to Ravensdown.

**Ballance Agri-Nutrients Ltd** (New Zealand)

Ballance Agri-Nutrients Limited manufactures, markets and distributes phosphate-based fertilizers and by-products for agricultural use. The company was established in 1951 as a joint venture of the government of India and the Republic of Kaui. In 1953, the government of India took complete ownership of the company. Due to significant losses near the end of the nineteenth, the government of India decided to divest 76% in February 2002. That stake was bought by Zuan Maroc Phosphates Pvt Ltd a 50-50 joint venture of Zuan Agro-Chemicals Ltd (a subsidiary of Advant Group of Indai) and Maroc Phosphore SA – a wholly owned subsidiary of OCP Today. Ballance Agri-Nutrients Limited manufactures, markets and distributes phosphate-based fertilizers and by-products for agricultural use. 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. Ballance claims that its ‘executives and Board members visit the Western Sahara on a regular basis’.

During the course of 2020, Ballance received three shipments of phosphate rock illegally excavated in occupied Western Sahara. The cargo was observed combined volume of 177,000 tonnes worth around USD 26.9 million. The 2020 imports are slightly lower than in 2017-2019. WSRW has annually contacted Ballance from 2015 but never received an answer to its questions. In 2015, Ballance 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 imports from Western Sahara: ‘Ballance compares Western Sahara to the small island of Tokelau – an incorrect parallel as Tokelau is indeed listed by the UN as a Non-Self-Governing Territory yet its people have so far voted twice in favour of being administered by New Zealand. Ballance furthermore states that it is operating in unspecified ‘UN expectations’ and is as such comfortable that they are legally and ethically sourcing from Western Sahara. WSRW wrote to Ballance in March 2021 asking for clarifications about these UN expectations, but did not receive a response.

**Paradeep Phosphates Limited (India/Morocco)**

Paradeep Phosphates Limited (PPL) produces, markets and distributes phosphate-based fertilizers and by-products for agricultural use. The company was established in 1941 as a joint venture of the government of India and the government of Morocco, an Indian private conglomerate (Advant Group) and the government of India. PPL is headquartered in Bhubaneswar. 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 14 shipments of phosphate rock from occupied Western Sahara throughout 2020. Totaling 713.686 tonnes worth an estimated USD 109.38 million. This is a 6.3% increase from the year before.

Due to the termination of exports to North America, Paradeep was in 2019 and 2020 by far the biggest importer of phosphate rock from the territory. The company purchased 64% of the Bou Craa production during 2020. 2020 is the fifth year of regular imports by PPL, though the firm has imported from occupied Western Sahara before. WSRW has traced a previous purchase from Phosboucraa during the financial year 2011-2012.

**Unknown Importer(s) in Brazil Probably China Molybdenum**

Three shipments, with a combined cargo of an estimated 100,000 tonnes of phosphate rock from occupied Western Sahara, were transported to Brazil in 2020. WSRW has tracked the vessels all the way to the port of Santos, located in the State of São Paulo in the south of Brazil, and further from the port to an industrial site in Cubatão. Located 12 kilometers inland from Santos port. The cargo was loaded over a fleet of large trucks on the Santos port, ending up through the gates of the closed industrial site, where two companies are located. Cesari Fertilizantes (Cefértil), part of Grupo Cesari, and Copebras, a subsidiary of the Chinese group China Molybdenum (CMOC). Independent sources in Santos told WSRW that the cargo was destined for Cefértil and Copebras.

WSRW has contacted both companies to ask whether the conflict mineral was destined for their plants. Neither responded. A Brazilian newspaper was slightly more successful when contacting the firms. 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 2019, Mosaic informed that it would no longer import phosphate from Western Sahara. That position has also been confirmed to WSRW in 2019. There was no response from Copebras Industrias Ltda, a phosphorus miner and phosphate fertilizer producer that is wholly owned by the Chinese mining corporation China Molybdenum Co. Ltd. listed in the Hong Kong and Shanghai stock exchange.

The trade to Brazil is now having commenced in 2019, after the large imports to North-African had stopped. Brazil is the world’s fourth largest consumer of phosphate-based agricultural fertilizers. OCP SA Morocco state-owned phosphate company that illegally operates the Western Sahara phosphate mine has set up office in the country in 2010 and is keen on expanding its operations. OCP has operations all over Brazil including in the State of São Paulo.

**Pacific Crown seen in the Strait of Gibraltar heading to El Aaiún Western Sahara, on 27 February 2021. The vessel is empty, and about to pick up a cargo to be transported to Paradeep, India.**

On 20 June 2020, the bulk carrier Salis D arrived in Santos, Brazil, with phosphate rock from the Bou Craa mine. A fleet of trucks transported the cargo to the closed industrial area of Cubatão, losing some of the rock alongside the road.
RAVENSDOWN LTD
(New Zealand)

Ravensdown Fertiliser 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 imports its plants in Christchurch, Napier and Dunedin, New Zealand.

WSRW tracked one shipment to Ravensdown during 2020, containing an estimated cargo of 39,000 tonnes with a net value of around USD 8.36 million. That is a decrease of around 60% as compared to the 137,825 tonnes of the previous year - already a significant decrease of the 215,500 tonnes in 2018. However, Ravensdown’s import levels have fluctuated over the years, ranging between 100,000 tonnes and 215,500 tonnes from 2014 to 2018. The pre-2014 import levels averaged at around 188,000 tonnes. WSRW last contacted the company about the trade on 7 March 2021, but received no answer.

In its 2020 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.

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

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 prior free and informed consent.

This key-element that Ravensdown keeps ignoring and concealing.

Amoy Dream captured entering the port of Dunedin, New Zealand, on 14 August 2019. During the calendar year 2020, Ravensdown only took in one cargo from the occupied territory.

IMPORTER INTO THE PHILIPPINES
PROBABLY PHILPHOS

WSRW has tracked a vessel with phosphate rock to Isabel, the Philippines, with cargo from Western Sahara. The cargo must in that case have come from the occupied territory, as advised by the New Zealand government, but has not received a reply.

On 26 September 2020, the vessel Glovis Maria arrived at Paradip port in India. From what WSRW understands, the vessel discharged 24,000 tonnes of phosphate rock, less than half of its cargo capacity.

After unloading, the vessel continued to Isabel where she arrived on 12 October 2020.

Official Philippines sources reveal that in the month of October 2020 a total of 23,700 tonnes of phosphates arrived in the country from ‘Morocco’. The amount corresponds exactly to the remaining cargo capacity onboard the Glovis Maria upon finishing her initial offloading in Paradip.

The only possible importer in the port of Isabel is the company Philphos. WSRW wrote to the company on 12 March 2021, and has not received a response.

IMPORTER IN JAPAN
POSSIBLY ITOCHU CORP

In 2020, for the second time in two years, a very small cargo vessel undertook the long journey from the phosphate harbour in El Aaiún to Moji, Japan. On 24 May 2020, the vessel Beata arrived with what WSRW suspects is 6,600 tonnes of phosphate rock.

WSRW has reason to consider Itochu Corp as responsible for the imports. WSRW and Friends of Western Sahara Japan have sent a letter to the company on 8 February 2021, but no response has been received.
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.

INCITEC PIVOT LTD
(Australia)

Incitec Pivot Ltd, also referred to as 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 (CCI) and Fertilizers Elimination (Elm).

Incitec Pivot has 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 had been importing continuously.

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.90

The last shipments observed to Incitec Pivot were in 2016 when the firm procured three consignments of phosphate rock from Western Sahara, totalling 105,000 tonnes, worth an estimated USD 12.1 million. That was a substantial increase from its 2015 imports of 63,000 tonnes of Saharawi phosphate, as confirmed by the company.

Incitec Pivot 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 since then.

WSRW last wrote IPL on 3 December 2019, without reply.91

Ithaki spotted off Las Palmas harbour on 20 May 2015, where it bunkered shortly after departure from El Aaiún harbour. The vessel subsequently set sail for Australia.
LIFOSA AB
(Lithuania/Switzerland/Russia)

The vessel SBI Flamenco seen upon discharging Western Sahara phosphates at the port of Klaipeda, in October 2016. Lifosa took in this single shipment in 2016, after having promised it would halt all further imports.

Lifosa AB is a producer of phosphate mineral fertilizer based in Kedainiai, Lithuania. The company was previously listed on the NASDAQ OMX Vilnius Exchange. Lifosa AB became a subsidiary of the privately Russian-owned Swiss based EuroChem Group in 2012. The company received its Western Sahara phosphate rock at the harbor of Klaipeda, Lithuania.

The company took in its last shipment on 6 October 2016, in spite of a promise by EuroChem in February that same year that “… the Group does not intend to purchase phosphate rock from Western Sahara in 2016 or at any time over the foreseeable future.” The cargo was destined for Lifosa, as Lifosa’s managing director admitted to Lithuanian media that EuroChem had indeed imported 68,250 tonnes on board the SBI Flamenco.

‘EuroChem believes in vertical integration for economic and strategic reasons and thus remains the case. We aspire toward the goal of raw material self-sufficiency and our investments in Kazakhstan and Kowder-sky were intended to help us become self-sufficient in the production of phosphate rock. The production of our own raw materials from these two investments has progressed at a slower pace than projected and so we continue to require third-party supplies of phosphate rock,’ the company wrote.

WSRW has been in dialogue with both Lifosa and its owners Euro-Chem Group since 2012. But the company’s initial reluctance to thoroughly respond to WSRW’s questions resulted in its 2013 removal from the list of companies adhering to the UN Global Compact.

Ever since, Lifosa/EuroChem has actively sought ways to maintain its dialogue with WSRW and conduct further due diligence with regard to importing from Western Sahara while under occupation. The company stated in March 2014 that it was seeking to implement ways to diversify external purchases. In 2013-2014, the trade was around 400,000 tonnes annually.

WSRW has not observed any shipments to Lifosa since October 2016. WSRW last wrote to EuroChem on 3 December 2019 to seek confirmation that the company has now stopped all further imports from Western Sahara. The company responded that it has ‘no plans’ to purchase from Western Sahara again.

Indian importers

On 6 March 2019, a vessel carrying 95,600 tonnes of Western Sahara phosphates departed El Aaiún. It arrived at the port of Visakhapatnam, India, on 3 April. WSRW expects the importer to be Coromandel International Ltd, the same company that imported a shipment to Visakhapatnam a year earlier. The company is registered on the National Stock Exchange of India, and has several large international investors among its owners. WSRW sent letters to Coromandel on January 2019 and February 2020 to ask whether it had fulfilled the legal requirement of obtaining prior consent from the representatives of the territory for such trade. And whether this was a one-off import. No reply was received.

No transports have been observed to Coromandel since 2019. An earlier shipment was made in March 2014 to the port of Tuticorin, where the importer must have been yet another company. This incident is covered in P for Plunder 2014.

THE GOVERNMENT OF VENEZUELA
(Colombia/Venezuela)

On 28 November 2018, the Chinese company Sinofert Holdings Limited, imported to the Chinese port of Lianyungang a shipment from Western Sahara. Sinofert is the largest fertilizer producer and distributor in China. This is described in P for Plunder 2019. The Chinese government-owned Sinocem Group holds a 5.2% interest in Sinofert, while the Canadian company Nutrien Ltd holds 22%, and the remainder is listed on the Hong Kong Stock Exchange. WSRW has written to Sinofert on 22 January 2019, questioning their new involvement in the controversial trade. The company has not responded.

WSRW sent a letter to Nutrien on 22 January 2019, to inquire about the Sinofert matter. No reply has been received. Early 2018, Nutrien was formed through the merger of Agrumi Inc and Potash Corporation of Saskatchewan Inc (PotashCorp). Both latter firms were major importers of Western Sahara phosphate rock. At the end of 2018, Nutrien terminated the imports, following years of intensive shareholder engagement vis-à-vis the two companies. From 2013 until 2018, Nutrien purchased around half of all the Bou Craa phosphate rock. Nutrien and its legacy firms lost a number of shareholders over the matter, including the Norwegian Government Pension fund which divested its Nutrien shares worth 190 million USD.

INDIAN IMPORTERS

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No transports have been observed to Coromandel since 2019. An earlier shipment was made in March 2014 to the port of Tuticorin, where the importer must have been yet another company. This incident is covered in P for Plunder 2014.
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.

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 on 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 new brought to our attention is something we shall definitely 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. 107
A Mexican subsidiary of the US registered company Innophos Holdings was for many years a key importer of Western Sahara phosphate rock. Yet since 2015, WSRW has not observed any shipment into Innophos’s plant in Coatzacoalcos, Mexico. In 2016, Innophos confirmed that its plant in Geismar, Louisiana was dependent on phosphate rock from Western Sahara, sold to them via a pipeline from the neighbouring plant of PotashCorp.

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 on 2 July 2018.

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.109 WSRW has no indications that Innophos today uses phosphate rock originating from Western Sahara.

From 2010 to 2018, WSRW sent Innophos six letters about the company’s purchases from the occupied territory, without receiving a reply. Innophos has been the subject of multiple investigations. 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.110

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 to cease doing so. The main motive for the decision to stop purchasing 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 Communications Officer, Bente Slaatten told 111.

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. CBSP did, however, leave open the possibility that the imports could continue, albeit to a limited degree, depending on price and availability of alternative sources.112 This decision followed a wave of European divestments over ethical concerns on trade in phosphate from occupied Western Sahara. WSRW has indirectly confirmed the human rights issues involved with importing phosphate from Western Sahara, Nordea wrote.113

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. In 2009, the firm announced it would reduce the company’s dependency on phosphate rock from Western Sahara.2 The company has today as a policy only to import or trade with phosphates from Morocco proper, not from the Bou Craa mines. 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.112 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.

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.

WSRW has no indications that Innophos today uses phosphate rock originating from Western Sahara. WSRW has not observed any shipments to Wesfarmers since it started daily monitoring of vessels in October 2011.

BASF is not known to have imported since the arrival of the bulk vessel Novigrad on 2 October 2008. Here it is seen discharging Saharawi phosphate in Ghent harbour, Belgium.

BASF was one of the leading importers through the 1990s. It received its last known shipment to Belgium in 2001.115 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 2008, 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.116

Yara International ASA (Norway)

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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.

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 Chemicals, Energy & Fertilisers (WCF) is the largest manufacturer and marketer of fertilisers in Australia, supplying major Western Australian farms and many of the firm’s phosphate production facilities.

On 25 August 2009, 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. 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.

Other companies

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 2006), Tata Chemicals from India (last shipment in 2008), Zen Noh 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.
In defense of their phosphate imports from Western Sahara, several companies have referred to legal opinions by different law firms retained by OCP. 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.

Four 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 had 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 from any of the companies that import phosphate from Western Sahara.

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 for the exploitation and subsequent trade to take place. As part of the work on the legal opinion, DLA Piper had also commissioned KPMG, 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 Boucraa S.A. and its holding company, Office Chérifien 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 LLP 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 US$ 15 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 on 11 February 2020.

OCP has failed to answer requests from Saharawis to share copies of the reports.

The Bou Craa reserves are a gigantic open-cast mine, where the phosphate rock is scraped from the surface by excavation machines.
Morocco lobbies 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 fertilisers. 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/kg 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 (40 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 38-200 mg Cd/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 11 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 from the people of Western Sahara upon plundering the territory’s phosphate rock.

OCP retained Dechert and the PR firm Edelman to lobby against the EU proposal. Edelman has worked for the Moroccan government in the past, as it is on the payroll of the Moroccan American Center for Policy (MACP), a registered agent of the Moroccan Kingdom.

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, is estimated at around 46-63 mg/kg, while those from rock coming from Youssoufia, also in Morocco, is considered to be higher than 120 mg/kg.

A 100 kilometer long conveyor belt carries phosphates 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.
To the Government of Morocco:
- To respect the right to self-determination of the people of Western Sahara, together 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 governments of the importing countries:
- To ensure that all phosphate rock and other products are sourced from Moroccan-owned and operated mines in Western Sahara, and not from companies that are involved in the occupation and exploitation of the territory.
- To immediately proceed to quantify the cost and take measures to divest from these businesses in diversifying their supply base.

To the shipping companies transporting phosphate rock out of Western Sahara:
- To refuse from hauling phosphate rock and other products from occupied Western Sahara.
- To install a provision in shipping contracts preventing the use of vessels for transporting commodities out of the territory.

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

Notes

3. UN General Assembly, Resolution 35/56 of 12 December 1980, resolution 1514(XV) of 1962 December

7. To compensate the Saharawi people for the benefits it has accrued from the sales of phosphate rock from the illegally occupied territory.

8. To create a UN administration to oversee or otherwise administer the territory.

9. To ensure that all phosphate rock and other products are sourced from Moroccan-owned and operated mines in Western Sahara, and not from companies that are involved in the occupation and exploitation of the territory.

10. To develop business advisory guidelines warning of the legal and reputational risks of doing business with companies that are involved in the occupation and exploitation of Western Sahara.

11. To refinance from deferring Morocco’s plunder of the territory by stopping the undertaking of assignments to legitimize its continuation.

12. To refuse from defendant Morocco’s plunder of the territory by stopping the undertaking of assignments to legitimize its continuation.

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

14. To develop business advisory guidelines warning of the legal and reputational risks of doing business with companies that are involved in the occupation and exploitation of Western Sahara.

15. To refinance from deferring Morocco’s plunder of the territory by stopping the undertaking of assignments to legitimize its continuation.

16. To respect the right to self-determination of the people of Western Sahara, together with the UN for a referendum for the people of the territory.

17. To compensate the Saharawi people for the benefits it has accrued from the sales of phosphate rock from the illegally occupied territory.
## Annex 2: The shipping companies behind the controversial phosphate transports, 1 January 2020 to 31 December 2020

| № | Vessel Name | IMO | Flag | Departure from Western Sahara | Arrival | DTW | Estimated cargo (tonnes) | Reg. owner | Reg. owner address | Group owner | Group owner – registered nationality | Group owner – controlling interest | Operator | Operator address | Operator – nationality of central | Operator – nationality of registration | Operator email | Operator website | P&I Club |
| 1 | STH Athens | 947390 | Marshall Islands | Tarangar Bluff | 3/10/2020 | 60538 | 95900 | 5th Athens LLC | 409 201 Broad St, Stamford CT 06901 USA | Marshall Islands | Sea Trade Holdings Inc | Marshall Islands | Oldendorff Carriers GmbH & Co | Luebeck, Germany | Germany | Oldendorff.com | Oldendorff.com | ? | Sinairship Mutual |
| 3 | Pacific Crown | 9626924 | Panama | Paradip. India (Paradip) | 3/30/2020 | 56469 | 94400 | Kharn No | Panama | Kharn | Panama | HMM Co Ltd | Kucuk Camlica Mah, Uskudar, 34674 Istanbul, Turkey | South Korea | HMM.com | HMM.com | ? | Britannia Steam Ship |
| 4 | Golden Bonnie | 9400875 | Marshall Islands | Santos, Brazil (Gobetosra1) | 4/11/2020 | 52729 | 56480 | Good Urat Hi | Care of Taylor Maritime HHI Ltd, 26th Fl, Vertical Square, 28, Ho Kang Yp Road, Wong Chuk Hang, Hong Kong, China | Marshall Islands | Taylor Maritime HK Ltd | Hong Kong, China | Fortune Seaside Bulk Carriers | Hong Kong, China | Denmark | fortuneseaide.com | fortuneseaide.com | ? | UK P&I Club |
| 5 | Van Star | 937342 | Panama | Tarangar Bluff | 5/20/2020 | 61958 | 59600 | Beamer Investment Corp | CO Northstar Shipping Management Corp | Panama | Win Blue Shipping Corp | Panama | Northstar Shipping Management Corp | Hong Kong, China | Denmark | commonn@nsshipmgt.com | nsshipmgt.com | ? | The Japanese Ship Owners Mutual P&I |
| 6 | Bistra | 9537276 | Panama | Moji, Japan Tsuchi (Paradip) | 5/24/2020 | 5987 | 6600 | Beista Shipping Ltd | CO Intercoastal Shipping Ltd | Marshall Islands | Unknown | Intercoastal Shipping Ltd | Hong Kong, China | Unknown | Unknown | Unknown | ? | The Shipowners' Mutual Protection and Indemnity Assn. |
| 7 | Trans Spring | 951462 | Hong Kong | Lyttolton/ Dunedin/ Napier/ New Zealand (Greenisland) | 6/10/2020 | 56854 | 55000 | Spring Maritime Ltd | CO Amoyacaling Maritime Co Ltd | Hong Kong, China | Amoyacaling Maritime Co Ltd | China | Amoyacaling Maritime Co Ltd | Hong Kong, China | China | managemail@amoyacaling.com | amoyacaling.com | ? | West of England Shipowners Mutual Insurance Assn. |
| 8 | Obies Maine | 9401022 | Singapore | Paradip. India (Paradip) | 5/24/2020 | 56648 | 54000 | PST Management Pte Ltd | D/D 50 Fd, Building 140 Cecil St, Singapore 069540 | Singapore | Pacific International Lines | Singapore | Pacific International Lines | Singapore | Singapore | general@pgpship.com | pgpship.com | ? | The Singapore Club |
| 9 | Yasa Venus | 948480 | Marshall Islands | Paradip. India (Paradip) | 6/21/2020 | 60798 | 59300 | Nauru Shipping Inc | CO Ya Sa Shipping Industry & Trading SA | Marshall Islands | Ya Sa Shipping Industry | Turkey | Ya Sa Shipping Industry | Turkey | Turkey | yasaship@yasashipping.com | yasashipping.com | ? | The Swedish Club |
| 11 | BBC Confidence | 9735830 | Hong Kong | Paradip. India (Paradip) | 7/11/2020 | 63419 | 51040 | TCL Ship Chartering K P Ltd | CO Angelis Sants Assets Management Co Ltd | Hong Kong, China | China Development Bank Corp | China | Angelis Sants Assets Management Co Ltd | Suite 808 16th Fl, China Merchants Tower 180-200 Canton Road Central, Hong Kong, China | Hong Kong, China | ? | The Swedish Club |
| 12 | Advance | 9442225 | Liberia | Paradip. India (Paradip) | 8/10/2020 | 55038 | 53354 | Hasbro Investments Inc | CO Target Marine SA | Marshall Islands | Target Marine SA | Panama | Target Marine SA | Panama | Greece | contact@targetmarine.gr | targetmarine.gr | ? | UK P&I Club |
| № | Vessel Name | IMO | Flag | Departure from Western Sahara | Arrival | DTW | Estimated cargo (tonnes) | Reg. owner address | Reg. owner | Reg. owner nationality of registration | Group owner | Group owner - registered nationality | Group owner nationality of registration | Operator | Operator address | Operator nationality of nationality of registration | Operator email | Operator website | Paid Club |
| 13 | Asian Champion | 9474656 | Singapore | Paradeip (India) (Paradip) | 9/16/2020 | 56492 | 54400 | 08 fl. Comtex Industrial Building, 5. Little Singapore | Singapore Marine Transport Corp | Singapore | | | | | 29th Fl. Taipei Metro Tower, 207 Dunhua S Road, Section 2, Da-an District, Taipei, 10602, Taiwan | Taiwan | Taiwan | unmirg@metro.feg.com.tw | | | Steamship Mutual |
| 14 | Glovis Maria | 9543665 | Bahamas | Paradeip (India) (Paradip) | 9/1/2020 | 55105 | 24800 | 39 M. Comex Building, Room 502, Singapore | Singapore | Singapore | | | | | | | | | | | North of England P&I Association |
| 15 | IVS Windsor | 9774548 | Panama | Tauranga/Bluff (New Zealand) (Paradip) | 11/15/2020 | 60297 | 54400 | MPM Shipping SA | Panama | Panama | | | | | | | | | | | UK P&I Club |
| 16 | Evrini | 9405436 | Liberia | Paradeip (India) (Paradip) | 11/15/2020 | 55554 | 5100 | C/O Hyunda Glovis Co Ltd, 512 Yeongdong-daero, Gangnam-gu, Seoul, 06172, South Korea | South Korea | South Korea | | | | | | | | | | | North of England P&I Association |
| 17 | Royal Knight | 9525335 | Panama | Paradeip (India) (Paradip) | 11/16/2020 | 58782 | 56800 | C/O MMIS Japan Ltd, 71, 1-chome, Chuo-ku, Tokyo, 103-6060, Japan | Japan | Japan | | | | | | | | | | | North of England P&I Association |
| 18 | Star Mistral | 9644235 | Liberia | Paradeip (India) (Paradip) | 12/20/2020 | 63306 | 22000 | 80, Broad Str., Monrovia, Liberia | Liberia | Liberia | | | | | | | | | | | The London P&I Club |
| 20 | Regius | 9737713 | Marshall Islands | Santos Brasil (Cobemas) (Paradip) | 12/27/2020 | 33395 | 52400 | | | | | | | | | | | | | The Standard Club |
| 21 | Kenan | 9644072 | Malta | Paradeip (India) (Paradip) | 12/22/2020 | 63230 | 60500 | C/O Ciner-Emir Acikleme Isletmeleri Sanayi ve Ticaret AS (Ciner Ship Management), Mihat Ulu Ulu Isik Sokak, 3 Sisi, 34394 Istanbul, Turkey | Turkey | Turkey | | | | | | | | | | | The Standard Club |
| 22 | Sinop | 9644984 | Malta | Paradeip (India) (Paradip) | 1/24/2021 | 63230 | 60500 | C/O Ciner-Emir Acikleme Isletmeleri Sanayi ve Ticaret AS (Ciner Ship Management), Mihat Ulu Ulu Isik Sokak, 3 Sisi, 34394 Istanbul, Turkey | Turkey | Turkey | | | | | | | | | | | The Standard Club |

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 22 vessels. Letters from WSRW and answers are found on https://www.wsrw.org/en/news/shipping-company-responses-to-p-for-plunder-2020. * The vessels Glovis Maria and Star Mistral most likely departed Paradip without having offloaded their entire cargos. WSRW believes that Glovis Maria carried 29,700 tonnes to Isabel, Philippines, and that Star Mistral carried approximately 59,400 tonnes to Fangcheng, China.
“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