

TŪHANA

BUSINESS AND HUMAN RIGHTS

Statement of Findings

OCP/Phosboucraa Phosphate Sourcing - 18 March 2024

www.tuhanabhr.co.nz

Tūhana Business and Human Rights Statement of Findings

Tūhana Business and Human Rights (TBHR) advised the Fertiliser Association of New Zealand in March 2024 of TBHR's findings relating to sourcing phosphate rock sourced from OCP/Phosboucraa's Boucraa phosphate rock mine.

The following findings are made as of March 2024.

Findings related to the business relationship

1. The global sourcing of phosphate rock suitable for the manufacture of superphosphate for New Zealand conditions involves sourcing from challenging contexts.
2. Almost all human rights violations and concerns regarding the people of Western Sahara, whether in territory under the control of Morocco or the Frente POLISARIO, stem from the non-implementation of the right to self-determination of the political status of the territory and are part of the challenging sourcing context. This includes the right to self-determination of peoples within the territory, irrespective of what the political status of the territory is determined to be.
3. Ravensdown and Ballance are not causing or contributing to potential or actual negative human rights impacts in Western Sahara by their business relationships with OCP/Phosboucraa.
4. Ravensdown and/or Ballance could, however, be directly linked in the sense required by UNGP Principle 17, to concerns of potential or actual negative human rights impacts.
5. The existence or nature of the business relationship between OCP, Ballance and/or Ravensdown does not impact in any way Morocco's position, or the position of other relevant actors regarding the political dispute. Nor does the existence, or nature of the business relationship cause or contribute to any actual or potential negative human rights impacts associated with the political dispute, including the right of self-determination of the political status of Western Sahara.
6. Limitations on the freedom of expression, association, and the right to peaceful assembly in the region — in relation to the political dispute over the status of the territory, have a bearing on the effectiveness of consultation by OCP and the New Zealand businesses. In simple terms, people are less likely to speak freely if these

rights are not fully realised. These realities are addressed by the recent UNDP and OHCHR guidance for businesses operating in challenging contexts and are reflected in the methodology used for this assessment.

7. However, the existence or nature of the business relationship does not cause or contribute to any actual or potential negative human rights impacts associated with the restriction of the rights to freedom of expression, association, and the right to peaceful assembly.
8. The situation of people in the Tindouf camps is a serious matter. It is caused by the political and territorial dispute that predates and transcends the business relationship. There is no evidence that OCP/Phosboucraa's business operations cause or contribute to adverse human rights impacts for the people in the refugee camps, or that their situation would be improved if OCP/Phosboucraa did not generate revenues through phosphate mining in Western Sahara by selling to the New Zealand businesses.
9. There is evidence that actual or potential negative human rights impacts could occur (affecting particularly persons in Laâyoune province) if Phosboucraa's operations in the region were to cease, along with related employment opportunities and community investment, pending a political resolution. The existence or nature of the business relationship does not cause or contribute to an actual or potential negative human rights impact associated with revenues generated by Phosboucraa.
10. The proceeds of the sale of OCP/Phosboucraa rock are either used in the cost of operating the Phosboucraa business, invested in the business, or invested by Phosboucraa in the region controlled by Morocco.

Findings related to OCP's HRDD and grievance mechanisms

1. OCP has made considerable progress over the last three years. It has:
 - a. Conducted Human Rights Due Diligence (HRDD) on its own operations and has included the findings in its recent Sustainability reports.
 - b. Committed to extending its existing HRDD to an operational level.
 - c. Put in place comprehensive policies and systems that demonstrate its commitment to respecting internationally recognised human rights.
 - d. Conducted robust human rights risk assessments, identifying key areas of concern.
 - e. Established grievance mechanisms for affected rights holders to seek redress if OCP has caused or contributed to an adverse human rights impact.

- f. Prioritised UNGP training for senior management, and staff members whose roles intersect with the human rights issues OCP's HRDD has identified. This contributes to the understanding of those involved in addressing the issues identified and the need for OCP to uphold the principles of the UNGP in doing so.
2. OCP has not yet:
 - a. Undertaken HRDD on its supply chain, including its suppliers. OCP does, however, intend to undertake HRDD on its suppliers.
 - b. Fully implemented its Responsible Local Communities Relations Policy. (This is part of the next phase in OCP's HRDD).

Based on this assessment as of March 2024 THBR advised:

1. Both Ravensdown and Ballance may continue to source Boucraa rock from OCP/Phosboucraa in a manner consistent with the United Nations Guiding Principles on Business and Human Rights.
2. Any potential or actual negative human rights impacts that could be directly linked to the business relationship in the sense required by UNGP 17, may be prevented, or mitigated through ongoing HRDD and engagement with OCP by the New Zealand businesses, and OCP/Phosboucraa's continued due diligence to uphold the principles of the UNGP. In practice this means that the New Zealand businesses should continue to engage with OCP and use leverage to prevent or mitigate adverse impacts.
3. There is currently no identified risk of adverse human rights impact that would warrant termination of the business relationship between OCP/Phosboucraa and Ballance or Ravensdown for the supply of Boucraa rock.
4. By working collaboratively, FANZ members have leverage to positively influence OCP's operations, strengthen the business relationship, and effectively address the areas for ongoing HRDD identified in TTHBR's analysis.

Tūhana Business and Human Rights:

1. Remains bound to keep confidential any confidential information supplied by OCP, FANZ, Ravensdown, or Ballance for the purpose of the assessment.

2. Is not retained on an ongoing basis by FANZ, Ravensdown or Ballance to provide advice on sourcing phosphate rock.
3. Has been and/or may from time to time be retained by FANZ or Ravensdown, or Ballance to advise third parties on the findings.
4. Has provided advice and will continue to advise businesses on how to follow the UNGP and OECD RBC guidance in their own operations and supply chains which it will do without reference to any confidential information supplied by OCP, FANZ, Ravensdown, or Ballance for the purpose of the assessment.

Enquiries: Any enquiry about Tūhana Business and Human Rights findings as of March 2024 on phosphate rock sourced from OCP/Phosboucraa's Boucraa should be referred to FANZ.

Disclaimer: This Statement of Findings as at 18 March 2024 is not legal advice. It is advice concerning compliance with the social norms relating to businesses as set out in the United Nations Guiding Principles on Business and Human Rights.



TŪHANA
BUSINESS AND HUMAN RIGHTS