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 2021.
Large construction work is being undertaken in the port of El Aaiun. From 2023, it is possible that Morocco will start exporting other phosphate products than only raw rock from occupied Western Sahara. The port work is led by the Dutch-Greek firm Archirodon. The picture was taken in July 2021.

For the ninth 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 2021 naming all shipments of phosphates from occupied Western Sahara. A total of 26 vessels departed the territory with 1.6 million tonnes of phosphate rock, an increase from the approx 1 million tonnes of 2019-2020. To compare, Morocco's average export from the occupied territory during the years 2012-2018 was 1.8 million tonnes. A doubling of the phosphate prices during 2021 means the illegal exports are increasingly lucrative, perhaps to a value of 549 million USD.

Morocco has during the last year carried out large investments in the port and in the Bou Craa facilities. Since the occupation began in 1975, Morocco has only sold raw phosphate rock. In a few years from now, the phosphates will be sold in a more valuable processed form. This will further increase the lucrative trade in the future.

A new large trade to Innophos in Mexico - constituting 27% of the trade for 2021 - represents the entire increase in the commerce from 2020. Innophos in 2018 announced that it had stopped such imports due to its ‘commitment to overall social responsibility’ and now fails to respond to mails. India remains the largest importer. The imports to India, Mexico and New Zealand constitute over 92 percent of the entire trade with Western Sahara conflict minerals.

The good news for the year is that the Chinese company China Molybdenum promised to its investors not to repeat imports to its subsidiary in Brazil. The Russian company EuroChem local media attention when it carried out a shipment to Estonia in October - the first into the EU in five years. It is positive that the company has not repeated the involvement since.

In New Zealand, Ravensdown continues to explore ways to avoid Western Sahara rock. which is commendable. Ballance Agri-Nutrients shows the opposite trend, with the highest annual purchase since WSRW started daily monitoring in 2011. The company has not repeated the involvement since.

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Morocco does not grow into benefits. It’s rather the opposite.
Morocco’s claim to Western Sahara has been rejected by the International Court of Justice. To date, the UN considers Western Sahara to be a Non-Self-Governing Territory - a colony - without an administering power. According to the UN, the permanent sovereignty over natural wealth and resources is a basic constituent of the right to self-determination.

The UN Legal Office has analysed the legality of petroleum exploration and exploitation in Western Sahara, a resource extraction activity that is of a similar nature to phosphate mining. The UN concluded that if further exploration and exploitation activities were to proceed in disregard of the interests and wishes of the people of Western Sahara, they would be in violation of the international law principles applicable to mineral resource activities in Non-Self-Governing Territories.

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

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

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

Phosphates de Boucrau S.A (Phosphoucrac) 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 leading 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 8% 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 Phosphoucrac is the largest private employer in the area, citing 2,029 employees in 2019 - and 75 percent are said to be “locals” (without specifying whether they are Saharawis or settlers). It also alleges that Phosphoucrac is a major provider of economic viability and well-being of the region’s inhabitants. OCP equally boasts the social impact of Phosphoucrac in terms of providing pensions to retirees, medical and social advantages to employees, retirees and their families etc. OCP presents the purported economic and social benefits as a justification for its exploitation of phosphate mines outside of Morocco’s long-settled internationally recognized borders.

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

**Western Sahara has been under Moroccan occupation since 1975 and is on the United Nations’ list of non-self-governing territories that should be decolonised.**

**The UN’s legal counsel stated in January 2002 that exploration of mineral resources in Western Sahara without local consent would be in breach of the international Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.**

**“Human rights violations in Western Sahara”**

DG B Pensionfonds, the Netherlands. Third quarter of 2015, upon excluding OCP SA from its portfolios.

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


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

Swedish Ethical Council. 9 April 2015. Explaining why all Swedish government funds have now divested from 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 Agrrium 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.”**


**“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 2021, 1.4 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 these traditional shipping routes.
The Exports

<table>
<thead>
<tr>
<th></th>
<th>2020</th>
<th>2021</th>
</tr>
</thead>
<tbody>
<tr>
<td>Estimated exported amount of phosphate</td>
<td>1,233,000 tonnes</td>
<td>1,447,000 tonnes</td>
</tr>
<tr>
<td>Estimated value of exported phosphate</td>
<td>$170.8 million</td>
<td>$349.1 million</td>
</tr>
<tr>
<td>Estimated value of largest single shipment from the territory</td>
<td>$9.6 million</td>
<td>$15.1 million</td>
</tr>
<tr>
<td>Estimated value of smallest single shipment from the territory</td>
<td>$1 million</td>
<td>$2.8 million</td>
</tr>
<tr>
<td>Number of ships that departed with phosphate from the territory</td>
<td>22</td>
<td>26</td>
</tr>
<tr>
<td>Average amount of phosphate exported in each ship</td>
<td>$1,050 tonnes</td>
<td>$4,500 tonnes</td>
</tr>
<tr>
<td>Estimated average value of phosphate exported in each ship</td>
<td>$7.76 million</td>
<td>$13.4 million</td>
</tr>
<tr>
<td>Estimated average annual phosphate price of Bou Craa rock (per tonne)</td>
<td>$152.1</td>
<td>$246.6</td>
</tr>
</tbody>
</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 3% of the ship’s overall cargo (and bunker fuel and stores) capacity expressed in deadweight tonnes. WSRW ships were tracked and confirmed to have arrived at stated destinations. Where possible, estimated loaded amounts were checked against official documents in importing countries.

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

Adjusted price estimates
WSRW has for the 2020-2021 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 2020 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.

For one shipment in 2021, we suspect the price could have been as high as 234 USD/tonne, almost double the Index Mundi price for that month. Internal OCP documents from 2019 revealed online, suggested a cargo price of Bou Craa rock between 139 and 161 USD/tonne. This was substantially higher than the 85.5-102.5 USD/tonne price of Index Mundi in 2019 and the 70-83.5 USD/tonne in 2020. The higher prices have been confirmed with sources in the importing countries.

During 2021, the phosphate rock prices have increased substantially from 85 USD/tonne at the start of the year to 176.67 USD/tonne at the end.

From the 2020 edition of the P for Plunder report, we have added 100% to the Index Mundi price. The average Index Mundi price for phosphate rock in 2021 was 123.2 USD per tonne. As such, in this report, the price for phosphate rock from Bou Craa is calculated at an average of 246.4 USD per tonne. WSRW still considers this to be a guess estimate.

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 1990s, production stopped for three years during armed conflict in the territory. Only gradually

aching 2.0 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 1.8-2.2 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 prospectus, issued in 2018.

According to a report from the Moroccan government port agency, a 21.9% increase in phosphate exports from El Aaiún took place from 2020 to 2021. This corresponds roughly with our shipment data, which suggests a 26.26% increase.

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<thead>
<tr>
<th>Client per nationality of (parent) company</th>
<th>Figures in metric tonnes</th>
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<tbody>
<tr>
<td>USA</td>
<td>351,000</td>
</tr>
<tr>
<td>China</td>
<td>12,000</td>
</tr>
<tr>
<td>Japan</td>
<td>29,700</td>
</tr>
<tr>
<td>India/Morocco</td>
<td>141,020</td>
</tr>
<tr>
<td>New Zealand</td>
<td>347,000</td>
</tr>
<tr>
<td>New Zealand</td>
<td>572,336</td>
</tr>
<tr>
<td>New Zealand</td>
<td>2,966,000</td>
</tr>
<tr>
<td>New Zealand</td>
<td>109,381</td>
</tr>
<tr>
<td>New Zealand</td>
<td>141,020</td>
</tr>
<tr>
<td>New Zealand</td>
<td>29,700</td>
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<td>29,700</td>
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</table>
The Importers, 2021

<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>10</td>
<td>572,336</td>
<td>$141.02 million</td>
</tr>
<tr>
<td>2</td>
<td>Innophos Holdings Inc</td>
<td>USA</td>
<td>Coatzacoalcos, Mexico</td>
<td>7</td>
<td>391,000</td>
<td>$96.34 million</td>
</tr>
<tr>
<td>3</td>
<td>Ballance Agri-Nutrients Ltd</td>
<td>New Zealand</td>
<td>Tauranga/Bluff, New Zealand</td>
<td>5</td>
<td>292,000</td>
<td>$71.95 million</td>
</tr>
<tr>
<td>4</td>
<td>Unknown</td>
<td>China</td>
<td>Jinhou, China</td>
<td>1</td>
<td>61,000</td>
<td>$15.03 million</td>
</tr>
<tr>
<td>5</td>
<td>Ravensdown</td>
<td>New Zealand</td>
<td>Napier, Lyttleton, New Zealand</td>
<td>1</td>
<td>55,000</td>
<td>$13.55 million</td>
</tr>
<tr>
<td>6</td>
<td>EuroChem Group</td>
<td>Russia</td>
<td>Silamäe, Estonia</td>
<td>1</td>
<td>34,000</td>
<td>$8.37 million</td>
</tr>
<tr>
<td>7</td>
<td>Unknown (possibly Itochu)</td>
<td>Japan</td>
<td>Moji, Japan</td>
<td>1</td>
<td>12,000</td>
<td>$2.95 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 in January 2015.15
Epıroc/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. Epıroc wrote WSRW. This has since been verified from several sources.

Epıroc 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 2023.29

Although Atlas Copco and Epıroc did not comment on the matter for a long time after Epıroc’s establishment, it was a common understanding among the owners of both companies that the contract with OCP had been taken over by Epıroc, as was the case with other Atlas Copco contracts. A letter to Epıroc in November 2019 was not responded to: but when confronted by the Business and Human Rights Resource Centre, the company stated that it was “looking into this issue at present.” Also Atlas Copco confirmed that it is not involved in the mine. Atlas Copco has no operations in Western Sahara. The customer for the Bou Craa mine and Atlas Copco has agreed that there will be no new orders for delivery of equipment, spare parts and service to Western Sahara.30

Siemens Gamesa

German engineering company Siemens delivered installed and commissioned 22 wind turbines to the 50 MW Foum el Oued wind park in occupied Western Sahara in 2015. The park was commissioned by Morocco’s national agency for electricity ONEME and built in partnership with the Moroccan wind energy company NAREVA — owned by the King of Morocco. The Foum el Oued farm supplies nearby Phosphoc Saara’s energy needs. OCP today boasts that Phosphoc Saara is 100% wind powered.31 in other words: all energy required for the exploitation and transport of the phosphate rock to Western Sahara is now generated by wind mills delivered by Siemens Gamesa. The green energy production is thus making Morocco’s plunder of the territory even more lucrative.32 In 2018, the company confirmed to WSRW that it has extended the maintenance contract for the Foum el Oued park for a further 15 years.33

Siemens Gamesa has asked the company 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.34

In its most recent correspondence with WSRW, Siemens Gamesa again referred to an undisclosed ‘external legal assessment’ that supposedly concludes Siemens’ activities to be ‘in compliance with applicable laws’. The company will not share the document, nor will it clarify which legal framework is allegedly applicable to its activities.35 Siemens Energy was confronted with the supplies to the phosphate mine during its AGM on 24 February 2022 but failed to respond to the questions.36

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).37 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 through the provision of civil engineering to the Foum el Oued Technopole project near El Aaiun.38 This project envisions the creation of a technological hub to advance the economic development of the ‘Southern regions’ in particular through the industrial development of Phosphoc Saara.39 WSRW has written to Worley – as a Moroccan construction firm — 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, Worley 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.30

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Caterpillar

Trucks of the US company Caterpillar have been observed transporting phosphate rock in occupied Western Sahara. The trucks are of the type MT3300, made by a company called Unit Trucks of the US company Caterpillar. An official licensed Caterpillar agency was established in El Aaiun in the occupied territory by Tractafic Equipment Corporation in 2013. Tractafic is a subsidiary of French group Oplot, which is part of the Moroccan holding company SAH, primarily owned by the Moroccan royal family. The company claims on its website that ‘Laayoune’ (French spelling of El Aaiun), as adopted by Morocco is located in Morocco.41 WSRW has sent letters to Caterpillar — the last in February 2022 — asking for clarifications about the company’s equipment in the Bou Craa mine, but has never received any reply.42

Thyssenkrupp

The German industrial conglomerate informed WSRW in 2020 that ‘Thyssenkrupp Mining Technologies has refurbished three stackers and two reclaimers on the phosphate stockyard of the Bou Craa site which involved an inspection and the engineering, supply and construction of components to be replaced to extend the operational lifetime of the machines’.43 The company added that there are no further activities and ongoing projects regarding the Bou Craa site before forthcoming past activities in the territory. Thyssenkrupp does not respond as to whether it will refrain, as a matter of policy, from becoming involved again. The company’s approach seems to be that ‘there were no embarrassments or other export restrictions on the EU for deliveries to the Western Sahara region at the time and there are still none.’

IFM

Equipment of the German automation technology company IFM electronic has been reported to be used in the conveyor belt. WSRW contacted the company twice in 2021-2022, without response.44

13
Morocco is heavily investing in increasing the profits from the export of the conflict mineral. The investment includes a new, sheltered port, a wharf, and a large production unit to process the raw phosphates.

In 2021, the foundations were made of what is most likely a new control tower, near the new wharf. In 2016, the king of Morocco inaugurated a series of structuring projects in and near the phosphate port of El Aaiún, from where OCP currently only exports phosphate rock. The overall aim is to diversify Phosboucraa’s operations, from exporting raw material to producing intermediary products and phosphate based fertilisers.

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

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

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

In addition to the expansion of Phosboucraa’s operations, a scientific hub focusing on the development of “the southern provinces” baptised Technopole is also being developed in Foum El Oued on a 600 ha plot of land.

The main company involved in the construction of the new port is Archirodon from Netherlands/Greece. It reported that its works for Phosboucraa take place in ‘Morocco’ were to last from 2019 to 2023, through a contract worth USD 450 million. The company did not respond to WSRW letters in 2019 and 2022.

Other companies involved include Eccher/DEAL (Italy), SYSTRA (France), TERRASOL (France), Bygging-Uddemann AB (Sweden), Jan de Nul Group (Netherlands), Kataskevastiki J. Dimitriou Ltd (Greece), Geotehnika SARL (Morocco), COWI A/S (Denmark), Negri France (France), Tectone Group (Morocco).

Other recent involvement related to the port or the exports: Daewoo E&C and Korea Port Engineering Corp (South Korea), Tecalemit Flexibles (France), Mobilis (France), DV Offshore (France), GM Equipements (Morocco), DEME Group (Belgium) showed interest in the construction of the port.

Further details on these companies can be found on WSRW’s website.
The case of the looted goods

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

On 5June, a three-judge panel of the High Court in Port Elizabeth confirmed the acceptability of the order of 1 May 2017, and decided that the case was to continue to a trial. The central legal issue for the Court was the question of rights to the cargo. Who owns it? and could the New Zealand importer have legally purchased it? It had been warned over the years by Saharawi authorities?

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

On 25 February 2018, the High Court confirmed that the SADR was the owner of the entire cargo aboard of the NM Cherry Blossom, and that the ownership was never lawfully vested in OCP SA or Phosphates de Boucraa SA, who were not entitled to sell the phosphate rock to Ballance Agri-Nutrients.

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

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

In 2017, while waiting for the legal case to proceed, the charterer had complained to the court about the financial loss caused to the shipping company for the delay. From what WSRW has obtained from court records, the firm Furness Withy Chartering alleges that the costs of the vessel’s detention amounted to 130,000 USD/day. The vessel was finally released in May 2018 after 370 days of detention. The charterer lost around 3.5 million USD.

On 8 May 2017, OCP bought back the cargo from the importing company Ballance Agri-Nutrients, which it had previously purchased from Bou Craa Phosphate. The firm Ballance Agri-Nutrients Limited manufactures, markets and distributes fertilizers and related products in New Zealand. Ballance and the plants that the company has acquired over the years have been purchasers of Bou Craa phosphates for decades. The firm signed a long-term agreement with OCP in 1999, requiring OCP to supply phosphates to Ballance.

Furness Withy Chartering and Maersk

The charter of the transport vessel to New Zealand was Furness Withy, a London-based freight broker. The cargo ship operating the vessel was a broking company which at the time was part of the Oetker Group, particularly known internationally for its Oetker frozen pizzas. But its shipping branch has seemingly been responsible for chartering vessels from Western Sahara for many years, likely via its subsidiary in Australia which deals in Australia-Europe bulk cargoes. WSRW has identified around 20 probable – but not confirmed – Furness/Oetker shipments over the last decade. Upon the arrival of the vessel Furness Kinnikinnick in Australia in 2008, representatives of the Maritime Union of Australia boarded the vessel to hand over a letter to the captain of the vessel, protesting the trade in Saharawi phosphates. The letter was also sent to the companies involved in the transport, as well as to the local reporter.

In 2017, the Danish company Maersk took over the Oetker Group’s subsidiary Hamburg Süd. In June 2018, Maersk announced that it would discontinue the historical engagements of Hamburg Süd’s transports from Western Sahara. The contract expires in 2018, and there are no plans for further contracts after that. The company wrote:

OCP SA is a Moroccan state-owned company which since 1975 has operated the mine in Western Sahara through its subsidiary, Phosphates de Boucraa SA. It is OCP that claims to own the c抱怨范围 in the South African court.

Funded by the USD 200 million plunder from Western Sahara every year, OCP has contracted a large troop of global law firms and PR firms to defend its case and help manage perceptions of its operations.

On 17 May 2017, a maritime court in Panama ordered the detention of the vessel Ultra Innovation, carrying rock from Western Sahara to Agrium in Canada through the Port of Vancouver. 36 hours later, a bond was placed for the release of the ship by the shipping company. On 5 June, the maritime court in Panama decided – without organizing a formal hearing – that the matter could not be dealt with by that court. Since then, no single vessel with Saharawi cargo has passed through the Panama Canal.

Ballance Agri-Nutrients, a co-operative from New Zealand had purchased the cargo aboard the NM Cherry Blossom. OCP bought back the cargo – and OCP acted as the owner in the legal proceedings – immediately after the vessel was detained in South Africa. Ballance Agri-Nutrients Limited manufactures, markets and distributes fertilizers and related products in New Zealand. Ballance and the plants that the company has acquired over the years have been purchasers of Bou Craa phosphates for decades. The firm signed a long-term agreement with OCP in 1999, requiring OCP to supply phosphates to Ballance.

Since then, not a single vessel with Saharawi cargo has passed through the Panama Canal. No vessels have taken these routes.

The Saharawi Arab Democratic Republic (SADR) represented the people of Western Sahara in the court. SADR is not recognized as a UN member state but is a full-fledged member of the African Union. The republic represents both the people of Western Sahara that fled after the Moroccan invasion, and those who still live under Moroccan illegal occupation. The state’s structure overlaps with that of the Frente Polisario, which the UN recognizes as the national liberation movement of the territory.
A massive change has taken place in the client base since 2011.

The number of importing companies dropped from 15 in 2011 to 7 by 2021.

The effect of Nutrien’s exit from the trade is tremendous. The termination of Nutrien’s purchases on 31 December 2018 means that OCP lost the client that received 50% of all purchases from Bou Craa.

The resumption of Mexican imports from 2021 has replaced some of this lost volume to North America.

The two New Zealand importers (Ravensdown and Ballance Agri-Nutrients) have been relatively stable over the entire period, constituting around 20%-25% of the trade.

### Imports per company as percentage of total exports

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<tbody>
<tr>
<td>Paradeep Phosphates Ltd.</td>
<td>18.5%</td>
<td>20.7%</td>
<td>24.3%</td>
<td>42.4%</td>
<td>64.0%</td>
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<td>Innophos Mexicana</td>
<td>10.9%</td>
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<tr>
<td>Ballance Agri-Nutrients Ltd.</td>
<td>8.9%</td>
<td>6.4%</td>
<td>7.6%</td>
<td>7.3%</td>
<td>8.7%</td>
<td>14.0%</td>
<td>11.6%</td>
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<td>Ravensdown Ltd</td>
<td>10.4%</td>
<td>8.2%</td>
<td>4.9%</td>
<td>7.1%</td>
<td>10.1%</td>
<td>6.9%</td>
<td>11.2%</td>
<td>15.3%</td>
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<td>EuroChem (Lithuania/Estonia)</td>
<td>9.8%</td>
<td>18.9%</td>
<td>9.4%</td>
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<td>Unknown (Japan)</td>
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<tr>
<td>Unknown (Brazil)</td>
<td>1.4%</td>
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<td>Unknown (Philippines)</td>
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<td>Coromandel Ltd</td>
<td>0.5%</td>
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<td>Impact Fertilisers Pty. Ltd.</td>
<td>1.8%</td>
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<td>Incitec Pivot Ltd.</td>
<td>3.4%</td>
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<td>ISUSA</td>
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<td>Monomers S.A.</td>
<td>4.7%</td>
<td>4.9%</td>
<td>4.4%</td>
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<tr>
<td>Nutrien (incl. Agrium/PotashCorp until 2018)</td>
<td>16.6%</td>
<td>40.3%</td>
<td>40.6%</td>
<td>44.7%</td>
<td>46.6%</td>
<td>46.3%</td>
<td>47.8%</td>
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<td>Sinofer Holdings Ltd.</td>
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<td>Tripoliven, CA</td>
<td>7.0%</td>
<td>8.9%</td>
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<td>Unknown (Argentina)</td>
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<td>Unknown (India)</td>
<td>4.9%</td>
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<td>Unknown (Lifosa AB?)</td>
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<td>Unknown (Point Comfort, USA)</td>
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<td>Unknown (South Korea)</td>
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<td>Unknown (Ukraine)</td>
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<tr>
<td>Unknown (Venezuelan Government)</td>
<td>3.7%</td>
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Amount of total export (tonnes):

- 2012: 1,775,000
- 2013: 2,167,000
- 2014: 2,038,400
- 2015: 1,455,000
- 2016: 1,858,250
- 2017: 1,591,840
- 2018: 1,928,000
- 2019: 1,027,818
- 2020: 1,123,036
- 2021: 1,407,000
**The Moroccan take-over of Bou Craa mine**

Peak P

Phosphate is a vital component of the fertilizers upon which much of the global food production and food security depends. For some time now, there has been concern about the world population’s reliance on a finite supply of phosphorus, and the implications of this for agricultural productivity, food prices and nutrition, particularly in developing countries. The term ‘peak phosphorus’ has joined the concept of ‘peak oil’ in the lexicon of 21st century scarcity. There are no substitutes for phosphorus in agriculture.

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Companies involved in the trade of Western Sahara phosphates rock in 2021

Seven companies and co-operatives were involved in the imports of Western Sahara phosphates rock in 2021.

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

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

Primarily a state-owned company, it is not possible for foreign investors to buy shares in OCP. However, OCP bonds have been offered to Moroccan investors via the Casablanca Stock Exchange since 2011, and to international investors through the Irish Stock Exchange since 2014. Several institutional investors have since excluded OCP from their portfolios for its involvement in Western Sahara.

OCP’s affairs at the Irish Stock Exchange are managed by Barclays, Morgan Stanley and JP Morgan; multinational financial services corpora-
tions 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.

2. **PARADEEP PHOSPHATES LTD** (India/Morocco)

Paradeep Phosphates Limited (PPL) produces, markets and distributes phosphate-based fertilizers and by-products for agricultural use. The company was established in 1981 as a joint venture of the government of India and the Republic of Nauru. In 1993, the government of India took complete ownership of the company. Due to significant losses near the end of the nineties, the government of India decided to divest 74% in February 2002. That stake was bought by Zuari Maroc Phosphates Pvt Ltd, a 50-50 joint venture of Zuari Agro-Chemicals Ltd (a subsidiary of Adventz Group of India) and Maroc Phosphate SA – a wholly owned subsidiary of OCP. Today, PPL operates as a subsidiary of Zuari Maroc Phosphates, which holds 60.45% stake, while the government of India holds the remaining 39.55%.

In other words, PPL is owned by the Government of Morocco, an Indian private conglomerate (Adventz Group) and the Government of India. In 2021, however, India’s Securities and Exchange Board (Sebi) approved Paradeep’s plans to mop up funds through an initial public offering (IPO) through which both Zuari Maroc Phosphates and the Government of India will offer up equity shares.

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 10 shipments of phosphate rock from occupied Western Sahara throughout 2021, totaling 572,336 tonnes worth an estimated USD 141.02 million. This is a 63% increase from the year before.

A Prospectus filed by PPL in August 2021, learn that the company entered into a long-term supply agreement with OCP on 1 January 2021 for the procurement of what the firm calls “our most important raw material by value: Phosphate Rock”. The agreement has a term of three years, expiring 31 December 2023, and can be automatically renewed for successive periods of two years. Under the deal, PPL is obliged to purchase a minimum quantity of 0.8 million MT to 1.5 million MT per contract year. It should be noted that PPL also imports from mines that are managed by OCP in Morocco proper.

The Prospectus also clarifies that the price per MT is calculated in accordance with a formula that is included in the agreement and subject to a floor price. OCP does grant PPL a certain discount on the total value of the annually purchased quantity, if PPL purchases all its required rock exclusively from OCP during that contract year.

Due to the termination of exports to North America, Paradeep has since 2019 been, by far, the biggest importer of phosphate rock from the territory. The company purchased 40% of the Bou Craa production during 2021.

2021 is the sixth 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 2019-2020. None of the letters sent by WSRW to PPL since 2015, have ever been answered.

Ilia seen in Valencia, Spain, in August 2021, shortly before entering Saharawi waters. There, it picked up 55,974 tonnes of phosphate rock for its client Paradip, in India.
Ballance Agri-Nutrients Limited manufactures, markets and distributes fertilizers and related products in New Zealand. The company has two phosphate-manufacturing plants, one in Mount Maunganui and the other in Awarua, New Zealand. It is a farmer-owned cooperative, and not registered on any stock exchange. The Balance factories have been using Western Sahara rock since the 1980s. The firm signed a long-term supply agreement with OCP in 1992. Ballance claims that its "executives and Board members visit the Western Sahara on a regular basis." During the course of 2021, Ballance received five shipments of phosphate rock illegally excavated in occupied Western Sahara. The cargoes have an observed combined volume of 292,000 tonnes, worth around USD 72 million. The import volume in 2021 is the largest ever recorded to this company since WSRW started the daily monitoring in 2021. Earlier years, the Ballance imports has ranged between 104,000 and 215,000 tonnes.

WSRW has annually contacted Ballance from 2019, but has never received an answer to its questions. In 2014, 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. Here, Ballance compares Western Sahara to the small island of Tokelau - an incorrect parallel, as Western Sahara is all of the country itself; Working conditions should be non-discriminatory; The exploitation of mineral resources in Western Sahara, and that any exploitation of the territory's resources is to be done in line with the United Nations' resolutions..." WSRW knows of only one UN Framework that is specifically applicable to the exploitation of mineral resources in Western Sahara. WSRW tracked one shipment to Ballance during 2021 containing an estimated cargo of 55,000 tonnes, with a net value of around USD 13.5 million. The imports in 2020-2021 is a large decrease from earlier years (2012-2018) when the volume was in the range of 100,000 to 215,000 tonnes.

The bulk vessel Amic Ace is seen offloading phosphate rock at the dock of the company's Inphos in Coatzacoalcos, Mexico. On 3 August 2021, Western Sahara Resource Watch (WSRW) has obtained drone images of the ship offloading the cargo. The images show the phosphate rock originating from occupied Western Sahara being offloaded onto a conveyor belt system and transported vertically up into a large white building used or owned by Inphos-Mexico, a local subsidiary of the US company Inphos Holdings.

In spite of earlier promises, the US company Inphos Holdings has resumed imports of phosphate rock from occupied Western Sahara into Mexico. The company became the leading importer during the second half of the year from the arrival of the first shipment on 2 August 2021 until the end of the year. Inphos took in 45% of all phosphate rock from occupied Western Sahara. The seven shipments that it received during the last five months of 2021 totalled 292,000 tonnes, more than any other importer involved in that timeframe. The company has previously been involved in the same trade. This happened in two different ways. On one hand, its subsidiary Inphos Mexicana imported directly to Coatzacoalcos until 2019. On the other hand, the company was involved in the former trade to the US. By being the main customer of the PotashCorp's factory in Geismar, Louisiana. The product was shipped from PotashCorp to Inphos through a pipeline. The PotashCorp plant, which had provided Inphos with Saharawi phosphate, was closed by the end of 2010 by Nutrien, the merger of PotashCorp Inc. and Agrium Inc.

From 2010 to 2012, WSRW sent Inphos seven letters about the company's purchases from the occupied territory, without receiving a reply. Until its former exit from the trade in 2019, Inphos was the subject of multiple divestments from shareholders. A lengthy analysis for the ethical exclusion of the firm was prepared by the Council on Ethics of the Norwegian Government Pension Fund in 2015. For the same reason, the company has also been kicked out of the portfolios of the Luxembourg Pension Fund and Danske Bank, among others.

In 2018, the company announced its departure from Western Sahara trade. As part of Inphos' commitment to overall social responsibility and good corporate stewardship, Inphos 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. Inphos Holdings wrote in a press release on 2 July 2018.

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. This 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 this 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. It is this key-element that Ravensdown keeps ignoring and concealing.

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 normally imports to its plants in Christchurch, Napier and Dunedin, New Zealand. Ravensdown only took in cargo to the two former ports in 2021,

WSRW tracked one shipment to Ravensdown during 2021, containing an estimated cargo of 55,000 tonnes, with a net value of around USD 13.5 million. The imports in 2020-2021 is a large decrease from earlier years (2012-2018) when the volume was in the range of 100,000 to 215,000 tonnes.

The bulk vessel Oceanmaster is observed at the port of Napier, New Zealand, in August 2021, during its mission to offload an approximate 55,000 tonnes of phosphate rock for OCP's client Ballance Agri-Nutrients.

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 January 2022 asking for clarifications about these UN expectations, but did not receive a response.
A cargo of phosphate rock to Estonia in October 2021 was the first import into Europe for five years. The imports in 2021 was the first known export of conflict minerals from Western Sahara to Estonia ever recorded.

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

EuroChem wrote to WSRW at the time that “increasing the Group’s self-sufficiency in phosphate rock has been a priority for both strategic and social considerations” and that “likely to be of interest to Western Sahara Resource Watch, we can inform you that […] the Group does not intend to purchase phosphate rock from Western Sahara in 2016 or at any time over the foreseeable future.”

However, the new transport contradicts this statement.

In 2020, EuroChem opened its €70 million brand new port terminal in Sillamäe, Estonia. WSRW contacted EuroChem three times in relation to the single imports to Estonia, but has not received a response.

WSRW observed the phosphate being loaded over to awaiting trucks, which shuttled between the ship and the EuroChem facility. The Estonian news site Delfi wrote about the imports.

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

In 2021, for the third consecutive year, a very small cargo vessel undertook the long journey from the phosphate harbour in El Aaiún to Moji, Japan. On 17 August 2021, the vessel Franbo Logic arrived on what WSRW suspects is 12,000 tonnes of phosphate rock.

WSRW has reason to consider Itochu Corp as responsible for the imports. Itochu Corp is regarded as a leading “sogo shosha”, a Japanese company that trades in a wide variety of products and materials, acting as intermediary and often also engaging in logistics, plant development and international resource exploitation.

WSRW and Friends of Western Sahara Japan sent a letter to the company on 23 February 2022 but no response was 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.

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

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

From what WSRW learned from sources in Santos, in fact two importers were behind the incidents. One of the two companies, Copebras, a subsidiary in Brazil of the company China Molybdenum, did not respond to a Brazilian media request following the revelation. WSRW also contacted China Molybdenum earlier in 2021, with no response.

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

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

Kiran Aziz, senior analyst in KLP Asset Management in Norway told WSRW.

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

On 20 June 2020, the bulk carrier ‘Lalis 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.

The Chinese company has allegedly clarified to the owners that the incidents were not part of a long term agreement. WSRW has identified three shipments to Brazil in 2020 and two in 2019, with a total cargo of around 166,600 tonnes. No shipments of phosphate rock have been made from Western Sahara to Brazil since December 2020.

From what WSRW learned from sources on the ground in Brazil in December 2020, was that another company - Cesari Fertilizantes (Cefertil) - part of Grupo Cesari - also was involved in the imports of rock from the territory. That company denied to Brazilian media its involvement.

The Brazilian Cesari group, owner of Cefertil, replied that Cefertil does not use Saharawi phosphates for its formulations. ‘In addition to this, our industrialization and storage contracts contain specific clauses in which the customer is responsible for the origin of the product,’ the company explained. Grupo Cesari’s large industrial area in Cubatão offers storage facilities to more than one company, including companies that are not part of Cesari’s portfolio. One such company is Mosaic Fertilizantes, the Brazilian subsidiary of Mosaic Company, the USA’s largest phosphate-based fertilizer producer. In 2015, Mosaic informed that it would no longer import phosphate from Western Sahara. That position has also been confirmed to WSRW in 2019.

CHINA MOLYBDENUM, and possibly others (Brazil)
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 Sinochem Group holds a 53% 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 a letter 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 Agrium 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. 30

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. 31

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 Fertilizers (IPF). Southern Cross International (SCI) and Fertilizers Elimination (Glen). Incitec Pivot has imported from Western Sahara for three decades. Since 2013, 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. 32

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The government of Venezuela
(Colombia/Venezuela)

The government of Venezuela has traditionally been involved in the trade in two different ways: through imports to subsidiaries in both Colombia (Monomeros) and Venezuela. The related companies have been importing from the occupied territory for decades.

Since May 2011, when Saharawi phosphate shipments were detained in South Africa and Panama, no transports to Colombia and Venezuela have been observed. The Colombian Company Monomeros Colombo Venezuela S.A. is a petrochemical company fully owned subsidiary of the Venezuelan state-owned petrochemical company Pequiven (Petroquímica de Venezuela S.A). The company used to import to Barranquilla. The last proven import incident to Monomeros was a single shipment in calendar year 2011, totaling approximately 17,000 tonnes. The imports have thus reduced dramatically in 2016. Monomeros imported 58,000 tonnes.

WSRW has written several occasions raised the matter with both Monomeros and its parent company Pequiven, as well as the Venezuelan government. None of them responded to any of our letters. The Venezuelan importor Tripoliven in 2013 denied importing from Western Sahara, which later proved to be incorrect. 33

For more about the imports to Puerto Cabello, Venezuela, please see P for Plunder 2016. 34

Indian importers

On 6 March 2019, a vessel carrying 59,600 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 in 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. 35
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)

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

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 21 June 2010. As no answer was received, new letters were sent to the parent company in The Netherlands in October 2011. The outcome of the following correspondence with Nidera was a statement from the company underlining that ‘If our subsidiary in Uruguay again needs to import phosphate rock in the future, the matter which is now brought to our attention is something we shall definitively take into consideration’. The company at the time also stated that its subsidiary in Uruguay had not received any phosphate rock from Western Sahara during the years 2007, 2008, 2010, 2011. 
Yara is the world’s leading supplier of mineral fertilizers. It used to be a large importer of phosphates from Western Sahara in the past, but has since decided not to import from Western Sahara. The main motive for the decision to cease doing so has been that the Norwegian government urges Norwegian companies not to trade with goods from Western Sahara due to concerns of international law. The company has today as a policy only to import or trade with phosphates from Morocco proper, not from the Bou Craa mines. We hope the country will be liberated, then the population there will profit from us quickly receiving their phosphates. Chief Communication Officer, Bente Slaatten told 125

Yara International ASA  
(Norway)

Wesfarmers is one of Australia’s largest public companies headquartered in Perth, Western Australia. The company is listed on the Australian Securities Exchange. Its fertiliser subsidiary, Wesfarmers CSBP was a major importer from occupied Western Sahara for at least two decades. Earliest known imports of Saharawi phosphates by CSBP date back to 1990. In 2009, the firm announced it would reduce the company’s dependency on phosphate rock from Western Sahara. The company said it would invest in new technology that would make it possible to use other phosphate sources. CSBP did, however, leave open the possibility that the imports could continue, albeit to a limited degree, depending on price and availability of alternative sources. This decision followed a wave of European divestments over ethical concerns on trade in phosphate from occupied Western Sahara. Wesfarmers used to import between 60 and 70% of its phosphates from Western Sahara.

Wesfarmers Ltd  
(Australia)

BASF was one of the leading importers through the 1990s. It received its last known shipment to Belgium in 2006.126 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 Chéri 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.127

BASF SE  
(Germany/Belgium)

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

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Mosaic Co  
(USA)

Mosaic Co is headquartered in Minnesota, USA, and listed on the New York Stock Exchange. WSRW confirmed 15 shipments from occupied Western Sahara to Tampa, Florida, USA in the period from 2001 to 2009. Tampa is home to the headquarters of Mosaic’s phosphate operations and many of the firm’s phosphate production facilities. On 25 August 2001, Mosaic informed WSRW that it had received its last shipment of Western Sahara phosphate rock on 25 January 2009 and that it ‘has no plans’ to import from the territory again.126 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 127

Mosaic Co  
(USA)

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 2004), Tata Chemicals from India (last shipment in 2000), Zen Nah from Japan (last shipment in 2008) and Agropolychim AD from Bulgaria (last shipment in 2008). None of these companies have responded to requests from WSRW.

Other companies
Lobbying law firms

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 USD 1.5 million for work carried out by both Dechert and DLA Piper.

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

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

From 2019, a New Zealand lobby firm, SenateSHJ, started representing OCP in New Zealand, handling the Moroccan company’s public relations in the country. WSRW wrote SenateSHJ on 2 March 2022. No answer has been received.

OCP has failed to answer requests from Saharawis to share copies of the reports.
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 proposed 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 1 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 (MACOP), 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, are estimated at around 46–63 mg/kg, while those from rock coming from Youssoufia, also in Morocco, are considered to be higher than 120 mg/kg.

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

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

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

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

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

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

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

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

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

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

Recommendations

400 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.
Annex 1:

**Terminology**

**Charterer:** A company that reaches an agreement with the manager or owner/manager of a ship for the use of that ship.

**Deadweight (DWT):** the weight (in metric tonnes) that a ship can carry. 95% of this is the actual cargo capacity. The remaining is accounted for by bunker fuel, stores, water etc.

**Flag:** A ship flies the flag of the country in which the ship is registered, which is often not the country in which the managing or owning companies are based. Many ships owned and managed by companies based in Western countries are registered in countries which have an ‘open registry’. The ships are then said to ‘fly’ flags of convenience. There is no genuine link between these vessels and the flag of registry. The majority of the vessels in this report is flying such flags.

**Manager:** the company that manages the ship. Technically and/or commercially. The manager may be different from the owner, although certain owners do manage their own ships.

**Registered owner:** the company which is at least the nominal owner of the ship. The problem is that a ship often has a registered owner whose total assets consist only of the ship in question. The company may well be owned by another company which also owns a number of other single-ship companies. That company may in turn be owned by yet another company. The name and address of the company which is the registered owner of the ship are easily available. However, it is far more difficult to get to know details of the ‘beneficial owner’ i.e. the company which is at the end of a chain of owners.

**P&I Club:** Protection and indemnity insurance, more commonly known as ‘P&I insurance’ is a form of mutual marine insurance provided by a P&I Club. A P&I Club provides cover for open-ended risks that traditional insurers are reluctant to insure. Typical P&I cover includes a carrier’s third-party risks for damage caused to cargo during carriage war risks, and risks of environmental damage such as oil spills and pollution.

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**Manager:** the company that manages the ship. Technically and/or commercially. The manager may be different from the owner, although certain owners do manage their own ships.

**Registered owner:** the company which is at least the nominal owner of the ship. The problem is that a ship often has a registered owner whose total assets consist only of the ship in question. The company may well be owned by another company which also owns a number of other single-ship companies. That company may in turn be owned by yet another company. The name and address of the company which is the registered owner of the ship are easily available. However, it is far more difficult to get to know details of the ‘beneficial owner’ i.e. the company which is at the end of a chain of owners.

**P&I Club:** Protection and indemnity insurance, more commonly known as ‘P&I insurance’ is a form of mutual marine insurance provided by a P&I Club. A P&I Club provides cover for open-ended risks that traditional insurers are reluctant to insure. Typical P&I cover includes a carrier’s third-party risks for damage caused to cargo during carriage war risks, and risks of environmental damage such as oil spills and pollution.
### Annex 2:

The shipping companies behind the controversial phosphate transports, 1 January 2021 to 31 December 2021

<table>
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<tr>
<th>Vessel Name</th>
<th>No.</th>
<th>IMO</th>
<th>Flag</th>
<th>Departure</th>
<th>Destination (Imprinter)</th>
<th>Arrival</th>
<th>DWT</th>
<th>Estimated cargo (tonnes)</th>
<th>Reg. owner</th>
<th>Reg. owner address</th>
<th>Group owner</th>
<th>Group owner - nationality of registration</th>
<th>Group owner - registered nationality</th>
<th>Group owner - nationality of controlling interest</th>
<th>Operator</th>
<th>Operator address</th>
<th>Operator - nationality of control</th>
<th>Operator - nationality of registration</th>
<th>Operator email</th>
<th>Operator website</th>
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<td>route de Florissant, 101 1206 Singapore Switzerland</td>
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<td>Cumbria</td>
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<td>61 268</td>
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<td>United Kingdom</td>
<td>Hudley Shipping Group Ltd</td>
<td>United Kingdom</td>
<td>NVR Holding Company</td>
<td>Nederlands</td>
<td>PML Ship Management Ltd</td>
<td>Office 601 Ohara Building 58-60 2nd Floor, 237, Fuxing St Taipei Taiwan 10616</td>
<td>South Africa</td>
<td>Singapore</td>
<td><a href="mailto:happy@harryship.com">happy@harryship.com</a></td>
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<td>Greece</td>
<td>Oceanstar Management Inc</td>
<td>18 Grigoreou Lampaki Street Glyfada 166 74 Athens Greece</td>
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<td>2nd Floor 237 Fusing 5 Road Section 2 2-an District Taipei City 10667 Taiwan</td>
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<td>Nishin Shipping Co Ltd</td>
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<td>P&amp;O Club</td>
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“The Court’s conclusion is that the materials and information presented to it do not establish any tie of territorial sovereignty between the territory of Western Sahara and the Kingdom of Morocco or the Mauritanian entity. Thus the Court has not found legal ties of such a nature as might affect the application of General Assembly resolution 1514 (XV) in the decolonization of Western Sahara and, in particular, of the principle of self-determination through the free and genuine expression of the will of the peoples of the Territory.”

International Court of Justice, 16 Oct 1975