Your Excellency,

The UN Security Council will discuss the renewal of the MINURSO mandate during the month of October. Western Sahara Resource Watch (WSRW), an international NGO - with member organisations in over 35 countries - with the aim of ensuring respect for international law in the resolution of the conflict in Western Sahara, wishes to make a two-fold call. First, that you give due consideration to Morocco’s exploitation of Western Sahara’s natural resources in your upcoming report to the UN Security Council; and second, that you propose to UN Member States the establishment of a mechanism to place the proceeds from the exploitation under international administration until the conflict has been resolved in line with international law. In addition, we humbly ask for clarifications in relation to two specific questions on the content of and recommendations in previous UNSG reports on Western Sahara. Find the questions further down, underlined.

On the first matter, we have noted to our regret that recent UNSG reports (2017-2021) do not fully engage the issue of the exploitation of natural resources in what remains a Non-Self-Governing Territory without an administering power. Instead, the matter is habitually summarized as that Morocco continues to make considerable investments in infrastructure and economic development projects west of the berm, while the Frente Polisario continues to protest these activities. Recognising the difficulty of obtaining information from the ground, even with an appointed envoy, we consider that the scale of the exploitation and its legal, political and ethical consequences merit a fuller account. All the more so, as the right to resources is included, \textit{inter alia}, in the right to self-determination, which remains the cornerstone principle guiding the UN’s peace efforts in Western Sahara.

Second, we urge you to propose to UN Member States the establishment of a mechanism to place the proceeds from the exploitation of the territory’s natural resources under international administration until the status of the territory has been resolved. The lack of legal and legitimate administering power bestows a specific duty upon the United Nations to manage the resources until the status of the non-self-governing territory has been resolved. As has been repeatedly remarked in the UNSG reports, the lack of trust between Morocco and the Frente Polisario negatively impacts any prospect of a negotiated solution. We submit that Morocco’s continued, uninhibited and profitable exploitation of Western Sahara’s resources, without Saharawi consent, is a major yet seemingly overlooked factor in this matter. Allowing Morocco to systematically profit from the territory’s wealth not only undermines the parties’ good faith needed for the negotiations, it also contributes to financing the ongoing illegal occupation while denying the resources to the Saharawi people for current and future usage.

We take the liberty to include a brief capsulation on the territory’s main natural resources.

- To date, the Moroccan state-owned phosphate company OCP S.A. markets Western Sahara’s \textbf{phosphate reserves} in Bou Craa. OCP’s financial reporting indicates that while the exports from Bou Craa are relatively modest in comparison to the volumes exported from Morocco proper, it is the higher quality of the rock mined in Western Sahara that yields comparatively higher revenues. However, no separate accounting is available for the exploitation of the Bou Craa mine. WSRW has monitored the exports from the territory for well over a decade, and our calculations have been confirmed by OCP’s own reports. Leaked internal documents and sources in the importing countries have confirmed that the price paid for Bou Craa rock is substantially higher than the
market price. A conservative estimate would put the income obtained by OCP in 2021 through its untenable management of Bou Craa, at around 349 million USD.1 Morocco’s proceeds from Bou Craa are expected to increase soon, with the ongoing construction of a new port and processing facilities that will allow a wider product range to be sold and shipped internationally.

- Western Sahara's importance to Morocco's fishing sector cannot be overstated. The Moroccan government’s data reveals that from 2015 to 2020, Western Sahara accounted for an average of 78% of the quantity of Morocco’s annual coastal and artisanal catches.2 The overwhelming majority of catches being landed in Dakhla and El Aaiún, it is not surprising that a fish processing industry has developed over the years. In 2020, 30% of the fish processing plants that the Moroccan government reports on, were in fact located in the occupied territory.4 On top of the Moroccan fleet, several other countries are fishing in Western Sahara’s waters through agreements with the government of Morocco, adding to the severe pressure on the stocks that, except for sardines, are considered fully exploited or overexploited.5

- Agricultural activity in the territory remains limited in scale, but its political significance cannot be overlooked. These water-intensive crops that are cultivated on the farms of Moroccan and French businessmen and notably of the king of Morocco, have been subject to several rulings by the EU Court of Justice and the British High Court.

- Perhaps the most concerning development are the renewable energy projects that increase Morocco’s dependency on the territory that it occupies. As such, the projects fundamentally undermine the UN peace efforts in Western Sahara. The generated energy is mainly used by industries that plunder the territory's non-renewable resources and may also, in time, be exported abroad, including to the EU. A full account on this development is available in WSRW's October 2021 report.

Finally, two observations and questions on the content of and recommendations made in previous UNSG reports on Western Sahara. Morocco’s exploitation of Western Sahara’s resources is not only a point of contention between the parties to the conflict. Regrettably, it is causing a negative fallout in the wider region. This year, 2022, marks the tenth anniversary of the Frente Polisario’s first filing for legal proceedings against the EU institutions over the inclusion of Western Sahara in the EU’s agreements with Morocco. Ever since, the highest Court of the European Union has repeatedly ruled that Western Sahara is a territory that is separate and distinct from Morocco, that Morocco has no sovereignty or administering mandate over the territory, and that the people of Western Sahara have a right to self-determination. Accordingly, the Court argued, they ought to consent via their UN-recognised representation – the Frente Polisario – in order for any EU-Morocco bilateral agreement to affect the territory.6 As a result, the EU – not a direct party to the conflict in Western Sahara – is being increasingly confronted with the consequences of the UN’s inability to resolve the conflict, and has been caught up between a rock and a hard place in trying to reconcile the irreconcilable; the requirements set forth by international law and its own Court on the one hand, and on the other the aggressive demands placed on it by its neighbour to the south, Morocco, which will not shy away from using issues as migration and anti-terror to force its untenable position on Western Sahara onto the EU. This is not the type of relation that the UN would wish to foster among its Member States, and points to the need for the UN to engage more substantially on the issue of Western Sahara’s resources.

The latter point leads us to our first question. It is remarkable that the rulings of an international Court – the Court of Justice of the European Union (CJEU) – have not been mentioned in the UNSG reports authored by Secretary General Guterres. It is all the more peculiar as his predecessor, his Excellency Ban Ki-Moon, did refer to the very first ruling of the EU General Court of December 2015, annulling the EU-Morocco Trade deal in Western Sahara, in his final report on Western Sahara in April 2016. None of the subsequent rulings...

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3 Ibid, p. 4.
6 The Rulings for cases T-512/12, T-180/14, C-266/16, T-275/18 and combined cases T-344/19, T-356/19 and T-279/19 can be accessed at the site of the EU Court of Justice, http://curia.europa.eu.
– the 2016 appeal ruling, the 2018 rulings annulling the EU-Morocco Fisheries Agreement and the EU-Morocco Aviation Agreement in Western Sahara – were referred to by the new Secretary General from his appointment on 1 January 2017. Yet the political decision by EU institutions to circumvent these rulings by amending both the EU-Morocco Fisheries and the Trade Agreement to explicitly apply to Western Sahara – without any involvement or consent from the people of the territory - has been included, void of any critical analysis as to the legality of such a political manoeuvre. The 2021 ruling yet again annulling these amended EU-Morocco Agreements in Western Sahara was again left unmentioned. As such, we would be grateful if you could clarify the reason for this shift in practice: why was a reference to the very first General Court ruling included in the UNSG report on Western Sahara in 2016, and yet none on the subsequent - and stronger worded – rulings, even from the highest EU Court?

Our second question relates to the UNSG’s recommendations to allow for commercial traffic in the Guerguerat strip. We refer to your observation in the UNSG report of October 2019, stating that “the increasing commercial traffic across the buffer strip and the growing civilian activities to impede it are creating tensions in that sensitive area.” Yet the report continues that “I call for regular civilian and commercial traffic not to be obstructed”. One year on, precisely these tensions would lie at the root of the collapse of the ceasefire and resumption of armed activities in Western Sahara. The Guerguerat crossing has been used to traffic resources out of the territory, which is a violation of the right to self-determination, including the right to resources. It is unsurprising that the Moroccan Coordinator with MINURSO would state “that Morocco ‘reserve[d] the right to take any necessary actions, including intervention on the ground, to ensure the free circulation of civilian and commercial traffic’”. We take note that the UNSG’s calls for unimpeded commercial traffic in the Guerguerat strip have not been repeated in the only UNSG report on Western Sahara that has been published since armed conflict broke out in November 2020. Nevertheless, we thank you for clarifying why commercial traffic in that particularly sensitive area has been insisted on, given that it is such a major point of discord between the parties.

Finally, we take note of the recurring calls by UN humanitarian agencies on donors in attempts to scrape by the necessary support to cover the most pressing needs of the Saharawi refugees in Tindouf. WFP’s most recent briefing calls for US$ 11.9 million to cover the second half of 2022. The included figures are dramatic: a mere 12% of the refugee camps’ population is food secure. In July, beneficiaries of WFP’s food support have received about 513 kcal per person per day, which is less than half of the required daily intake. We submit that these needs could be covered many times over through the revenues that Morocco obtains through its illegal exploitation of Western Sahara’s natural resources.

We humbly ask that the United Nations Charter be applied as it was envisioned; to ensure territorial sovereignty and the protection of peoples and their resources under occupation. We petition you to make every effort for the full application of international law for the acceptable administration of Western Sahara’s natural resources until the Saharawi people have realised their right of self-determination. We look forward to hearing from you, and to the publishing of your report about Western Sahara in the coming weeks.

Yours sincerely,

Sara Eyckmans
Coordinator
Western Sahara Resource Watch
coordinator@wsrw.org

7 UNSG report, October 2019, §83.
8 UNSG report, October 2021, §5.