



SAHARA OCCIDENTAL - WESTERN SAHARA

ASSOCIATION POUR UN REFERENDUM LIBRE ET REGULIER AU SAHARA OCCIDENTAL

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TRANSLATION - ORIGINAL FRENCH

For the attention of Mr Andreas Zivy, CEO

Re: importations of phosphate rock sourced in Western Sahara by your Australian subsidiary Impact Fertilisers.

Dear Mr. Zivy,

We have learnt that the firm Impact Fertilisers, based in Tasmania, of which you have recently become the majority shareholder, regularly imports phosphate rock from Western Sahara. The latest shipment pointed out to us was on 14 July in Hobart (Tasmania) on board Star Canopus.

Did you know that these purchases from occupied Western Sahara are highly problematic from an ethical point of view, that they contravene international law and they weaken the efforts of the United Nations to find a peaceful solution to the conflict in the region ?

A referendum of self-determination, organised by the UN, should take place in the former Spanish colony, to allow the population to choose whether it wants independence or integration with Morocco, which has occupied the territory by force since 1975.

To this day, no international organisation recognises Morocco's sovereignty over Western Sahara. Switzerland also upholds the right to self-determination of the Saharawi people as recognised in over 100 UN resolutions.

There is no United Nations embargo on trade with Western Sahara, however, international law lays down that an occupying power can only exploit the natural resources of an occupied territory if it is done in consultation with the local population and is in its interests (*H. Corell legal opinion 2002*¹). In a letter to the President of the Swiss Shipowner Association on the subject of transport of phosphate coming from Western Sahara, Mr. Paul Seger director of the Direction of International Public Law, DDIP, Swiss Ministry of Foreign Affairs, recalled this principle and drew the attention of the shipowners « to the fact that the extraction of natural resources, and notably phosphate rock by Morocco in the above mentioned zone, should take place in conformity with international humanitarian law which appears not to be the case in point of fact. »

The Swiss government expressed its differentiated position concerning trade relations with Morocco, making clear that « from the fact that Switzerland does not recognise the Moroccan annexation, the free-trade agreement between the States of AELE and the Kingdom of Morocco is not applicable to

¹ Letter dated 29 January 2002, addressed to the President of the Security Council by the Deputy Secretary General for legal affairs, Legal Counsel, Security Council document S/2002/161, <http://www.arso.org/Olafr.pdf>

Western Sahara (*extract from the reply of Mr. Martin Zbinden Head of the Free Trade Agreement at the Swiss State for the Economy SECO, April 2007*).

By taking part in the trade of phosphates from occupied Western Sahara, your subsidiary, Impact Fertilisers is profiting from the illegal occupation of the territory and abuses the law. This contributes to undermine the efforts of the United Nations for a peaceful solution to the conflict.

A certain number of companies have, as a consequence, abandoned the importation of the natural resources off Western Sahara for ethical reasons, among them the fertiliser firm, Yara based in Norway and the US-based fertiliser firm, Mosaic.

We ask you as a business conscious of its responsibilities, to take the regional geopolitical context into consideration and to ask your subsidiary, Impact Fertilisers based in Tasmania to abandon the importations of phosphates from Western Sahara so long as the people concerned are not able to exercise their legitimate rights over their own natural resources.

In the expectation of a favourable reply on your part, we present our respectful greetings.

On behalf of ARSO:

Marie-Claire et Emmanuel Martinoli

For the Swiss parliamentary group "Western Sahara":

The President:

Francine John-Calame, Member of the National Council, NE

Co-signatories:

Margret Kiener Nellen, Member of the National Council, BE

Liliane Maury Pasquier, Member of the Council of States, GE

Claude Hêche, Member of the Council of States, JU

Dick Marty, Member of the Council of States, TI

Luc Recordon, Member of the Council of States, VD

Ricardo Lumengo, Member of the National Council, BE

Louis. Schelbert, Member of the National Council, LU

Copies to:

Mr Ambassador Martin Zbinden, Head of the Free Trade Agreement at the Swiss State for the Economy SECO, Berne.

Mr Paul Seger, director of the Direction of International Public Law, DDIP, Swiss Ministry of Foreign Affairs, Berne.