



Australia Western Sahara Association

Working for justice for the Saharawi people

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5 January 2012

Ms Kerry Gleeson
Company Secretary
Incitec Pivot Limited
P O Box 1322
Southbank Vic 3001

Dear Ms Gleeson

At your 2011 AGM on 20 December two IPL shareholders, who are also AWSA members, asked questions concerning the company's importation of phosphate from Western Sahara. In response, John Watson, Chairman, read a prepared statement which did not address the detail of those questions. We now put them to you in writing and ask for your response.

Question 1:

How does Incitec Pivot acquire ownership of the phosphate from Bou Craa mine sold to it by the Moroccan company OCP?

Morocco is an occupying power in Western Sahara, whose claim to territorial sovereignty over this non-self-governing territory awaiting decolonisation, is not recognised by any country in the world. Morocco does not have a legal entitlement to the resources of Western Sahara – they still belong to the Saharawi people.

If Morocco cannot pass legal title to its trading partners, how does Incitec Pivot gain ownership of the phosphate it receives from the Bou Craa mine in Western Sahara via the OCP?

We draw your attention to the fact that the Norwegian fertiliser company, Yara, has concluded a new contract with OCP which specifically excludes importing any phosphate from Western Sahara, for this reason.

Question 2

When naming the country of origin of the phosphate imported from Bou Craa, as required by Australian Customs, does the company write Western Sahara (country code EHS) or Morocco (country code MAR)? On what evidence does it rely in making this entry?

Customs has informed AWSA that the United Nations Location Code (known as UNLOC) erroneously locates the port from which the phosphate you purchase is exported – Laayoune - as being in Morocco. As you would know, Laayoune is in Western Sahara.

You would also know that UNLOC has not been adopted as an Australian Standard. Standards Australia, advises that Australians needing to state country locations in official documents must rely on their own enquiries and legal advice as to the validity of sovereign claims to territory or the actual geographical location of any particular world city, instead of the UNLOC code.

In making these enquiries and taking legal advice, what conclusions did the company draw as to the country of origin of the goods imported from Bou Craa?

IPL may well be relying on the fact that the Australian Government has not yet acted to prohibit the import of Western Sahara resources but UN legal counsel, Hans Corell, points out that two pre-requisites for the exploitation and sale of the natural resources of a non-self-governing territory, such as Western Sahara, are:

1. that it must be in accordance with the wishes of the indigenous people of the territory
2. that it must be to their benefit.

On 14 December 2011, the European Parliament voted to reject the one-year extension of the Fishing Partnership Agreement with Morocco as 80% of the fishing takes place in the waters off WS, without the consent or any benefit to the Saharawi people. The European Parliament's own legal department advised that this was contrary to international law. We ask Incitec Pivot to follow their example and cease importations from Western Sahara until the conflict is resolved. As we have pointed out to you in the past, ongoing trade in Western Saharan resources through Morocco acts as an impediment to that resolution.

We attach an article in the Responsible Investor which mentions IPL as an offending company with which dialogue has been engaged by Illmarinen and GES Investment Services. "While some companies have taken positive measures, a lot more remains to be done..." they write. Would IPL please advise what, if any, positive measures are being taken by IPL and what remains to be done in response to this dialogue.

Yours sincerely

Lyn Allison
President AWSA