

President & CEO, Mr. Tsuyoshi Matsui
Managing Executive Officer, Mr. Akira Nishi
Sanko Line
Japan

Open letter to Sanko Line

Japan, 3 June 2008

Regarding phosphate shipment from occupied Western Sahara

Dear Mr. Akira Nishi

As you know, a letter was on last Friday sent to the Norwegian shipping company R-Bulk, after it was discovered that the bulk carrier *Radiance* had discharged a cargo of phosphates from occupied Western Sahara to Colombia. The vessel stopped in the port of Baranquilla, Colombia on April 11th this year, with 15.000 tonnes of phosphate rock. The vessel is owned by R-Bulk, but is said to be on a charter to Sanko since July 2004.

We have also reason to believe the same vessel delivered phosphate to a partially state owned company in Venezuela en route to Colombia.

We would like to point your attention to the fact that trade with and transportation of natural resources from occupied Western Sahara is highly unethical and politically controversial. It is also in violation of international law.

As you know, Morocco is an illegal occupying power in Western Sahara. **The International court of Justice in its 1975 *Western Sahara Advisory Opinion* established that Morocco has no legal claim to Western Sahara. That same opinion affirmed that the Sahrawi population has a right to self-determination, which includes, inter alia, the right of permanent sovereignty over its natural resources. Permanent sovereignty over natural resources is a customary principle of international law, and was recently affirmed by the International Court of Justice in its 2005 judgment of *Case Concerning Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda)*. Numerous resolutions of The United Nations Security Council and General Assembly and a legal opinion by the former UN Under-Secretary General of Legal Affairs, Mr. Hans Corell on 29 January 2002 affirm this position (www.arso.org/Olaeng.pdf).** Because the Sahrawis have not been able to exercise their right to self-determination, and because they have not been properly consulted, trade with Morocco of natural resources emanating from Western Sahara is a violation of the Sahrawis' right to permanent sovereignty over their resources. Consequently, you should also be aware that **companies involved in the current plundering of Western Sahara resources could be liable to the future government of Western Sahara for this violation of their rights under international law.**

It appears that your company has not consulted neither with Sahrawis, their internationally recognized representatives, the Polisario Front, nor **Saharawi Arab Democratic Republic, member state of the African Union**. It is therefore highly dubious that this trade in phosphates is in accordance with international law.

Moreover, the Radiance shipment appears to be in violation of advice from the Norwegian Ministry of Foreign Affairs (<http://www.regjeringen.no/nb/dep/ud/tema/norgesfremme-og-kultursamarbeid/Norges-omdomme/Bedrifters-samfunnsansvar/Vest-Sahara.html?id=480822>). This puts of course the owner of the vessel, R-Bulk, in a difficult situation.

In addition to the legal issues, the political and ethical implications are of serious concern. See the Norwegian Ministry of Finance for an elaborate opinion (http://www.vest-sahara.no/files/pdf/kmg_analysis_norway_2005.pdf) and press release (http://www.vest-sahara.no/files/pdf/kmg_divestment_norw_min_finance_release_05.pdf) on these matters. The Ministry states that searching for oil in Western Sahara constitutes a “particularly serious violation of fundamental ethical norms e.g. because it may strengthen Morocco’s sovereignty claims and thus contribute to undermining the UN peace process”. Exploiting of mineral resources – and its shipping – has the same effect.

The Sahrawi population remaining in areas under Moroccan occupation is subjected to grave human rights violations, such as torture, forced disappearances and arbitrary detention. Most importantly, however, they have not been allowed to freely exercise their right to self-determination through a free, fair and transparent referendum. This right was established through UN General Assembly resolution 1514 (XV) (1960), and has since been supported by more than 100 UN resolutions.

The occupation of Western Sahara has resulted in enormous suffering and deprivation of the Sahrawi people, the rightful owners of the land and the natural resources of Western Sahara. Approximately 165,000 Sahrawis are languishing in refugee camps in the inhospitable Algerian desert since 1975. A May 2008 report by Norwegian Church Aid notes that 19% of children living in the Sahrawi refugee camps in Algeria are suffering from malnourishment. Just for comparison, the percentage among children in Darfur is 16%.

Moreover, Morocco’s control and exploitation of the Western Sahara also hurts the Sahrawis’ labour rights and their economic development. According to a report by the French organisation France Libertés -Fondation Danielle Mitterrand, the Sahrawis have been systematically marginalised from the phosphate industry in Western Sahara. In 1968, before Morocco took control over the phosphate mines, all 1600 workers in the industry were Sahrawis. Today, 1800 of 2000 workers are Moroccan settlers who have illegally been moved into the territory. The breach of international law is therefore rather clear.

The ethical dilemma is also evident. If we consider one tonne of phosphate to be worth 400 dollars, the value of the shipment transported to Colombia is worth 6 million dollars. We have reason to believe that an almost similar amount of phosphate was discharged by ‘Radiance’ in Venezuela, to a company partially owned by the Chavez government. This money is going directly to the Moroccan occupying regime.

The R-Bulk phosphate shipment is in the interest of Morocco, an illegal occupier, and clearly lends legitimacy to the illegal Moroccan occupation of the territory. This kind of support makes Morocco less inclined to contribute in finding a solution to the occupation, and makes delaying tactics and attempting to profit from the existing situation more attractive. The phosphate trade in Western Sahara therefore increases the risk of further armed conflict, destabilisation and suffering in the region. This increased tension actively undermines the hard work of the United Nations to solve the conflict in Western Sahara.

In light of the above facts, other corporate entities have responded appropriately. Yara, the world's biggest fertiliser company, terminated the imports to Norway in 2005, for ethical reasons (<http://www.dn.no/forsiden/naringsliv/article547859.ece>). When Norwegian national broadcaster NRK revealed that Arnesen Shipbrokers had carried out a shipment from Western Sahara in 2007, the company management promised they would never do it again (<http://www.nrk.no/nyheter/distrikt/sorlandet/1.3991898>). A number of companies in the petroleum sector have responded in the same manner.

R-Bulk management said to Norwegian media on Friday that they apologise for the ‘Radiance’ shipment, and that “we have made contact with the shipping company that has chartered the vessel, so they do they should try to do their utmost to prevent that this happens again in the future”.

We, the undersigned, urge you to demonstrate your attachment to International Legality, Human Rights and basic standards of Corporate Social Responsibility by issuing a statement confirming that you have indeed taken measures to guarantee that shipments from occupied Western Sahara are avoided in the future.

We request you to clarify whether the Radiance vessel discharged phosphate rock in Venezuela, and if yes, how many tonnes was actually discharged.

We will be more than happy to provide you with any additional information that you may require to study this matter more closely.

Any reply could be sent to the secretary general of the Japan Sahara Association, Mr. Toshiyuki Takabayashi, at email viva_saharawi_tt@hotmail.com

Sincerely,

Toshiyuki Takabayashi
Japan Sahara Association

Copy sent to:

- Ministry of Foreign Affairs of Japan
- Embassy of Venezuela in Tokyo
- Embassy of Colombia in Tokyo

- Monmeros, Colombia
- Tripoliven, Venezuela
- Japanese Shipowners' Association
- Pacific Basin UK
- R-Bulk