



Media release – Communiqué

For immediate release

Statement of the government of the Saharawi Arab Democratic Republic following the successful recovery and sale of phosphate rock illegally exported from occupied Western Sahara

Bir Lehlu, Western Sahara (8 May 2018). The government of the Saharawi Arab Democratic Republic (the SADR) observes with satisfaction the successful recovery and the sale of a cargo of phosphate rock illegally exported from the occupied part of Western Sahara.

On May 1, 2017, the 55,000 tonne cargo aboard the Marshall Islands registered bulk carrier *NM Cherry Blossom* was detained by a civil court order after the ship anchored at Port Elizabeth, South Africa. The South Africa High Court later determined that the SADR had a *prima facie* claim to ownership of the cargo and directed the claim be subjected to a trial of its merits. On February 23, 2018 the Court concluded that: (1) the SADR was “the owner of the whole of the cargo of phosphate presently laden on the motor vessel *NM Cherry Blossom*” and (2) “ownership in the phosphate has never lawfully vested” in the Moroccan state owned companies OCP SA and Phosphates de Boucraa SA, “and they were, and are, not entitled to sell the phosphate”.

Media outlets and journalists are advised to inquire with care into statements by OCP SA which allege a rightful or lawful recovery of the cargo aboard the m.v. *NM Cherry Blossom*. The fact of the above order February 2018 order which confirms original title and rights to the cargo, issued by an independent and respected court, is evident. If it is claimed that OCP SA has obtained the cargo from a third party, media and journalists might properly ask for the documentary record of such an onward sale.

The SADR government will enforce an order from the case awarding it court costs payable by OCP SA and Phosphates de Bucraa SA, including against the worldwide assets of each company in jurisdictions where they may be located.



Saharawi Arab Democratic Republic



In the aftermath of the South Africa case, and a parallel case in May 2017 in Panama concerning the its m.v. *Ultra Innovation*, the SADR government continues to assert sovereign rights to the natural resources of occupied Western Sahara and to insist on a documented approval for any removal of them from the the territory. Where resources are found to have been illegally exported, including contrary to international humanitarian law, the default position is that they must be returned to the territory to properly ensure a full realization of the Saharawi people’s right to self-determination.

The Panama and South Africa cases, in tandem with others in the European Court of Justice (the CJEU), mark the use of law to ensure Saharawi self-determination and a preservation of natural resources pending the restoration of sovereignty throughout Western Sahara. The SADR government anticipates similar civil legal proceedings in other countries against the remaining Saharawi phosphate purchasing enterprises involved. In addition, measures against the ongoing central Saharan coast fishery will be advanced.

The SADR government again cautions shipping interests, including time charterers, to safeguard themselves and their ships from such prospective liability and compensation-attachment proceedings. Voyage charterers and managing enterprises may not always disclose such risks. The SADR government strongly recommends contracts between ship interests prohibit the carriage of resources (or any commodity) from Western Sahara. A suitable charterparty term might read as follows:

“Charterers are not permitted to trade this vessel to El Aauin (also known as Laayoune) and Dakhla in Western Sahara.”

Emhamed Khadad, a senior member of the Saharawi government observed that “the SADR government took legal action in countries of the Global South to demonstrate that the rule of international law is as robust as it has been so recently applied in Europe. The Saharawi people had unequivocally for years protested a taking of their resources, and now have an established and durable basis to close down such trade and to illuminate other consequences of a vicious, illegal occupation.”

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