

Congress of the United States
Washington, DC 20515

April 10, 2015

Mr. Scott Curran
General Counsel
The Clinton Foundation
1271 Avenue of the Americas
42nd Floor New York, NY 10020

Dear Mr. Curran,

As Members of Congress highly engaged on international human rights issues, we are greatly concerned with reports that the Clinton Foundation is accepting a major donation from a Moroccan state-owned enterprise for the Clinton Global Initiative Middle East and Africa Meeting. The state-owned enterprise, Office Cherifien des Phosphates (OCP), extracts minerals from the territory of Western Sahara without regard for the needs and interests of the people of the disputed territory of Western Sahara, and OCP represents Morocco's biggest source of income in Western Sahara. The company extracts and profits from these resources counter to a number of legal treaties and obligations applicable to Non-Self-Governing Territories.

According to reports, OCP has contributed at least \$1 million to the planned meeting.

Having been to the region multiple times, we are familiar with the plight of the tens of thousands of refugees who have fled the region, and we agree with the vast majority of independent observers, human rights advocates and ordinary Sahrawi people that view the Moroccan extraction of resources as detrimental to the needs and interests of the people of the territory.

Furthermore, as Members of Congress involved in crafting the language of the United States-Morocco Free Trade Agreement Implementation Act pertaining to the application of the agreement to the territory of Western Sahara, we are concerned that OCP may have also been complicit in violations of U.S. trade law. Potash Corporation, a Canadian-incorporated company traded on the New York Stock Exchange, worked through a U.S. subsidiary and purchased OCP phosphates mined in the Boucraa region in the Western Sahara. These were ultimately imported into a facility in Geismar, Louisiana. As the U.S. International Trade Commission has no record of natural calcium phosphate being imported into the U.S. from Western Sahara, we are concerned that these minerals were incorrectly being classified as from Morocco, thus being imported into the United States in violation of the FTA.

The U.S. House of Representatives Way and Means Committee Report to the United States-Morocco Free Trade Agreement Implementation Act makes it clear that "the FTA will cover trade with and investment in the territory of Morocco as recognized by the United States, which does not currently include the Western Sahara." In the past, the United States Trade Representative has also made it clear that the "FTA will cover trade and investment in the territory of Morocco as recognized internationally, and will not include Western Sahara. As our Harmonized Tariff Schedule makes clear, for U.S. Customs purposes, the United States treats imports from Western Sahara and Morocco differently."

As a state-owned-enterprise, OCP's extraction of resources from Western Sahara aids in funding the Moroccan government's control of the territory. The occupation of Western Sahara by Morocco remains an unresolved issue that has involved decades of U.S. and U.N. diplomatic efforts. Furthermore, it has been the policy of successive Administrations that funds appropriated for bilateral foreign assistance to Morocco may not be programmed in Western Sahara. In keeping with the spirit of this policy, we believe the Clinton Global Initiative should demonstrate the highest possible respect for ethical practices and should not take donations from a business that derives its profits from within the territory of Western Sahara at the expense of the Sahrawi people.

OCP's activities in the extraction of phosphates from Western Sahara are questionable at best and may very well be illegal under international law. Some companies doing business with OCP have already faced severe divestment campaigns by international investors, large banks, insurance companies and government pension and sovereign wealth funds. Given the information available, OCP's extraction operations may be in conflict with human rights norms, U.N. resolutions, international law and U.S. trade law.

Out of respect for internationally recognized human rights norms, the Clinton Global Initiative should discontinue its coordination with OCP and return any accepted money from the enterprise. The acceptance of funds from organizations like OCP only stands to further and exacerbate conflict, human rights violations and the disregard for the needs and interests of the Sahrawi people.

Thank you for your attention to this important matter. Our offices stand ready to assistance you with any information and assistance necessary to bring about a mutual and collaborative effort in respecting human rights norms and practices in the future.

Respectfully,


Joseph R. Pitts
Member of Congress


Christopher H. Smith
Member of Congress