

UNOFFICIAL ENGLISH TRANSLATION

DRAFT

**Recommendation to exclude Kosmos Energy Ltd. and Cairn Energy
Plc. from the Government Pension Fund Global**

1 Introduction

In April 2014, the Council on Ethics decided to review the Fund's investment in Kosmos Energy Ltd.¹ ("Kosmos") and Cairn Energy Plc.² ("Cairn") by reference to the Guidelines for the observation and exclusion of companies from the Government Pension Fund Global (the Ethical Guidelines).³

The reason for this was information that the companies were exploring for oil off the coast of Western Sahara on an assignment for the Moroccan authorities. Western Sahara is a Non-Self-Governing Territory without a recognised administering power. Most of the area is in practice administered by Morocco, which nonetheless does not have any sovereign rights over the area's resources.

At the end of 2014, the GPFJ owned shares in Kosmos valued at NOK 119 million and shares in Cairn valued at NOK 341 million, corresponding to respective ownership interests of 0.49 per cent and 2.48 per cent.

Kosmos carries out oil exploration and production activities off the coast of several African states in addition to Ireland and Portugal, among other countries. Cairn explores for oil and develops oil fields, and has operations in several European countries, including Norway, and in the Mediterranean and Africa.

In 2006, Kosmos entered into a contract with the state-owned Moroccan oil company ONHYM regarding oil exploration on the Cap Boujdour field off the coast of Western Sahara. At that time, no activities were started. The contract was renewed in 2011 and in 2013 Kosmos entered into a *joint venture* agreement to develop the field with Cairn Energy Plc. Kosmos owns 55 per cent of this licence and is the operator. Cairn owns 20 per cent. The rest of the ownership interest is held by ONHYM.

Since Kosmos is the operator for Cap Boujdour, it is Kosmos' activities that are the basis for the Council's assessment of Cairn too.

Seismic surveys were conducted in 2013-2014 and Kosmos drilled a test well in the autumn of 2014. The company is committed to undertake the exploratory drilling of 10 wells in the field.

The problem with Kosmos' activities is not connected to the effect that the company's activities has on the local environment where it operates. The question is whether it is acceptable for the company to assist the Moroccan authorities in mapping, with the aim of producing, possible petroleum deposits over which Morocco has no sovereign rights.

1.1 What the Council has considered

The Council has in this case considered whether there is an unacceptable risk of Kosmos and Cairn contributing to particularly serious violations of fundamental ethical

¹ The company has the Issuer ID: 8651619

² The company has the Issuer ID: 111323

³ Guidelines for observation and exclusion from the Government Pension Fund Global:
<http://etikkradet.no/en/guidelines/>

norms pursuant to section 3 letter e of the Ethical Guidelines through its exploration activity off the coast of Western Sahara on an assignment for the Moroccan authorities.

The preparatory work for the GPF's Ethical Guidelines (Government White Paper, NOU 2003:22) particularly points to problems regarding investments in companies with activities in non-self-governing, disputed or occupied areas, and refer to activities on the continental shelf off the coast of Western Sahara as a specific example of where there may be reason to show restraint.⁴

The specific question to be considered in this case is whether Kosmos' measures ensure that its activities in the area are actually in accordance with the local population's wishes and interests. It has also been considered whether the activities can be said to contribute to uphold an unresolved situation in the area.

1.2 Sources

This recommendation is mainly based on information from the companies, various UN documents, the Moroccan authorities and Polisario.⁵

2 Background

2.1 Previous cases

The Kerr McGee Corp., which like Kosmos also explored for oil offshore the coast of Western Sahara, was excluded from the fund in 2005 on the recommendation of the Council.⁶ There were two main arguments in favour of this:

- It could not be shown that the activities took place in accordance with the local population's wishes and interests.
- The activities helped to maintain an unclear situation in the area.

The Council on Ethics has also recommended the exclusion of companies that buy phosphate which is extracted in Western Sahara.⁷

⁴ Government White Paper (NOU) 2003: 22, page 92 (Norwegian language only):
<https://www.regjeringen.no/no/dokumenter/nou-2003-22/id118914/>

⁵ Polisario was appointed by the UN as a representative of the population of Western Sahara in UN Resolution 34/37 (1978): «*The General Assembly [...] recommends to that end that the Frente Popular para la Liberacion de Saguia el-Hamra y de Rio de Orom [i.e. Polisario], the representative of the people of Western Sahara, should participate fully in any search for a just, lasting and definitive lasting solution of the question of Western Sahara [...]*», <http://www.un.org/documents/ga/res/34/a34res37.pdf>

⁶ Recommendation to exclude Kerr McGee Corp, April 2005:
<http://etikkradet.no/files/2014/12/KMG-eng-april-2005.pdf>

⁷ Recommendations in 2010 and 2011 regarding the exclusion of FMC Corporation and Potash Corporation of Saskatchewan: http://etikkradet.no/files/2014/12/Rec_phospahte_ENG.pdf
Recommendation dated 26 September 2014 regarding the exclusion of Innophos Holdings Inc:
http://etikkradet.no/files/2015/01/Recommendation_Innophos_Sept-2014_ENGLISH.pdf

2.2 The situation in Western Sahara

The Council has reported on the situation in Western Sahara in previous recommendations (2005, 2010 and 2014) to the Ministry of Finance. The fundamental conditions in the area have not changed since these recommendations were made.

The land area of Western Sahara, which became a Spanish protectorate in 1884, was established as a Non-Self-Governing Territory in 1963 in accordance with the provisions of the UN Charter. At the same time, Spain was appointed the administering power of what was then called Spanish Sahara.

Western Sahara still has the UN status of a non-self-governing territory. Unlike the other non-self-governing territories in the world, Western Sahara does not have any recognised administering power.⁸

Morocco has de facto control over most of the territory but no UN body has recognised either Morocco's sovereignty over Western Sahara or Morocco as the lawful administering power in the area. No states recognise Moroccan sovereignty over Western Sahara. Nonetheless, Morocco refers to Western Sahara as a Moroccan province and claims sovereignty over most of the area.

In 1973, a liberation group called Polisario was formed with the aim of making Western Sahara an independent state. Polisario started an armed insurgency against the Spanish administration. In 1975, the International Court of Justice in the Hague (ICJ) rejected Morocco's and Mauritania's claims to sovereignty over their respective parts of Western Sahara. Immediately afterwards, Morocco invaded parts of Western Sahara, resulting in strong condemnation by the UN Security Council. Later in 1975, Spain entered into an agreement (the Madrid Accords) with Mauritania and Morocco on the transfer of the administrative authority in Western Sahara. The Madrid Accords confirmed Spain's intention to support the decolonisation of Western Sahara and to transfer its duties as the administering power to Morocco and Mauritania. Accordingly, the agreement did not transfer sovereignty over Western Sahara to Morocco and Mauritania, as Spain did not have – and thus could not cede or transfer – such sovereignty. Nor did the agreement alter Western Sahara's status as a non-self-governing territory under the UN Charter. The Spanish authorities presumed that a referendum would be held in Western Sahara regarding the territory's future status. In 1976, Morocco and Mauritania agreed to divide Western Sahara between them. However, Mauritania withdrew in 1979 and Morocco has in practice controlled most of the territory since then.

Morocco has administered most of the territory since 1979 without being the administering power pursuant to the provisions of the UN Charter.

Following armed conflicts between Polisario and Morocco, a ceasefire was signed in 1991. The UN's peacekeeping force MINURSO oversees the ceasefire and was originally also intended to monitor the referendum on the future of the territory.

Since the 1990s, several initiatives have been launched under the auspices of the UN with the aim of holding a referendum on the future of the territory. Although the Moroccan authorities and Polisario resumed talks in April 2007, these have broken down several times and made little progress. Morocco has presented a proposal for the

⁸ UN list of non-self-governing territories:
<http://www.un.org/en/events/nonselfgoverning/nonselfgoverning.shtml>

territory involving limited self-rule (autonomy) under Moroccan sovereignty. Polisario is maintaining its demand for a referendum that includes the option of independence.

In an official celebration in 2014, Morocco's King Mohammed VI stated, among other things:

*"[...] the Sahara will remain part of Morocco until the end of time. [...] The fact that Morocco chose to cooperate in good faith with all parties should not be interpreted as a sign of weakness; nor should it be used as a means to ask for more concessions. [...] The autonomy initiative is the maximum Morocco can offer to achieve a final solution to this regional conflict."*⁹

There is thus little indication that any negotiated solution to the conflict will be achieved soon.

Today, Western Sahara is to a large extent populated by people of Moroccan origin who moved to the area after 1979. The population of Western Sahara is currently approximately 550,000. Around 165,000 of the area's indigenous population, the Saharawis, have been displaced to refugee camps in Algeria, where they live under very difficult conditions.¹⁰

2.3 Rules under international law

Article 73 of the UN Charter

Chapter XI of the UN Charter pertains to non-self-governing territories. Article 73 imposes a duty on states that have or assume responsibility for the administration of such territories *"to ensure, with due respect for the culture of the peoples concerned, their political, economic, social and educational advancement, their just treatment and their protection against abuses"*, and additionally *"to develop self-government, to take due account of the political aspirations of the peoples, and to assist them in the progressive development of their free political institutions, according to the particular circumstances of each territory and its peoples and their varying stages of advancement"*.¹¹

Article 73 stipulates that the economic and political developments in such areas are to take place in accordance with the local population's wishes and interests. As regards Western Sahara, this principle has been confirmed in a number of UN resolutions.¹²

⁹ Quoted in «*Report of the Secretary-General on the situation concerning Western Sahara*», 10 April 2015 (S/2015/246), http://www.un.org/en/ga/search/view_doc.asp?symbol=S/2015/246

¹⁰ «*The Sahrawi refugees in Algeria are settled in five camps near Tindouf. Owing to the remoteness of the area, they remain dependent on humanitarian assistance with little prospect of self-reliance as income-generating activities are scarce. The Government estimates that there are 165,000 refugees in the camps.*», UNHCR, 2015: <http://www.unhcr.org/pages/49e4861f6.html>

¹¹ The UN Charter, 1945: <http://www.un.org/en/sections/un-charter/chapter-xi/index.html>

¹² Inter alia General Assembly RES 3458 (XXV) of 10 December 1975 which states *"the right of the people of the Spanish Sahara to self-determination, in accordance with General Assembly Resolution 1514 (XV)"*.: <http://daccess-dds-ny.un.org/doc/RESOLUTION/GEN/NR0/001/71/IMG/NR000171.pdf?OpenElement>

Western Sahara has otherwise been dealt with in a number of other resolutions over the past years, including A/RES/50/33, 6 December 1995, A/RES/52/72, 10 December 1997, A/RES/53/61, 3 December 1998, A/RES/54/84, 6 December 1999, A/RES/55/138, 8 December 2000, A/RES/56/66, 10 December 2001.

UN Convention on the Law of the Sea (UNCLOS)

Fundamentally, coastal states have sovereign rights over natural resources on the continental shelf off their land territory. This principle is enshrined in the UN Convention on the Law of the Sea¹³ and in international case law.

Morocco does not have sovereignty over Western Sahara and is thus, as a point of departure, not entitled to utilise the resources on its continental shelf. Both Article 73 of the UN Charter and General Assembly resolutions¹⁴ stipulate that natural resources in non-self-governing territories may only be extracted with the consent of the local population and must be in accordance with their interests. This is also stated by the UN Convention on the Law of the Sea. Resolution III a, which forms an annex to the Convention, states:

*"In the case of a territory whose people have not attained full independence or other self-governing status recognized by the United Nations, or a territory under colonial domination, provisions concerning rights and interests under the Convention shall be implemented for the benefit of the people of the territory with a view to promoting their well-being and development."*¹⁵

This provision covers Western Sahara, which is a non-self-governing territory, and thus states that the rights under the Convention on the Law of the Sea are to be exercised for the benefit of the people in non-self-governing areas.

Resolution III also states that when a dispute arises regarding the rights to natural resources in a non-self-governing territory, the parties shall hold consultations in which "[...] *the interests of the people of the territory concerned shall be a fundamental consideration.*" In addition, the states concerned are obliged not to "*jeopardize or hamper the reaching of a final settlement of the dispute.*"

Article 77 (1) of the Convention on the Law of the Sea also states that: "*The coastal State exercises over the continental shelf sovereign rights for the purpose of exploring it and exploiting its natural resources.*"

It is thus worth noting that according to article 77 (1) the rights to the continental shelf, which in this case belong to the people of Western Sahara in accordance with the abovementioned provision in resolution III a, include both exploration and exploitation.

Legal opinion from the UN's legal advisor (2002 UN Legal Opinion)

A legal opinion from a UN legal advisor deals with the legality of extracting mineral resources in non-self-governing territories in general and provides an assessment of this in relation to the situation in Western Sahara in particular.

Not all forms of economic activity in non-self-governing territories can be regarded as problematic according to this legal opinion. Reference is made to several UN

¹³ United Nations Convention on the Law of the Sea, 1982 (UNCLOS), i.a. articles 76 and 77, http://www.un.org/depts/los/convention_agreements/texts/unclos/UNCLOS-TOC.htm

¹⁴ Inter alia General Assembly RES 3458 (XXV) of 10 December 1975 which states "*the right of the people of the Spanish Sahara to self-determination, in accordance with General Assembly Resolution 1514 (XV)*". <http://daccess-dds-ny.un.org/doc/RESOLUTION/GEN/NR0/001/71/IMG/NR000171.pdf?OpenElement>

¹⁵ Resolution III, Third United Nations Conference on the Law of the Sea, <http://legal.un.org/diplomaticconferences/lawofthesea-1982/lawofthesea-1982.html>

resolutions which establish a distinction between economic activity in non-self-governing territories that are harmful to the local population and economic activity that benefits the local population:

*"In recognizing the inalienable rights of the peoples of Non-Self-Governing Territories to the natural resources of their territories, the General Assembly has consistently condemned the exploitation and plundering of natural resources and any economic activities which are detrimental to the interests of the peoples of those Territories and deprive them of their legitimate rights over their natural resources. The Assembly recognized, however, the value of economic activities which are undertaken in accordance with the wishes of the peoples of those Territories, and their contribution to the development of such Territories."*¹⁶

This legal opinion issued in 2002 thus states that the extraction of mineral resources in non-self-governing territories is only acceptable if it takes place in accordance with the local population's wishes and interests.

Legal opinion from the African Union's legal advisor, 2015

A legal opinion published in October 2015 regarding the legality of Morocco exploring for and exploiting natural resources in Western Sahara concludes that all such activity in the area is illegal and an impediment to a peaceful solution to the conflict regarding the area:

*"Any exploration and exploitation of natural resources by Morocco is illegal as it violates international law and resolutions of the UN and the AU relating to the right to self-determination and permanent sovereignty of the people of Western Sahara over their natural resources. In addition, the exploration and exploitation seriously undermines the efforts and negotiations for a just and peaceful settlement over Western Sahara."*¹⁷

The Geneva Conventions

In 2015, Polisario submitted a declaration to the depositary state¹⁸ regarding the application of the Geneva Conventions (I-IV)¹⁹ and their Protocol I to Morocco in

¹⁶ Letter from the UN Legal Office to the UN Security Council (S/2002/161), 12 February 2002, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N02/249/87/PDF/N0224987.pdf?OpenElement>

¹⁷ Legal Opinion, the Office of the Legal Counsel and Directorate for Legal Affairs of the African Union Commission. This document is undated but was published on 14 October 2015: <http://legal.au.int/en/sites/default/files/The%20Legal%20Opinion%20%28final%20for%20posting%20on%20the%20website%29.pdf>

¹⁸ Switzerland is the depositary state for the Geneva Conventions. Notification from the Swiss foreign-affairs authorities dated 23 June 2015: https://www.eda.admin.ch/content/dam/eda/fr/documents/aussenpolitik/voelkerrecht/geneve/150626-GENEVE_en.pdf

¹⁹ ICRC: <https://www.icrc.org/applic/ihl/ihl.nsf/vwTreaties1949.xsp>

accordance with article 96(3)²⁰ of Protocol I, confer article 1(4). Morocco protested very strongly against this, with reference to, *inter alia*, it being more than 25 years since there had been any armed conflict between Polisario and Morocco and that Polisario is not a representative as required by Protocol I.²¹

2.4 The Council's meetings with Moroccan authorities

Moroccan authorities have requested two meetings with the Council on Ethics during the past year. In December last year, the Council met the Secretary General at the Moroccan Ministry of Foreign Affairs and, in February of this year, the Council met Morocco's ambassador to Norway.

Morocco's starting point for these conversations is that Western Sahara is Moroccan. As regards the question of safeguarding the local population's wishes and interests, reference is made to the fact that the authorities safeguard everyone's interests and that this takes place through democratic processes. It was also stated that Morocco has made considerable investments in the area over the past decade and that the standard of living there has improved. The government investments in the area are much greater than the value of the natural resources extracted from it. In addition, a regional development plan has been put forward for the area and will increase investments and further reinforce this development.

2.5 The Council's meetings with Polisario

The Council on Ethics met with Polisario's Nordic envoy in May of this year and met representatives of Polisario's leadership in October.

In Polisario's view, the oil exploration activities carried out by Morocco off the coast of Western Sahara are clearly unlawful. They can only be lawful if Polisario, which is the local population's legitimate and recognised representative, gives its consent to this. Polisario has not been consulted. In January 2015, Polisario protested against Kosmos' operations in a letter to the UN Security Council.²²

Polisario expressed concern that oil exploration and possible Moroccan oil production in the area may lead to a higher level of conflict in the area and reduce the opportunities for a negotiated solution. Polisario supports foreign investment, the extraction of natural

²⁰ «The authority representing a people engaged against a High Contracting Party in an armed conflict of the type referred to in Article 1, paragraph 4, may undertake to apply the Conventions and this Protocol in relation to that conflict by means of a unilateral declaration addressed to the depositary. Such declaration shall, upon its receipt by the depositary, have in relation to that conflict the following effects:

- (a) the Conventions and this Protocol are brought into force for the said authority as a Party to the conflict with immediate effect;
- (b) the said authority assumes the same rights and obligations as those which have been assumed by a High Contracting Party to the Conventions and this Protocol; and
- (c) the Conventions and this Protocol are equally binding upon all Parties to the conflict.»

<https://www.icrc.org/applic/ihl/ihl.nsf/Article.xsp?action=openDocument&documentId=4B3EBFB356E8FA04C12563CD0051E2FC>

²¹ Morocco's letter to the Swiss foreign-affairs authorities dated 30 June 2015:

https://www.eda.admin.ch/content/dam/eda/fr/documents/aussenpolitik/voelkerrecht/geneve/150709-GENEVE-avec-ann_e.pdf

²² Published by Sahara Press Service: <http://www.sprasad.info/en/content/president-republic-urges-un-security-council-stop-seabed-oil-drilling-coast-occupied-western>

resources and the financial development of the area, but wants this to take place in the right order, i.e. after the question of the area's future status has been resolved. Once oil is found there, Polisario does not believe there will be any chance of Morocco relinquishing the area.

3 Information from Kosmos and Cairn

Kosmos

The Council has held a number of meetings with Kosmos at which the company has explained its operations in Western Sahara, most recently on 29 May 2015.

Kosmos underlines that the circumstances relating to its operations off the coast of Western Sahara are different to those on the basis of which Kerr McGee was excluded from the GPF's investment universe in 2005, and particularly points to two circumstances:

- The company has negotiated a common declaration ("*Joint Declaration of Principles*") with the Moroccan authorities which states that the extraction of natural resources in the area will take place in accordance with the 2002 UN Legal Opinion, including that the local population's wishes and interests are to be taken into account.²³
- The company has conducted a *Social Impact Assessment* ("SIA") in order to map interested parties and the effect that the company's operations have on them. The Council on Ethics has been given access to this. The SIA assesses possible environmental and socio-economic effects of the company's operations off the coast of Western Sahara

The company has repeatedly assured us that its operations have so far been limited to exploration, that it does not remove resources from the area, and that so far no commercially exploitable finds have been made either. The company also states that if the exploration work is successful, this may lay the foundation for economic developments that benefit the population there, as the joint declaration states. In the company's view, the exploration activity should not negatively affect the process of finding a solution for the area; establishing the facts (whether or not there is oil there) will simply bring clarity to the situation and may influence the parties to agree on a solution.

Cairn

Since Kosmos is the field's operator and Cairn has not had any physical presence in the area, most of the company contact has been with Kosmos. The Council has nonetheless had talks with Cairn, most recently in December 2014, when the company gave an account of its operations relating to Western Sahara. In Cairn's opinion, the status of Western Sahara does not have to be clarified before the oil resources in the area are mapped. Cairn underlines that the exploration does not remove resources from the area

²³ Published on Kosmos' website: <http://www.kosmosenergy.com/pdfs/ONHYM-Kosmos-Joint-Declaration-of-Principles-English.pdf>

and that any production will benefit the area's population. These views are also stated on the company's website.²⁴

4 The Council's assessment

The Council's point of departure is that Morocco does not have legal, sovereign rights over the natural resources off the coast of Western Sahara. It is not the Council's task to decide on the legality of Morocco's oil exploration in the area or on the future status that the disputed area should have. The Council only decides whether it can be regarded as grossly unethical of the companies to explore for oil in the area on assignment for the Moroccan authorities under the current circumstances.

In its assessment of this case, the Council will not distinguish between oil exploration and production. The UN Convention on the Law of the Sea also equates these activities and in any case the aim of the exploration activities is undoubtedly production.

The situation in Western Sahara is unique in the sense that it is the only non-self-governing territory without a recognised administering power. There are no clear rules on the utilisation of natural resources in such an area. The international-law regulations order administering powers of non-self-governing territories to manage the territories in accordance with the local population's wishes and interests. Since the UN does not recognise Morocco as the lawful administering power for Western Sahara, it can be argued that these regulations are not applicable to the situation there. The legal opinion issued by the UN legal advisor in 2002 is based on an analogy with the obligations of administering powers of non-self-governing territories. Alternatively, an assessment could be based on international humanitarian law. This would probably impose even stricter limitations on companies' operations in the area, as the legal opinion from the African Union concludes.

In the Kerr McGee case (2005), the Council on Ethics placed emphasis on the fact that the company's exploration activities were not in accordance with the local population's wishes and interests and that they helped to maintain an unclear situation in the area. The Council places emphasis on the same factors in its assessment of this case.

In its dialogue with the Council, Kosmos has referred to the fact that the joint declaration with the Moroccan authorities and the SIA were intended to ensure that the local population's wishes and interests were taken into account. Both these documents are, in the Council's view, problematic:

The joint declaration does refer to the 2002 UN Legal Opinion regarding the local population's right to co-determination, but the declaration must be interpreted in light of the fact that Morocco already regards the area as its own and that it is thus the Moroccan authorities that safeguard the local population's wishes and interests, decide on exploration and the extraction of resources, invite applications for licences, allocate any oil revenues, etc. This is a *fait accompli* and not an expression of the local population's right to co-determination in the sense assumed by the UN legal opinion from 2002.

The SIA does not address the critical main issue relating to co-determination:
What are the local population's wishes and interests regarding the exploration and

²⁴ Cairn Energy: Case Study – Complying with Our Business Principles in Cap Boujdour:
<http://www.cairnenergy.com/index.asp?pageid=338>

exploitation of the area's petroleum resources? Instead, this is a study on how Kosmos' operations may affect various areas (especially environmental and socio-economic factors connected to fisheries, tourism, employment, business development, etc.).

It seems difficult to assume anything about the local population's wishes and interests if their recognised representative is not consulted. The UN regards Polisario as the representative of the area's population, and Morocco negotiates with Polisario when talks on the area's future status from time to time take place. To the Council, the fact that Polisario has not been consulted therefore appears to be a fundamental shortcoming in the mapping of the local population's wishes and interests. It is true that the SIA does refer to some other interested parties that have been consulted, but the fact that the main representative of the local population is entirely excluded from the consultation process means that, in the Council's view, little emphasis can be placed on this process.

In turn, it can be questioned whether the situation in the area is such that meaningful consultation processes can at all take place there. On the other hand, it is not difficult to gauge Polisario's views on the issue at hand if one is interested. Their attitude towards Morocco's oil exploration in the area is a matter of public knowledge and requires no extensive consultation process to clarify.

When the UN Charter and UN Convention on the Law at Sea state that the natural resources in non-self-governing territories are to be utilised in interaction with the affected population, this is exactly because disagreement on access to natural resources may drive conflicts. Morocco is the only country in the region without an oil and gas industry. Given the lack of progress in the negotiations over the past 30 years, it seems unlikely that any discovery of oil now would make Morocco more willing to meet obligations imposed on it by the international community. As long as there is no political solution for the area and one of the parties is in addition expressly opposed to the exploration activity and warns that it may lead to an escalation of the conflict, it is reasonable to assume that this activity at least contributes to maintaining the unresolved situation in the area, and maybe even makes it worse.

In the Council's view, Kosmos' exploration activity off the coast of Western Sahara must be regarded as a serious violation of ethical norms since the activity does not take place in accordance with the local population's wishes and interests and also helps to maintain an unresolved international-law situation in the area.

As regards Cairn, this company can be said to play a more limited role in the exploration activities in question since it holds a smaller part of the joint venture than Kosmos and is also not the operator. The Council nevertheless places emphasis on the fact that both companies have entered into a joint venture with one single objective: to map any petroleum deposits on the Western Sahara continental shelf on an assignment for Moroccan authorities. The Council's assessments regarding Kosmos thus also apply to Cairn.