



*Reg Manhas*  
*Sr. Vice President, External Affairs*

September 7, 2016

Anna Lucia Angellino  
Board Member  
Western Sahara Resource Watch

Dear Ms. Angelillo,

Thank you for your recent letter to Andrew Inglis.

It is clear that we come at the matter of Kosmos Energy's exploration offshore Western Sahara from different points of view. Guided by and fully compliant with the 2002 UN Legal Opinion, all of our efforts in Western Sahara have been focused on bringing benefits to the people of the territory – through both exploration activities and social investments. In doing so, we comply with relevant international legal and corporate responsibility principles. If our exploration ultimately proves successful and hydrocarbons are discovered in commercial quantities, we believe the people of the territory will benefit from the resulting economic and social opportunities. A full explanation of our position can be found on our website: [www.kosmosinwesternsahara.com](http://www.kosmosinwesternsahara.com).

It is unfortunate that we cannot find common ground regarding Western Sahara when we both claim that the interests of the people must be paramount. We remain convinced that economic development of the territory can and should proceed in parallel with the U.N. mediation process without adversely affecting its progress or outcome. Moreover, we believe that responsible resource development can promote positive social and economic change, and serve as a catalyst for breaking the political impasse that has existed for nearly 40 years.

We believe ours is the right approach, fully compliant with applicable laws and ethical behavior.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Manhas". The signature is fluid and cursive, with a large, sweeping flourish at the end.

Reg Manhas

Mr Andrew G. Inglis  
Chief Executive Officer and  
Chair of the Board of Directors  
Kosmos Energy Ltd.  
c/o Kosmos Energy LLC  
8176 Park Lane  
Suite 500  
Dallas, Texas, 75231  
United States of America

12 July 2016  
Brussels

### **In the matter of Kosmos Energy's statements about its operations in Western Sahara**

Dear Mr Inglis,

Western Sahara Resource Watch seeks again to engage Kosmos Energy in the important matter of your company's exploration for seabed petroleum on the Atlantic seacoast of occupied Western Sahara. This letter is in response to yours of 14 April 2015, given in rejoinder to ours of 3 March 2015.

WSRW notes that Kosmos Energy has not yet corrected a grave misrepresentation on its website, [www.westernsaharaoil.com](http://www.westernsaharaoil.com), about the conclusion of UN 2002 Legal Opinion on the exploration and exploitation of mineral resources in the Non-Self Governing Territory of Western Sahara (S/2002/161). As we noted in our above letter, Kosmos's webpage states that the Opinion "concluded that exploration and development of resources in non-self-governing territories are consistent with international law if they are in the best interests of people in those territories". That is not correct. The Opinion's conclusion, found in paragraph 25 of the Opinion – the final and concluding paragraph - reads:

*"The conclusion is, therefore, that, while the specific contracts which are the subject of the Security Council's request are not in themselves illegal, if further exploration and exploitation activities were to proceed in disregard of the interests and wishes of the people of Western Sahara, they would be in violation of the principles of international law applicable to mineral resource activities in Non-Self-Governing Territories."*

As such, we must observe that Kosmos did not only fail to change the misrepresentations of the UN document, but also did not address the misrepresentation in its 2015 letter to us.

It is our considered view that the approach of Kosmos in Western Sahara centres on – is built upon - this omission: The seeking of the prior consent of the Saharawi people as the original people of Western Sahara. Petroleum exploration cannot take place in Western Sahara without being in clear concordance with the wishes of the people of the territory. That people is the Saharawi people, of course, and not others introduced or whom have been allowed to migrate into a territory under armed occupation since 1975.

The apparent lack of a commitment to relate to the right to self-determination and the seeking of consent from the Saharawis is nowhere as visible as in a letter from Kosmos Energy dated 12 November 2014 to a collective of the eight most prominent civil society groups in the occupied territory. The civil society organisations had called on Kosmos energy to respect their right to manage their own resources, and

Kosmos's answer was, regrettably, a mere "we understand and appreciate your desire for self-determination".

After so many cases of decolonization, in Africa and in other places, we are compelled to note that self-determination is not only a desire the Saharawi people express. It is a core right among peoples everywhere in a world not quite free of colonial domination.

In this regard, we can usefully note some aspects of international law which have developed since our last correspondence, most importantly the 10 December 2015 judgement of the Court of Justice of the European Union, the October 2015 Legal Opinion of the African Union, as well as the Polisario Front's 2015 accession to the *Geneva Conventions*. These have been described in detail in the *Recommendation of Exclusion of Kosmos Energy*, written by the Norwegian Government Pension Fund. Such rights appertaining to the Saharawi people are furthermore spelled out in the 2015 UN Human Rights Council's Committee on Economic, Social and Cultural Rights, in a recommendation for Morocco to "guarantee respect for the principle of the prior, free and informed consent of the Sahraouis, [such that] they are able to exercise their right to enjoy and utilize fully and freely their natural wealth and resources."

WSRW observes that Kosmos's comments on its website, as with your company's letters, do not analyse the rights of the people of Western Sahara to resources over which they have sovereign ownership.

We would be grateful for answers to the following questions. They are ones we ask in light of your company's most recent statement on [www.westernsaharaoil.com](http://www.westernsaharaoil.com).

In such statement, Kosmos expresses its disappointment over the Norwegian Pension Fund exclusion of Kosmos from its portfolios. In its argument, under the heading «The decision to divest is based on an outdated geopolitical and local understanding», Kosmos Energy company emphasizes that «*The Council remains fixed on a position it adopted in 2005 and appears unwilling to change its view, despite the many positive developments since then concerning Western Sahara. The Council's decision fails to recognize that people in Western Sahara – whom we have met in hundreds of face-to-face conversations – want the economic opportunities that come from increased foreign investment. In our experience, this desire cuts across demographics and political affiliations.*»

- 1) According to Kosmos Energy, which are the geopolitical developments that have taken place since 2005 which alter the understanding of the ethics or legality of such operation on behalf of the Moroccan government in the coastal waters of Western Sahara?
- 2) In what ways, if any, does Kosmos believe that geopolitical developments are relevant for the understanding of international law applicable to the case of Western Sahara?
- 3) In what ways, if any, do Kosmos believe such change in geopolitics have changed the fundamental rights of the Saharawi people to self-determination, including in respect of their land and resources?
- 4) In what ways, if any (and providing Kosmos agrees to the premise that the Saharawis have a right to self-determination), does Kosmos believe such change in geopolitics have changed the necessity of Kosmos first seeking the consent of the people prior to signing any petroleum agreements in the territory?
- 5) This comment on Kosmos Energy's view on geopolitics makes us recall a statement of William Hayes, Kosmos Energy's senior vice president of government affairs to Foreign Policy on 25 June 2014 (<http://foreignpolicy.com/2014/06/25/nowhere-land/>) where it is noted that "We feel good about the knowledge base we've got, we understand the other side of the position, and we honest to God feel like we are doing the right thing in partnering with Morocco. [...] We encourage the peace process to go on, and may the best party win». What does Kosmos Energy mean by "the best party", and how does such a view fit with the UN approach that a solution to the conflict has to provide for the Saharawi people's right to self-determination?

We are troubled to read that Kosmos believes that there have been “many positive developments” in Western Sahara since 2005. It is worth noting that there have been massive clamp-downs on civil society, life prison sentences have been passed to human rights defenders (including to our colleague Sidahmed Lemjiyed who is the secretary-general of the organisation CSPRON which monitors the natural resource exploitation in the territory), an expulsion of UN staff by Morocco, a total rejection of UN led peace talks by Morocco, a total refusal by Morocco to accept any solution that opens for the people’s right to self-determination. All this has happened since 2005, during the period Kosmos Energy has been present in the territory under a Moroccan licence.

Let us, finally, offer a few objections.

WSRW was not surprised to read that Kosmos Energy claim that: «people in Western Sahara – whom we have met in hundreds of face-to-face conversations – want the economic opportunities that come from increased foreign investment». It shows so clearly that Kosmos has only met with people positive to its presence, while failing to seek out or listen to representatives of the Saharawis. As we have expressed on numerous occasions in the past, Kosmos has used Moroccan officials and NGOs in its mapping exercises. It is more concerning that the company fails to mention the massive protests against the same operations. We note that Kosmos does not refer to the fact that *all larger civil society groups* in Western Sahara have objected to your operations, and that the government and Western Sahara condemn your operations. It is inappropriate of Kosmos to avoid mentioning in such a context that basically all civil society groups from Western Sahara have at one time or another urged the company to leave.

Your statement claims that «From the beginning of our exploration offshore Western Sahara, we have viewed the 2002 U.N. Legal Opinion as our touchstone and continue to adhere to its principles». We find that incorrect. On one hand, Kosmos today systematically misrepresents the legal opinion. The clearest is that it fails to take into account the wishes of the people above. But there are also other grave misinterpretations. For instance, on your website it states that «the United Nations Legal Advisor’s Opinion in 2002 made clear that Morocco is the de facto administering power of the territory». That is not correct. Furthermore, it took Kosmos seven years - from it first entered into Western Sahara on 28th October 2004 until the year it registered as a publicly traded company on the New York Stock Exchange in 2011 - before it even admitted operating in Western Sahara. Until then it had systematically referred to the territory as being in «Morocco». You can find copies of company presentations, website screenshots and press releases from your own company on our website.

It is worth keeping in mind that investors have concluded that the case for excluding companies working offshore Western Sahara from its portfolios is even stronger today than it was in 2005: drilling is a more severe violation of the UN Legal Opinion than seismic studies. One investor mentions that Morocco’s ratification of the UNCLOS also makes oil drilling in Western Sahara more controversial in matters of international law.

It is alarming to read that Kosmos Energy in its letter 18 May 2015 to the Council on Ethics of the Norwegian Pension Fund claims that the Council is misreading the United Nations position. In that context, we would like to point you to the clarifications regarding Kosmos Energy’s operations made in an article by the author of the UN Legal Opinion, former UN Legal Counsel, in the International Judicial Monitor, Winter 2015:

*“The latest development with respect to natural resources is a contract between Morocco and two companies, Kosmos and Glencore, relating to oil exploration and exploitation in the Cap Boujdour area off the coast of Western Sahara. I can see from the web that the two companies maintain that this contract is in conformity with my 2002 legal opinion. Regrettably, it is not. Already signing an agreement in which Morocco refers to Western Sahara as “the southern provinces of the Kingdom of Morocco” is at variance with Corporate Social Responsibility and the principles Protect, Respect and Remedy.”*

WSRW finds it deeply disturbing to read in Upstream Online 15 April 2016 that Kosmos Energy is in the process of signing a new agreement offshore Western Sahara. We observe that no news about this has been published yet. And we also note no seeking of consent seems to be taking place this time either. It is our opinion that Kosmos Energy's engagement with the Kingdom of Morocco over such licensing outside of the internationally recognised borders of Morocco should be stopped immediately.

Please let us know if our questions above are not clear, or if you require additional information to respond to them. WSRW looks forward to hearing from you at your early convenience.

Yours sincerely,

Anna Lucia Angelillo  
Board member,  
Western Sahara Resource Watch  
[annalucia@wsrw.org](mailto:annalucia@wsrw.org)  
[www.wsrw.org](http://www.wsrw.org)



*Reg Manhas*  
*Sr. Vice President, External Affairs*

April 14, 2015

Ms. Sara Eyckmans  
Co-ordinator  
Western Sahara Resource Watch

Dear Ms. Eyckmans,

Thank you for your letter to Andy Inglis, Kosmos Energy's Chairman and Chief Executive Officer. Kosmos Energy welcomes input from important stakeholders. We have, therefore, studied your letter carefully and are pleased to respond.

Since you copied your letter to a number of UN entities, let me make it clear that Kosmos Energy is an active and committed adherent to the United Nations Global Compact and involved in many of the leading best practice initiatives in the oil and gas sector. We are strong supporters of the Extractive Industry Transparency Initiative and a leader in payment and contract transparency. We take seriously our obligation to respect human rights and seek to apply relevant elements (i.e., those addressed to companies) of the UN Guiding Principles on Business and Human Rights. We seek to implement and promote the Voluntary Principles on Security and Human Rights. Wherever we work we are very aware both of the challenges inherent in the management of resource revenues and the opportunities which can be created by the development of hydrocarbons. For example, despite being at an early stage in our work in Western Sahara, we are seeking to be pro-active in planning for skills training and supply chain development.

Kosmos has held acreage offshore Western Sahara since 2006 under licenses granted by the Government of Morocco, which is widely recognized as the *de facto* administering power of the territory. Our activities are currently focused on exploration and our first well recently revealed the presence of a working petroleum system, but did not make a commercial find. Exploration does not involve the removal of material resources, but it does produce information of value to the people and their representatives so that they can take a view about the potential role of hydrocarbons in supporting economic development. If exploration eventually results in a commercial discovery, responsible resource development has the potential to create significant long-term social and economic benefit for the population. If Kosmos were to make a commercial discovery, then we would only proceed with development in accordance with international law and best practices.

In this regard, Kosmos has engaged continuously in recent years with the Government of Morocco. With input from experts in such fields as resource governance, fiscal policy, consultation and transparency, we have sought to contribute to ongoing discussions about the creation of a framework for hydrocarbon development in the region which would be for the benefit of the people of the territory. In addition, the Government of Morocco, represented by the

Office National des Hydrocarbures et des Mines, and Kosmos Energy signed a Joint Declaration of Principles which pledges that resource exploration and production will be undertaken in accordance with the UN Charter and the 2002 UN Legal Opinion.

I am aware that we are unlikely to reach agreement about the finer points of international law as it applies to resource development and those areas designated by the United Nations as Non Self-Governing Territories. We have studied this matter closely, and we are confident in our legal position. We believe that our approach is echoed, inter alia, by the position of the European Union, its 28 member governments and the European Parliament Legal Services in respect of the EU Fisheries Agreement.

I turn now to the four specific questions posed in your letter.

In relation to our exploration plans, the CB-1 well was the first well in a large, previously unexplored basin. Before making a decision of the location and timing of any second exploration well, we will analyze the information gathered from CB-1 and integrate it with the additional 3D seismic data we recently acquired in order to refine our exploration plan.

In response to your second question, I can confirm that we commissioned internationally respected professional firms to conduct both an Environmental Impact Assessment and, more recently, a Social Impact Assessment before drilling CB-1. This was in order to present our program to local stakeholders, to identify potential impacts and to address any concerns. Carrying out an EIA is a standard regulatory requirement, but our SIA was a voluntary initiative and, we believe, the first such assessment conducted by an oil and gas company in the region. The SIA helped to confirm the findings of the Environmental Impact Assessment and of our earlier desktop social baseline study. The assessments did not reveal any significant adverse impacts from the planned drilling work. However, the process did draw our attention to several important local concerns that we have worked to address, particularly in the areas of access to benefits, environmental protection and transparency. In preparing the assessments, our consultants and company representatives held meetings with local elected officials, local business leaders, traditional leaders and representatives from civil society groups and the tourism and fishing sectors. I should emphasize that the focus was on local impacts since the assessments were about exploration activities and concerned work to be conducted many miles offshore and with a limited footprint on-shore. Differing views were expressed about the principle of resource development although the clear majority view was supportive of discovering whether hydrocarbon resources exist in the region. Feedback has been and will continue to be provided to local people, especially those who participated in the aforementioned consultation meetings, via our community relations co-ordinator based in Dakhla, as part of our ongoing engagement program.

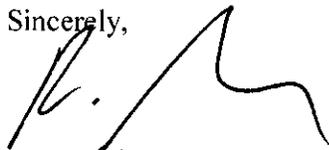
In response to your third question, Kosmos Energy supports the ongoing political process being mediated by the United Nations between the Government of Morocco and the SADR and hope that it will make progress. We believe that resource exploration and, if successful, development can proceed in parallel with, and without prejudice to, those political talks. We recognize the importance of broadly-based consultation around resource development. As mentioned, we are also committed to any framework for resource development being in conformance with the 2002 UN Legal Opinion. I note that we have published the full text of the 2002 UN Legal Opinion on our website.

Finally, in relation to the role of the High Atlas Foundation, we currently work with them as one of our two major partners in the delivery of social investment projects in Western Sahara. It is a US-Moroccan charity working in Morocco and Western Sahara. It does not have a political focus but is committed to working with some of the most marginalized communities irrespective of ethnic considerations. They have worked extensively, through the projects they have undertaken on behalf of Kosmos, with people of Sahrawi identity. We have no cause to doubt their suitability either to undertake socio-economic needs assessments or to be an implementation partner.

You raise a concern that the Moroccan Government and the people of Western Sahara have the “opposite agenda.” Pending the resolution of outstanding political issues, we would certainly hope, however, that all could agree that, the responsible development of Western Sahara and the economic advancement of its people is a worthy goal.

Thank you for the opportunity to respond to your questions, and I hope the above response has directly addressed the issues of concern for you. We recognize the important role that civil society groups play in holding companies and governments accountable. Although we may not agree on certain issues, we sincerely wish to have a respectful and candid dialogue about what can be done to create a brighter future for the people of Western Sahara.

Sincerely,

A handwritten signature in black ink, appearing to read 'Reg Manhas', with a stylized, flowing script.

Reg Manhas

- cc: H.E. Ambassador Christopher Ross, UN Secretary General’s Personal Envoy for Western Sahara  
H.E. Kim Bolduc, UN Secretary-General’s Special Representative for Western Sahara and Head of the United Nations Mission for the Referendum in Western Sahara (MINURSO)  
Ms. Ursula Wynhoven, General Counsel at the UN Global Compact  
Ms. Elena Bombis, Supply Chain Sustainability, UN Global Compact

Brussels  
3 March 2015

To the attention of Mr Andrew G. Inglis  
CEO, Chairman of the Board of Directors  
Kosmos Energy Ltd.  
C/O Kosmos Energy LLC  
8176 Park Lane  
Suite 500  
Dallas, Texas, 75231

**Re.: Kosmos Energy's continued presence in Western Sahara**

Dear Mr Inglis,

Western Sahara Resource Watch is privileged to write to you. We take note of Kosmos Energy's announcement yesterday, 2 March 2015, stating that it will plug and abandon the CB-1 test well in the Cap Boujdour Block in the offshore of Western Sahara. We also note that the company will continue its exploration work in Western Sahara, including through a potential second test-well drilling.

We've also reviewed the company's newly launched website, [www.westernsaharaoil.com](http://www.westernsaharaoil.com), which expresses an intent to defend its presence in Africa's last colony. The website appears to be built on the argument that it is permissible under international law to explore for oil in Western Sahara, as long as the local population benefits from the undertaking. To support this claim, the website refers to the 2002 UN Legal Opinion on the exploration and exploitation of mineral resources in the Non-Self Governing Territory of Western Sahara (S/2002/161).

However, we believe the said UN Legal Opinion is grossly misrepresented. The Kosmos webpage states that the Opinion "concluded that exploration and development of resources in non-self-governing territories are consistent with international law if they are in the best interests of people in those territories".

The Opinion's conclusion, found in paragraph 25 of the Opinion – the final and concluding paragraph - actually reads:

"The conclusion is, therefore, that, while the specific contracts which are the subject of the Security Council's request are not in themselves illegal, if further exploration and exploitation activities were to proceed in disregard of the interests and wishes of the people of Western Sahara, they would be in violation of the principles of international law applicable to mineral resource activities in Non-Self-Governing Territories."

The essential point that Kosmos Energy keeps missing, and that consequently is not mentioned anywhere on its website dedicated to the defense of its Western Saharan oil interest, is that of the

[www.wsrw.org](http://www.wsrw.org)

*Western Sahara Resource Watch works to raise awareness of the illegal occupation of Western Sahara and to support the recognition of the Saharawi people to self-determination.*

“wishes of the people of Western Sahara” – a natural corollary from the Saharawi people’s right to self-determination as acknowledged by the International Court of Justice, countless Resolutions of the UN Security Council and the General Assembly, and the organized international community. Indeed, the entire concept of self-determination is a cornerstone of the UN *Charter* and international law in general. Its meaning is nonetheless simple: the right of a people to determine their future, including with it an option of independence. The *International Covenant on Economic, Social and Cultural Rights* explains the right to self-determination as a people’s right to freely determine their political status and to freely dispose of their natural wealth and resources. That right remains with the Saharawi people, who were the sole original inhabitants of the territory before the invasion by Morocco (and at the time, Mauritania) in 1975.

Instead of referring to the Saharawi people’s right to decide, to choose their destiny and management over their own hydrocarbon resources, Kosmos Energy chooses to devote space on its website to the potential benefits to the “local population” through Morocco’s exploitation of the Saharawi people’s resources. The company thus uncritically adopts the argument of the Moroccan government that its presence in the territory is warranted, as long as the “local population” – to use the Moroccan terminology when describing all currently living in Western Sahara – stands to obtain potential benefits of Morocco’s exploitation of their land, regardless of whether the Saharawi people agree to its presence or not.

But even if the resource exploitation would be beneficial to Saharawis, something discredited by human rights observers and other third party visitors, it is not really relevant. The crucial point is whether the Saharawi people want the exploration and potential subsequent exploitation to take place or not. And that is the question that Morocco is not willing to have them answer, by denying them the chance to exercise their right to self-determination through a free and fair referendum that includes independence as an option. As we have mentioned previously, Morocco also denies Saharawis the right to establish civil society associations with such agenda.

We draw your attention to remarks by the principal author of the UN Legal Opinion last week in *International Judicial Monitor*:

"The latest development with respect to natural resources is a contract between Morocco and two companies, Kosmos and Glencore, relating to oil exploration and exploitation in the Cap Boujdour area off the coast of Western Sahara. I can see from the web that the two companies maintain that this contract is in conformity with my 2002 legal opinion. Regrettably, it is not. Already signing an agreement in which Morocco refers to Western Sahara as “the southern provinces of the Kingdom of Morocco” is at variance with Corporate Social Responsibility and the principles Protect, Respect and Remedy".

Instead of seeing the Saharawi people as the legitimate owners of Western Sahara’s resources, which they are by virtue of their right to self-determination, Kosmos Energy tries to minimize their role in this entire undertaking by referring to them as “stakeholders”. That is inimical to the core of the UN Legal Opinion, legal reasoning that Kosmos erroneously represents when attempting to justify its activities in Western Sahara. The people on the Canary Islands or fishing communities in Tan Tan in south Morocco would be “stakeholders”. The people of Western Sahara, on the other hand, are the sovereign owners of the oil that your company is exploring.

[www.wsrw.org](http://www.wsrw.org)

*Western Sahara Resource Watch works to raise awareness of the illegal occupation of Western Sahara and to support the recognition of the Saharawi people to self-determination.*

We would be most grateful for an answer to the following questions:

1. When will Kosmos Energy undertake its second test-well drilling in Western Sahara?
2. We note that Kosmos Energy has prepared an environmental impact assessment, one not available to the public or to the Saharawi people who are directly affected by the activity. We also have not seen an oil-spill response plan that ought to be available. A rumoured Social Impact Assessment was also not shared with the public, or the Saharawi people. Will Kosmos Energy share its EIA, SIA and oil-spill response plan with the Saharawi people's internationally recognized representatives, the Frente Polisario, or indeed with the general public, so that the documents can be commented upon?
3. Why does Kosmos Energy refrain from mentioning the Saharawi people's right to self-determination, or publish the correct conclusion of the 2002 UN Legal Opinion, determining the people's wishes and interests as legal requirements for any activity in Western Sahara?
4. The association High Atlas Foundation, used by Kosmos on its new website to clarify its efforts to assess the needs on the ground in Western Sahara, has on numerous occasions stated that its main objective is to support the Moroccan people. To what extent does Kosmos Energy consider HAF is a credible partner for such an assessment as the Moroccan government has the opposite agenda in Western Sahara as that of the people of the territory?

We look forward to hearing from you and remain at your disposal should you require any further information.

Sincerely,

Sara Eyckmans  
Coordinator  
Western Sahara Resource Watch

A copy of this letter has been sent to:

- HE Ambassador Christopher Ross, UN Secretary-General's Personal Envoy for Western Sahara
- HE Kim Bolduc, UN Secretary-General's Special Representative for Western Sahara and Head of the United Nations Mission for the Referendum in Western Sahara (MINURSO)
- Ms Ursula Wynhoven, General Counsel at Global Compact

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