

Kosmos Energy  
CEO and Chairman of the Board  
Andrew G. Inglis

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## **Regarding severe misrepresentations by Kosmos Energy of an OECD contact point mediated joint-declaration between the Norwegian Support Committee for Western Sahara and Sjøvik AS**

On three occasions over the past three years have our organisation heard rumours that Kosmos Energy has approached third parties misrepresenting a joint-declaration that we signed with the Norwegian fishing company Sjøvik AS on 2 July 2013, mediated by the Norwegian National Contact Point of OECD.

We understood that the misrepresentations were done in an effort to give legitimacy to your company's operations in the territory with the Moroccan government.

Finally, we now discovered Kosmos Energy's version of the facts, spelled out in a letter sent by your company on 14 January 2016 to the Council on Ethics of the [Norwegian] Government Pension Fund Global. The Council on Ethics had shortly before recommended the exclusion of your company from its portfolios for violating fundamental ethical norms in Western Sahara. We have made your letter to the Council on Ethics available here

[http://www.vest-sahara.no/files/dated/2016-07-18/kosmos-ethicalcouncil\\_14.01.2016.pdf](http://www.vest-sahara.no/files/dated/2016-07-18/kosmos-ethicalcouncil_14.01.2016.pdf)

We find your representation of our joint-declaration highly deceitful:

*“The Norwegian Contact Point under the OECD Guidelines for Multinational Enterprises mediated and resolved in July 2013 a dispute between Sjøvik AS, a Norwegian fishing company, and the Norwegian Support Committee for Western Sahara. The mediation decision affirms that Sjøvik was providing benefits to the people of the Western Sahara through its fishing operations and was not in violation of applicable law or norms. The parties agreed Sjøvik would continue its operations in a transparent manner and would ensure that benefits were received by the people. This decision by a body convened by the Norwegian government provides helpful guidance on how private companies can and should conduct resource production activities in Western Sahara in an ethical and responsible manner.”*

It is worth noting that in a self-evaluation document written by the Norwegian National Contact Point (NCP) of the OECD in 2014, under the heading “Unwanted ‘side-effects’ of the mediated joint-declaration”, the NCP states that “The NCP has experienced that the negotiated joint-declaration in this case has been referred to by other companies as an argument for OECD/NCP having ‘approved’ economic activities in the non-self-governing territory. That is not the case..” (our translation)

[http://nettsteder.regjeringen.no/ansvarlignaringsliv-en/files/2013/12/20140429\\_SKVS\\_Sj%C3%B8vik\\_KPs-refleksjoner.pdf](http://nettsteder.regjeringen.no/ansvarlignaringsliv-en/files/2013/12/20140429_SKVS_Sj%C3%B8vik_KPs-refleksjoner.pdf)

We would like to underline that all that is written in your letter about the joint-declaration we signed with Sjøvik AS is incorrect:

- The joint-declaration *does not* affirm that Sjøvik AS provides benefits to the people of Western Sahara.
- The joint-declaration *does not* affirm that its fisheries practices are in line with applicable laws or norms.

- The parties of the joint-declaration *have never* agreed on Sjøvik's continuation of fisheries, under any circumstance.
- There has been *no decision* of the OECD contact point on the matter of The Norwegian Support Committee for Western Sahara and Sjøvik AS, nor any decision by a Norwegian government body on how to conduct resource production in Western Sahara.

To the contrary:

Paragraph 5 and 4 of our joint-declaration with Sjøvik is regarding the company's overall performance, and does not go into the merits of how it operates in Western Sahara. Paragraph 3 of the joint-declaration consists of a joint request between the two parties to the Norwegian Ministry of Foreign Affairs regarding its statement urging companies stay away from business activities in Western Sahara. Paragraph 2, which you have so fundamentally misquoted in your letter, establishes the two parties' unilateral position to the operations of the company and to the conflict itself, including the position of our association which is diametrically opposite of what you claim. Let us spell that initial paragraph out in its totality:

***“The parties' positions***

- NSCWS pointed out that Morocco does not exercise internationally recognised sovereignty over Western Sahara and that Morocco's claim to this territory has been rejected by the International Court of Justice in The Hague. NSCWS also referred to the UN's statements that the Saharawis' rights, wishes and interests must be respected, and is of the view that the activities of Sjøvik AS are in violation of the Saharawis' right to control their own natural resources, and must therefore be discontinued. NSCWS emphasised that, since no state has responsibility for the administration of this territory in accordance with Article 73 of the UN Charter, the Saharawis are in a particularly vulnerable situation.*
- Sjøvik supports and respects the protection of internationally recognised human rights. The company has not taken a position on the views expressed by NSCWS, as this would be incompatible with its presence in the territory. However, Sjøvik maintains that its investments in the Moroccan company concerned are focused on the management of renewable resources and create jobs and promote development to the benefit of the local population, including the Saharawis. It also maintains that, among other things, it is contributing to better infrastructure and to exchange of expertise, which benefits the Saharawis. Sjøvik does not consider itself a political actor and does not wish to take a position on the status of the territory in relation to Article 73 of the UN Charter.”*

In other words, Kosmos Energy has falsely represented Sjøvik's position to be ours, in an effort to legitimate your company's presence in the territory.

The National Contact Point of OECD explicitly states that it has “not examined the merits of the claim”. You find all relevant documents relevant to the process on the website of the Norwegian National Contact Point: <http://nettsteder.regjeringen.no/ansvarlignaringsliv-en/nscws/>

It is obvious that the Norwegian Support Committee for Western Sahara would never enter into an agreement with a company operating in Western Sahara, and as such giving acceptance of such company's presence in the territory, under any circumstance. Our association has just as little mandate to negotiate the management of the resources in Western Sahara as Sjøvik AS, Kosmos Energy or the Government of Morocco have. Our entire *raison-d'être* is to make the voice of the Saharawi people heard and respected, not to speak on their behalf.

Let us express that we are in fact not surprised to see how Kosmos Energy so fundamentally misrepresents this joint-declaration. We, who follow the Western Sahara affair closely, are used to see Kosmos Energy misrepresenting and distorting official documents and facts on the ground.

The first seven years we studied your operations, Kosmos spoke incorrect about being in Western Sahara at all, claiming it had operations “in Morocco”. Only in 2011, when Kosmos was about to register on the New York Stock Exchange, did the company start referring to the territory itself.

However, from then, we have observed that you systematically misrepresent the conclusions of the 2002 UN Legal Opinion – to the frustration of the author of that legal opinion:

The former UN Legal Counsel, stated that “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.”

<http://www.judicialmonitor.org/current/specialcommentary.html>

It should be obvious that entering into an agreement with Morocco for the exploration of the non-renewable resources belonging to the people of Western Sahara is not in line with international law. References to the conclusion of the UN Legal Opinion on your website [www.westernsaharaoil.com](http://www.westernsaharaoil.com) are incorrect.

The Norwegian Support Committee for Western Sahara demands that Kosmos Energy:

1. immediately stops its deceitful misrepresentations of our association’s joint-declaration with Sjøvik AS.
2. immediately removes the mentioned letter to the Ethical Council from its website [www.westernsaharaoil.com](http://www.westernsaharaoil.com), and stops forwarding it to third parties, as it falsely represents our joint-declaration.
3. publishes a correction on [www.westernsaharaoil.com](http://www.westernsaharaoil.com) that its representations of our joint-declaration in the past, including in the above-mentioned letter, has been incorrect.
4. informs the Norwegian Support Committee for Western Sahara which third parties it has misinformed about our joint-declaration with Sjøvik AS, so that we can ourselves forward them copies of this letter we now send you.

We furthermore request Kosmos Energy to stop misrepresenting the UN Legal Opinion from 2002 and to halt any further oil exploration until after it has sought the consent of representatives of the people of Western Sahara, in line with international law and the UN Legal Opinion.

A CC of this letter has been sent to Sjøvik AS, to the OECD National Contact Point in Norway and to former Norwegian Supreme Court Judge, Lars Oftedahl Broch, who mediated between the parties prior to the signing of the above mentioned joint-declaration.

This letter to Kosmos Energy is today being published on our website [www.vest-sahara.no](http://www.vest-sahara.no).

Looking forward to hear from you,

Sincerely,

Magnhild Bøgseth,  
Chair,  
The Norwegian Support Committee  
for Western Sahara

