

## STATEMENT BY TIM SAUER ON BEHALF OF WESTERN SAHARA RESOURCE WATCH

### SIEMENS GAMESA RENEWABLE ENERGY – AGM – 27 MARCH 2023

The plenary "expresses its concern about the exploitation of the natural resources of Western Sahara by European companies, which is in contradiction with international and European law; and insists on recalling the illegality of any commercial activity with Western Sahara without the consent of the Saharawi people. "

"It calls on European, Spanish and Basque companies to act in accordance with international and European law, so that they cease activities that could favour the perpetuation of the Moroccan occupation of Western Sahara and the exploitation of its natural resources (such as activities in the areas of fishing, agriculture, phosphate and sand mining, or renewable energy), and urges all authorities to implement the legislation in force, on the basis of the recent judgment of the CJEU."

This statement is part of a declaration, adopted by the plenary of the Basque parliament already in 2017. The question arises as to why a company based in the Basque country, that receives financial support from the Basque government, does not see any relevance of a resolution passed by the Basque parliament for its own business activities. Does the board of directors of Siemens Gamesa disagree with statements of the Basque parliament? What makes the board think that it can simply ignore the call for ceasing its activities in Western Sahara?

In its last sentence, the quoted statement actually does not refer to latest ruling of the European Court of Justice, but to the previous one from 2016, which was already clear on the prerequisite for the legality of economic agreements covering Western Sahara: The explicit consent of the Saharawi people must have been obtained. The latest 2021 ruling of the Court was even more explicit on how to do this, stating that it could not be done by consulting Moroccan entities, but that the consent has to be given by the UN recognized representative of the Saharawi people, Polisario Front.

Siemens Energy and Siemens Gamesa admit never having been in contact with Polisario, the representative body of the land they operate on. But they know very well about Polisario's position: in a video statement at last year's AGM of Siemens Energy, the Polisario representative in Germany made clear, that Polisario is against the activities of Siemens Energy and Gamesa. Will Siemens Gamesa keep ignoring this or will it refrain from any activities in Western Sahara?

It's been more than 10 years that Siemens Gamesa and its related companies have been approached with respect to its involvement and support of the illegal occupation of Western Sahara by Morocco. The company obviously doesn't even respond to calls from relevant democratic institutions and doesn't care about rulings from the highest court of the European Union. You don't even listen to the owners of the land you operate on. You will surely shove off your responsibility to the ever-growing influence of Siemens Energy, just like Siemens Energy itself does the other way around. But we will still make sure that investors and the public know about your responsibility for the continuation of an unresolved colonial conflict and for the suffering of Saharawi people. We will continue insisting that your activities are ethically not acceptable, and we will expose your ever repeating justifications.

If you talk about, and I cite, "the impossibility around seeking consent of the population in an area where an administrative power exercises sovereignty de facto", we say:

Speaking about the population is not appropriate in this context, as European Court of Justice has laid down repeatedly: it's about the people of Western Sahara, so about the people who live in the refugee camps in Algeria, in the diaspora and those that live as a minority in the occupied territories; it is not about the Moroccan settlers that live now in Western Sahara.

First and foremost, there is a representative of this very people, the Polisario Front, as recognized by both the UN and the CJEU. You could have easily contacted them.

You say your windfarms are infrastructure improvements and will bring "real value" and creates jobs for locals. Instead of respecting their fundamental human rights, you boast of having planted trees in Western Sahara, how cynical! We'll keep repeating, that what matters is the consent of Saharawi people, which you have not obtained. And by the way, what you say is not true. Improving the infrastructure does actually facilitate the settlement policy of Morocco in Western Sahara, thus it impedes a solution to the conflict because more and more Moroccan settlers will move to the occupied territory as this becomes more attractive. Furthermore, your wind farms do generally serve industrial end users and even power the exploitation of non-renewable resources like the phosphate.

If you say you don't engage in politics or refrain from taking positions on international law: we insist that by making business with the occupying power and a private company of the Moroccan King, while publicly referring to the project as being located in Morocco, you engage in an act of very political nature. Besides, with respect to the war in Ukraine, Siemens Energy does make such statements, referring to the war as being "a war of aggression in violation of international law".

If you say you are only constructing windmills, renewable energy, with no physical removal of resources: We further insist that it is insignificant for international law, if a resource is renewable or not! You still need consent from the people! And besides, as mentioned, your wind farms power non-renewable resource exploitation. The energy needed in the Bou Craa mine for extraction of phosphate rock and its transport on the 100km long conveyor belt is provided to 95% by the Fom el Oued windfarm.

I continue: if you say you have had an external legal assessment confirming the accordance with applicable law. We say a legal assessment is worth nothing, if its content, its authors and its frame of reference are not even made available to the Saharawi people.

If you state the rulings of the EUCJ to states, and not companies: we say, that's wrong. Judicial subjects under international law are by far not limited to states! The right to consent is a universally accepted principle, as well as the principle of the relative effect of treaties. You just cannot make a deal with someone over a territory that belongs a third party.

I will finish coming back to my introductory statement and group up with the Basque parliament and the European Court of Justice: Listen to the Saharawi people, listen to their clear message: get out of Western Sahara!