

Envision Energy Group

Att: Mr. Lei Zhang, Chief Executive Officer

Building B, One East Plaza,

736 South Zhongshan 1st Road,

Shanghai,

China 200023

Brussels, 17.05.2023

RE. ENVISION ENERGY'S SUPPLY OF WIND TURBINES TO OCCUPIED WESTERN SAHARA

Dear Mr Zhang,

Western Sahara Resource Watch (WSRW) is privileged to be writing to you. We are writing in relation to the announcement that Envision Energy has been contracted to supply wind turbines to a wind farm in Dakhla. A multitude of Moroccan and international news outlets have reported that your company will provide 60 MW wind turbines (EN171-5MW) that will generate the energy required for the planned desalination station in the area – a project co-owned by Nareva and Engie.

Dakhla is a town that is located in Western Sahara, a Non-Self-Governing Territory that is yet to achieve decolonisation. The UN, which has a Mission on the ground (MINURSO), considers the territory to be a colony. In 1975, the International Court of Justice confirmed that there are no ties of sovereignty between the territory of Morocco and that of Western Sahara, and that the people of the territory – the Saharawi people – have a right to self-determination.¹ Morocco invaded the territory and went on to annex parts of, in blatant disrespect of the ICJ and of the UN General Assembly and Security Council. Though the UN was able to broker a peace arrangement in which the warring parties agreed to an independence-referendum, Morocco has continued to obstruct the process to this very day. Yet, to date, the right of the Saharawi people to self-determination is backed internationally. The people of Western Sahara continue to suffer the yoke of a brutal occupation: many of them live as refugees in the inhospitable Algerian desert, while their kin left behind are subjected to some of the most gruesome human rights violations.

The status of the territory comes with repercussions for business activities. As established in 2002 by the UN Legal Counsel at the request of the Security Council, any economic activity in the territory would be in violation of international law if not undertaken in accordance with the wishes and the interests of the people of the territory.² In six consecutive rulings, the Court of Justice of the European Union has concluded that Morocco has no sovereignty over Western Sahara, nor any international mandate to administer it, as the territory is separate and distinct from Morocco. As a consequence, the Court ruled, EU agreements with Morocco cannot be extended to Western Sahara in a lawful manner, unless with the explicit consent of the people of the territory – the latter being the natural corollary of the people of Western Sahara's right to self-determination.³ We also refer to the conclusions of the UN Treaty Body on Economic, Social and Cultural Rights⁴ and of the UN Human Rights Committee⁵, which have both emphasized the need of obtaining the Saharawi people's "prior, free and informed consent to the realization of developmental projects and [resource] extraction operations".

¹ International Court of Justice, Advisory Opinion of 16 October 1975, Western Sahara, <https://www.icj-cij.org/files/case-related/61/6197.pdf>

² UN Security Council, 12.02.2002, Letter dated 29 January 2002 from the Under-Secretary-General for Legal Affairs, the Legal Counsel, addressed to the President of the Security Council, S/2002/161, <https://undocs.org/S/2002/161>

³ The Rulings can be accessed at the site of the EU Court of Justice, <http://curia.europa.eu>.

⁴ UN Economic and Social Council, 22.10.2015, Concluding Observations on the fourth periodic report of Morocco, E/C.12/MAR/CO/4*, §6, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fMAR%2fCO%2f4&Lang=en

⁵ UN Human Rights Committee, 01.12.2016, Concluding Observations on the sixth periodic report of Morocco, §10, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR/C/MAR/CO/6&Lang=en

We submit that the legal implications are no different when it concerns non-renewable resources, such as wind energy. The construction of infrastructure for such purpose by an occupying power not only violates the right of non-self-governing peoples to self-determination, but also International Humanitarian Law, which prohibits extending an occupation - beyond security of the occupied place and the well-being of its inhabitants – through building infrastructure to secure the occupation or provide for an illegal settler (immigrant) population. The latter is clearly the case in Western Sahara. For example, the energy generated by the currently operational onshore wind parks in the territory, is used for industrial end-users, such as the Moroccan state-owned phosphate company OCP, which exploits the phosphate reserves in the territory. Only a handful of companies today still purchase phosphate rock from Western Sahara, as many companies have abandoned the trade following pressure from investors over concerns for international law and human rights.

The desalination project that Envision Energy will supply with turbines, aims to increase the farmland in this water-scarce desert landscape. The plantations in the area, which all cultivate for export, are owned by the king of Morocco, Moroccan businessmen or French-Moroccan conglomerates.

We would be grateful if you could respond to the following questions:

1. *Has Envision Energy obtained the consent of the people of Western Sahara, through their internationally recognised representative body, the Frente Polisario, for supplying wind turbines to an infrastructure project on their land?*
2. *How does Envision Energy assess the legal status of Morocco vis-à-vis Western Sahara?*
3. *Who is Envision Energy's customer? Is it Nareva or Engie, or both? Or is it a body of the Moroccan government?*
4. *Does Envision Energy's contract cover any other services other than supplying the turbines? (E.g. maintenance, installing...)*
5. *According to Engie's recent Universal Registration Document, the desalination project in Dakhla requires 72 MW. Will Envision Energy deliver the remaining 12 MW at a later stage in the development of the project?*
6. *A controversial study was made by the consultancy firm Global Diligence, including an alleged "consultation" of the "local population" of Western Sahara. All aspects relating to this study, including its conclusions and terms of reference, remain out of sight for the people of Western Sahara, who have naturally not consented to such a study. Will Envision request Engie to publish the problematic Global Diligence study?*

We would be most grateful for an answer to the above question before 30 May 2023. To be transparent, we wish to inform you that we will publish an article about Envision Energy's involvement in the controversial desalination project.

Please do not hesitate to contact us should you require any further information on the above-raised issue. We thank you in advance for your consideration and look forward to your response.

Sincerely

Sara Eyckmans

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