RE. HUAYOU’S REPORTED INTEREST IN OCCUPIED WESTERN SAHARA

Dear Mr Chen Xuehua,

Western Sahara Resource Watch is privileged to present you with our compliments. We are writing an article based on information published by a Moroccan government institution, stating that your company has plans to invest in Western Sahara. As such, we would be grateful for your answer to the questions below, so that we can accurately represent your position.

This week, Moroccan and international media reported on Huayou’s intention to invest $20 billion in a battery production plant in the “Laâyoune Sakia El Hamra region”. The coverage seems to have been triggered by a press release issued on 8 August by Morocco’s regional investment center (CRI) in the “Laâyoune Sakia El Hamra region”, breaking the news. The CRI, however, withdrew the press release shortly after publication. The following day, the CRI stated to the Moroccan news agency Le Desk that the news was “not yet official”, but that Huayou officials has visited both Tarfaya and El Aaiún, that the project was in its “preliminary prospecting phase” and that “the figure of 200 MMDH [$20 billion] is faithful to the statement of the company.”

If the news reports are correct, then your company is at risk of becoming involved in an ongoing military occupation in one of the world’s human rights black spots: occupied Western Sahara. The “Laâyoune Sakia El Hamra region” that media coverage refers to, is a Moroccan administrative region that has been designed by the Moroccan government in disrespect of the non-self-governing status of Western Sahara: it overlaps the border of Morocco and Western Sahara, with the absolute lion share of the land located in the occupied territory. The visits that the Huayou delegation reportedly made were to Tarfaya, located on the Morocco-Western Sahara border, and to El Aaiún, the capital city of occupied Western Sahara.

For context, the United Nations consider Western Sahara to be a Non-Self-Governing Territory without an administering power appointed to it, still to complete the process of decolonisation. The International Court of Justice has confirmed that Morocco has no sovereignty over the territory, and that the people of Western Sahara have a right to self-determination – the right to determine the future status of the territory. In 1988, the UN was able to broker a ceasefire arrangement between Morocco and the Western Sahara liberation movement, Polisario, in which both parties agreed to hold a referendum on self-determination. To that goal, a UN mission (MINURSO) has been deployed to the territory, but it has not been able to organise a referendum as Morocco continues to block any effort that offers a choice beyond integration.

While well over a hundred of UN Resolutions, and rulings by the International Court of Justice, the European Court of Justice and the African Court on Human and People’s Rights, all underline that Morocco has no sovereignty or administering mandate over Western Sahara, Morocco continues to militarily control about Western Sahara.

---

5 The Rulings for cases T-512/12, T-180/14, C-266/16, T-275/18 and combined cases T-344/19, T-356/19 and T-279/19 can be accessed at the site of the EU Court of Justice, http://curia.europa.eu.
three-quarters of the territory. Incentivized by its exploitation of the territory’s resources, Morocco has little interest to genuinely take part in the UN-mediated peace process. Meanwhile, the lingering conflict continues to have a high human and humanitarian cost: over 170,000 Saharawis are stuck in refugee camps in neighbouring Algeria, surviving in harsh desert conditions and dwindling humanitarian aid. Saharawis who live under the yoke of Morocco’s occupation are victims of serious human rights violations that have been reported by the UN Human Rights Committee, UN Working Group on Arbitrary Detention, the UN Special Rapporteur on Human Rights Defenders, in addition to credible international organisations such as Human Rights Watch, Amnesty International, and others. The UN High Commissioner for Human Rights recently lamented the fact that his Office has not been allowed to visit Western Sahara for the last eight years.\(^7\) Morocco has still not allowed the current UN Special Envoy for Western Sahara Staffan de Mistura, appointed in October 2021, to visit the territory.

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.\(^8\) 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.\(^9\) We also refer to the conclusions of the UN Treaty Body on Economic, Social and Cultural Rights\(^10\) and of the UN Human Rights Committee\(^11\), 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”.

We would be grateful if you could provide answers to the following questions.

1. **Can Huayou confirm that a delegation representing the firm recently visited El Aaiún in Western Sahara?**
2. **Is it correct that Huayou is undertaking a preliminary prospecting phase, or is considering investing in a battery production plant in Western Sahara?**
3. **If so, has Huayou undertaken any steps to obtain the consent from the UN recognised representation for Western Sahara, the Polisario Front?**

Our organisation wishes to appeal to Huayou to carefully assess the location of its planned project, and to limit its operations to Morocco proper, as recognised by the international community and the Government of China. We are convinced that it is not in your company’s interest to become associated with the continued colonisation and occupation of Western Sahara.

We look forward to your reply, preferably before 18 August. Thank you in advance for your consideration of our concerns and questions.

Sincerely

Sara Eyckmans
Coordinator, Western Sahara Resource Watch

coordinator@wsrw.org

---

\(^7\) OHCHR, 07.03.2023, GLOBAL UPDATE: HIGH COMMISSIONER OUTLINES CONCERNS IN OVER 40 COUNTRIES, HTTPS://WWW.OHCHR.ORG/EN/STATEMENTS-AND-SPEECHES/2023/03/GLOBAL-UPDATE-HIGH-COMMISSIONER-OUTLINES-CONCERNS-OVER-40-COUNTRIES


\(^9\) The Rulings can be accessed at the site of the EU Court of Justice, http://curia.europa.eu.
