

INTERNAL



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Western Sahara Resource Watch

To the kind attention of :
Ms Sara Eyckmans – Coordinator
WSRW
coordinator@wsrw.org

Dear Ms Eyckmans,

Thank you for your letter of 3 September 2021, which provides us with an opportunity to update you on the Boujdour wind project and our methodology to engage with the interested local community and stakeholders.

Before providing a feedback to the project, we noticed that a number of questions have been already answered by us. We also reiterate that we are bound by confidentiality constraints and that Enel will not take any position in relation to questions related to any local and/or international political situation, since our policy is not to take any position on political matters.

In relation to the Boujdour Wind Farm, we inform you that construction has begun and that the supply of equipment and components to the site is currently on-going. The only port used for the delivery of turbine components is Laâyoune.

As you already know the Boujdour project relates to a wind farm with no exploitation nor depletion of any non-renewable resources and a sustainability plan has been implemented with the aim to create benefits and advantages, social-economic development, employment for the territory, especially for the Saharawi people, as well as its environment.

During the construction period we created a devoted training center on site, in order to enhance skill transfer and create local employment, with a particular focus on the Saharawi people, the hiring of local small-medium enterprises for auxiliary services related to the construction works and the introduction of circular economy actions for further environmental benefits (i.e. photovoltaic mini grid plus storage, virtuous solutions on water consumption, waste, etc). These actions allowed us to train and employ more than 200 workers from the local community; all of them are Saharawi.

We have also performed a Socio Economic and Environmental Context Analysis (SEECA) in line with the International Finance Corporation (IFC) Performance Standards, the UN Guiding Principles on Business and Human Rights (UNGP) and the OECD Guidelines. The SEECA was conducted through an international consulting firm expert on sustainability with previous experience in Western Sahara and included a deep stakeholders analysis resulting from a human rights due diligence and a stakeholders analysis performed by another independent international no profit organization with proven knowledge on human rights risks and experience on Western Sahara.



The choice to proceed with two different experts has been taken in order to ensure that all the analyses were in line with the above-mentioned international standards and principles, and therefore free, independent and as comprehensive as possible with a final last purpose to design and execute a consultation process with representatives of Saharawi people.

In relation to the Human Rights Due diligence, we confirm it included a comprehensive risk assessment on human rights. The results of this due diligence, as published in 2020 Sustainability Report, was the drafting of an action plan for interventions, among other initiatives, for:

- guaranteeing anonymous access to complaint channels by employees and the interested stakeholders;
- avoiding discrimination in employment and promoting the inclusion of Saharawi staff on site, including by means of specific training programs;
- launching ad hoc projects/infrastructure for the needs of the Saharawi people who live in remote villages or for small local businesses.

With regard to the consultation process, please note it was based on the stakeholders list mapped by the above-mentioned international experts, identifying more than 50 cross-section stakeholders at local and international level. The list included different socio-economic categories in order to capture comprehensive perspectives of rights-holders on the project and population. In addition, we have been suggested to adopt a multilevel engagement approach towards the identified stakeholders, whereby the level of engagement (i.e. cooperate, consult, advocate or monitor) was based on the following criteria for each stakeholder: interest/influence, expertise, and willingness to engage on the project.

The engagement was mainly addressed through interviews in Hassaniyya Arabic (Saharawi's language) with representatives of local institutions, civil society and economic organizations/associations, community and vulnerable groups, human rights associations, unions, etc., all of them identified themselves as Saharawi.

Consistently with our multilevel approach, we confirm Enel's willingness to engage with any interested stakeholders as long as this relates to the project and its benefits and not to any political issue.

Concerning the legal framework in place, we are always committed to comply with all applicable laws. Besides, we also like to recall that foreign investments in the renewable sector can, under international law, be legally implemented in Western Sahara and, as far as we know, there is no international sanction regime applicable that would impede such investments in Western Sahara.

Furthermore, the obligations in relation to Non Self Governing Territories under Chapter XI of the UN Charter only apply to States which nonetheless may act in these Territories in compliance with Resolution n°50/33 of the General Assembly that affirmed "the value of foreign economic investment undertaken in collaboration with the peoples of the Non-Self-Governing Territories and in accordance with their wishes in order to make a valid contribution to the socio-economic development of the Territories" (<https://undocs.org/en/A/RES/50/33>). This principle was also re-affirmed by the legal department of the UN to the Security Council in relation to investments in Western Sahara (<https://digitallibrary.un.org/record/458183>).

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In the same way the decisions of the Court of Justice of the EU (CJEU) relate to the Law of Treaties (i.e. associations agreements between Morocco and the EU relating to different activities than renewable energy) and is therefore only applicable to States.

Although there is no set of international law and rules that extend the above obligations to private corporations, we have nonetheless applied the principles set forth in the Resolution n°50/33, the UNGP and OECD Guidelines to the Boujdour Project. In this respect:

- the economical initiative, being a renewable power plant, does benefit and contribute to the socio-economic development of Western Sahara and does not involve any exploration and exploitation activities that entails physical removal of mineral resources. Boujdour renewable project will contribute to local Saharawi population development and access to electricity, while reducing dependency on other fossil sources of energy;
- a human right due diligence was performed in relation to the investment;
- an active consultation process has been conducted to assess the social acceptance of the Project by the Saharawi people and to prove that the investment is in accordance with their wishes. The consultation was accompanied by additional interviews of international experts of Western Sahara in order to have a better understanding of all positions of the Saharawi people;
- the project is meant to benefit the environment and promotes respect for important principles endorsed by the international community, in particular in relation to the protection of the environment and the reduction in carbon emissions;
- the Project is being implemented with a non-discriminatory inclusion of the Saharawi people as a work force on site providing specific training centers to bridge instruction and skill gaps.

We thank you for your attention and remain available to set up a dedicated meeting with your organization to engage on the project should you wish to do so.

Yours sincerely.

Signed by Salvatore Barnabei
Salvatore Barnabei
Data: 10/09/2021 15:21:35 CEST

Salvatore Barnabei