

To the attention of Mr Antonio Cammisecra
Chief Executive Officer of Enel Green Power
Enel Green Power
Viale Regina Margherita 125
Rome
Italy

Brussels
2 June 2020

Re.: Seeking comments in view of upcoming publication on renewable energy projects in occupied Western Sahara

Dear Mr Cammisecra,

Western Sahara Resource Watch is privileged to present you with our greetings. We are writing to ask you for comments regarding your company's operations in occupied Western Sahara, in view of an upcoming report we will publish on the matter in September.

In November 2019, Enel Green Power (EGP) signed a contract with ONEE and Masen to commence construction of the wind farm in Boujdour. The wind farm is of course part of the Integrated Wind Energy Programme, consisting of 5 wind farms with a cumulative capacity of 850 MW. Enel Green Energy, in consortium with Siemens and Nareva won the tender to construct all five farms in 2015. Originally, the plans were for a 300 MW wind farm near Tiskrad (El Aaiún) and a 100 MW farm in Boujdour. However, the contract signed in November 2019 specifically for the work on the Boujdour farm reportedly puts the capacity at 300 MW.

We would be grateful if you could clarify the following questions on that development:

1. Will the Boujdour wind park envisioned under the Integrated Wind Energy Programme indeed have a capacity of 300 MW?
2. Is there any correlation with the planned capacity for Tiskrad, i.e. is the Tiskrad wind farm still scheduled to be a 300 MW wind farm, or has the capacity here been reduced in order to keep with the overall intention of a cumulative 850 MW?
3. We note that Masen now refers to the Boujdour wind farm as having 300 MW capacity, while ONEE still keeps the capacity at 100 MW, yet does refer to plans for a new 200 MW wind farm near Boujdour, called Aftissat II. Is there any relation between the increased capacity for the Boujdour wind farm and the so-called Aftissat II wind farm?

Additionally, we note that EGP had pre-qualified for the Noor PV I programme in 2015 for the construction of 170 MW of photovoltaic solar capacity across three project sites, including two in occupied Western Sahara.

4. Could you please confirm or refute that EGP has also expressed an interest in the Noor PV II programme, foreseeing in the development of 400 MW of solar capacity based on photovoltaic technology, tendered by the Moroccan Ministry for Mines and Energy and MASEN in January this year.¹

¹ A copy of the tender can be found here: <https://www.wsrw.org/files/dated/2020-02-10/noor-pv-ii-ami-programme-400-mw-loi-13-09.pdf>

Our previous letters to you have always been met with forthcomingness by EGP, for which we are grateful. Enel has kindly suggested us to meet, while WSRW has insisted on written communication, out of consideration to the people who are at stake, the Saharawis, who are the rightful owners of the land on which Enel is operating.

Unfortunately, due to different views on how to proceed with the dialogue, some essential questions remain unanswered. As such, I take this opportunity to cluster them around four main issues, with the purpose of better understanding your position about building infrastructure in occupied Western Sahara.

In this context, it is useful to add important elements to this correspondence that have emerged after our last communication, but that affect the wider framework in which Enel is operating. As you know, there have been several Rulings by the Court of Justice of the European Union that have come to the clear conclusion that Western Sahara cannot be considered part of Morocco. The territory is “separate and distinct” to Morocco, the Court stated, and Morocco has no sovereignty over the territory nor any mandate to administer it. As a corollary of the internationally recognised right to self-determination of the people of the territory, the Court put forth the requirement of obtaining their consent. In this, it is crucial to emphasize that the right to consent thus belongs to the people of Western Sahara and not to the current population in the territory, which today consists of a majority of Moroccan settlers incentivized to relocate over economic opportunities and cheaper living conditions.

5. What steps has EGP taken to obtain the consent of the people of Western Sahara for the infrastructural projects it intends to carry out in their land?
6. EGP has stated that “The Enel Group’s policy is not to not take any position on political matters” and that “We are therefore unable to respond to questions on such topics as territorial sovereignty.”
 - a. If EGP does not take any position on political matters, why has it chosen to sign an agreement with Morocco for the construction of energy infrastructure in Western Sahara?
 - b. If EGP does not take any position on political matters, why does it report - in press releases, sustainability reports, reports to the Irish Stock Exchange and in its annual report - that the location of the Enel operations in Tiskrad and Boujdour “are located in the country’s south”, with reference to Morocco?
 - c. If EGP does not take any position on political matters, why did it partner with a company owned by the Moroccan royal family, of all?
7. EGP has stated that it complies with current legislation in every country it operates.
 - a. Which state’s legislation does EGP consider to be applicable to the territory of Western Sahara?
8. EGP argues that energy infrastructure is important and beneficial to Western Sahara.
 - a. As stated by the Court of Justice of the EU in case C-104/16 P, the question of benefits is irrelevant: what matters is whether the people of the Western Sahara have consented. What value does EGP attribute to its conviction that the projects are important and beneficial, when the people of Western Sahara have not consented to them?
 - b. How does EGP know that the people of Western Sahara share its opinion?
 - c. We understand that the Moroccan state agency ONEE - with the involvement of EGP and the energy company owned by the king of Morocco, Nareva – has carried out a consultation exercise in relation to the planned wind farm in Boujdour. What value

does EGP attribute to a consultation, carried out by a Moroccan state body in a territory that is held under military occupation by Morocco?

- d. We understand from your 2018 Sustainability Report that EGP carried out SEECA and ESIA studies. Which 'external specialists' carried out your SEECA study, and will EGP publish the Terms of Reference and the full findings of the two reports, so that the people of Western Sahara can read them themselves?

Finally, EGP submits that its operations do not deprive the territory from its resources. The currently operational wind farms in Western Sahara supply industrial end-users, such as Morocco's state-owned phosphate company OCP SA which exploits the phosphate reserves of the territory. As such, the wind farms are making OCP's illegal exploitation and sales of Western Sahara's phosphate rock more cost-efficient. Even if EGP could guarantee that the energy generated through its planned wind farms in the territory would only be used for civilian purposes – which is doubtful – the matter remains that the construction of infrastructure by an occupying power not only violates the right of non-self-governing peoples to self-determination, but also International Humanitarian Law (IHL) 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. To date, we remain convinced that this is not something any company would want to be associated with.

We thank you for your consideration of our letter and look forward to your reply.

With kind regards,

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