

GE Renewable Energy

Att: Jérôme Péresse, Chief Executive Officer

204 Rond-Point du Pont De Sèvres

92100 Boulogne-Billancourt

France

Brussels, 05.10.2021

RE. GE RENEWABLE ENERGY'S INVOLVEMENT IN THE AFTISSAT II WIND FARM IN OCCUPIED WESTERN SAHARA

Dear Mr Péresse,

Western Sahara Resource Watch is privileged to present you with our compliments. We hope this message finds you well in the current phase of the COVID-19 crisis.

We are writing in relation to the press release on your website on 30 September 2021, announcing that GE Renewable Energy has been selected by *Energie Eolienne du Maroc* (EEM) for the supply of 40 wind turbines for the "200 MW Aftissat onshore wind farm extension in Morocco". A 20-year full-service contract is reportedly included in the package.¹

As you will know, Aftissat is not located in Morocco, but in Western Sahara - a Non-Self-Governing Territory that is yet to complete 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.² Nevertheless, Morocco invaded and went on to annex three quarters of the territory, in blatant disrespect of the ICJ and of the UN General Assembly and Security Council. Though the UN was able to broker a ceasefire arrangement in 1991 - foreseeing an independence-referendum that both warring parties agreed to - Morocco has continued to obstruct the process to this very day. Morocco's violation of the ceasefire arrangement in November 2020 led to resumed armed conflict in the territory.

The right of the Saharawi people to self-determination is backed internationally. Nevertheless, they 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.³ In five 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

¹ General Electric, 30.09.2021, GE Renewable Energy and Nareva to build 200 MW Aftissat onshore wind farm extension in Morocco <https://www.ge.com/news/press-releases/ge-renewable-energy-and-nareva-to-build-200-mw-aftissat-onshore-wind-farm-extension-morocco>

² International Court of Justice, Advisory Opinion of 16 October 1975, Western Sahara, <https://www.icj-cij.org/files/case-related/61/6197.pdf>

³ 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>

Western Sahara's right to self-determination.⁴ The UN Treaty Body on Economic, Social and Cultural Rights⁵ and the UN Human Rights Committee⁶ 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".

The construction of infrastructure by an occupying power - which is Morocco's status in relation to Western Sahara - not only violates the right of a non-self-governing people to self-determination. It also constitutes a violation of 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. We are convinced that this is not something any company would want to be associated with.

We condemn General Electric's lack of support for basic principles of international law and human rights. Your announcement directly clarifies that the project is for the development of Morocco. Your Moroccan partner, owned by the King of Morocco, has no legal right to issue a contract for such a project to your company. These lands belong to the Saharawi people.

We would be grateful for your response to the following questions:

1. What steps has GE Renewable Energy taken to ensure it has the consent of the people of Western Sahara through their UN-recognised representation, the Frente Polisario⁷, for its participation in the construction of renewable energy infrastructure on the Saharawi people's land?
2. Why does GE Renewable Energy choose to refer to the location of the planned wind farm as in "Morocco"?
3. What legal mandate or status does GE Renewable Energy believe that Morocco has over Western Sahara.
4. Your press release clarifies that the energy will be supplied to industrial end-users. Which are those?

A copy of this letter is sent to General Electric Company. WSRW sent several questions to General Electric on 31 March 2020, in relation to the Harmattan project in Dakhla, but has so far not received a response.⁸ In 2013, General Electric wrote to WSRW that the company no longer took part in a controversial tender for wind farms in the territory.⁹

Sincerely

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⁴ 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>.

⁵ 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

⁶ 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

⁷ UNGA Resolution 34/37, §7: "Frente Popular para la Liberación de Saguia el-Hamra y de Río de Oro", or POLISARIO, as "the representative of the people of Western Sahara".

⁸ WSRW, letter to General Electric Company, 31.03.2013, https://vest-sahara.s3.amazonaws.com/wsrw/feature-images/File/361/61406c6c003f1_20200331-WSRW-GeneralElectricCompany.pdf

⁹ WSRW.org, 03.07.2013, GE pulls out of contentious tender, <https://wsrw.org/en/archive/2615>