

Claire Waysand
Deputy Chief Executive Officer
Engie SA
Sent via e-mail

9 December 2020
Brussels

Re. Engie's policy on Western Sahara

Dear Ms Waysand,

Western Sahara Resource Watch (WSRW) and *Amis du Peuple du Sahara Occidental* (APSO) are privileged to present you with our compliments. We refer to our previous letter of 11 January 2019, to which we cannot see having received a response. We are writing again to inquire about Engie's policy on engaging in business activities in occupied Western Sahara.

For the sake of transparency, we wish to inform you that we plan on publishing a report on Morocco's renewable energy projects in occupied Western Sahara and an update on the involvement of stock-registered companies. As your company will be featured in both, we invite you to comment on the questions included below, preferably before 1 January 2021, so that we may accurately reflect your views on the matter.

Together with Nareva, the energy company of the king of Morocco, Engie has won a tender for the construction of desalination facility near Dakhla, along the mid-coast of Western Sahara.¹ Engie is also said to have a stake in the Foug el Oued and Aftissat wind farms, both located near the capital of Western Sahara, El Aaiún.² Engie refers to its participation in the development of the Foug el Oued Technopole, which it locates in the "Moroccan desert".³ In addition, the company's name will occasionally appear in Moroccan media as taking part in tenders issued by the Moroccan government for projects in occupied Western Sahara.

We also notice that your company in 2013 (then GDF Suez) took part in the tender for the wind parks in Tiskrad and Boujdour. WSRW wrote to your company's subsidiary International Power PLC on 2 July 2013 about the matter, without receiving an answer.

As you will know, war has resumed in the territory. On 13 November 2020, the Moroccan army entered an area in the southernmost part of Western Sahara - Guerguerat - where any military presence is strictly forbidden by the terms of the UN-brokered 1991 ceasefire agreement. Moroccan troops were sent to disperse a peaceful Saharawi protest that was taking place in this so-called Buffer Strip, a zone extending 5 km east and south of Morocco's 2,700-km long militarily fortified defence wall with adjacent minefields (the Berm). Since late October, Saharawis had been protesting

¹ <https://www.africaintelligence.com/mce/business-circles/2018/12/13/engie-and-nareva-obtain-dakhla-desalination-plant-contract-unopposed,108336419-art>

² <https://www.thewindpower.net/scripts/fpdf181/windfarm.php?id=152283> and <https://www.thewindpower.net/scripts/fpdf181/windfarm.php?id=26180>

³ <https://www.engie.com/breves/un-immense-technopole-dans-le-desert-marocain/> Also accessible here: <https://www.zonebourse.com/cours/action/ENGIE-4995/actualite/Engie-Ville-durable-un-immense-technopole-en-projet-dans-le-desert-marocain-22128468/>

Morocco's export of natural resources from occupied Western Sahara through Guerguerat and had blockaded the crossing. By merely entering the Buffer Strip, Morocco breached the ceasefire. That same day, 13 November, the Polisario declared the breach marked the end of the ceasefire and the resumption of war with Morocco, adding that they consider the entire territory of Western Sahara "including its terrestrial, maritime and air spaces, a war zone". The UN has corroborated that armed clashes are indeed occurring on different locations along the Berm.⁴ Moroccan media has confirmed that the Moroccan army is involved in those clashes, at the instruction of Rabat.⁵ The Saharawi people living under Moroccan occupation, west of the Berm, report that Moroccan forces are arresting and raiding homes of Saharawi civilians known for their pro-self-determination stance.

It is very problematic - ethically, politically as well as legally - when commercial interests cooperate with Moroccan authorities to do business in the occupied territory.

As you will know, the United Nations consider Western Sahara to be a Non-Self-Governing Territory without an administering power in place.⁶ As stipulated by the International Court of Justice⁷ and repeated in four consecutive rulings by the European Court of Justice, Morocco has no sovereignty over or international mandate to administer the territory.⁸ All emphasized that the people of Western Sahara have the right to self-determination, the right to decide the future status of the land and its resources. As such, the Court stated, they must consent for contractual relations with Moroccan counterparts affecting their homeland to be lawful.

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, in addition to credible international organisations such as Human Rights Watch, Amnesty International, and others.

Partnering with Morocco for economic activities in the occupied territory, offers its military presence in Western Sahara an air of normalcy. To do so, effectively convolutes the UN's efforts to decolonise Western Sahara, and as such contributes to the continued insecurity and instability of the wider Maghreb region – a process that has now seemingly begun.

We would be grateful if you could answer the following questions:

1. Is the above outlined information on Engie's participation in the Aftissat and Fom el Oued wind farms correct? And if so, what is Engie's current stake in the farms?
2. What country's legal framework does Engie consider to be applicable to the development of infrastructure on occupied land?
3. Why does Engie on its website locate the Fom el Oued Technopole in the "Moroccan desert"? Does it not consider the territory of Western Sahara to be "separate and distinct" from Morocco, as the EU Court of Justice has stipulated?

⁴ The Office of the Spokesperson for the Secretary General confirmed on 16 November 2020 "that the Mission, MINURSO [United Nations Mission for the Referendum in Western Sahara], has received reports by both parties of incidents of shooting, at night-time in the Territory at various locations along the berm."

<https://www.un.org/press/en/2020/db201116.doc.htm>

⁵ See, e.g., https://www.moroccoworldnews.com/2020/11/326083/moroccos-armed-forces-respond-to-polisario-attacks-along-defense-line/?fbclid=IwAR23Fh5CcmQr0K1MLd1_xdBnWci1WM6Ms5Y200s-Ei-10I3RBxLjQPgOjaU

⁶ <https://www.un.org/dppa/decolonization/en/nsgt>

⁷ International Court of Justice, Advisory Opinion of 16 October 1975, Western Sahara, <https://www.icj-cij.org/files/case-related/61/6197.pdf>

⁸ The Rulings for cases T-512/12, T-180/14, C-266/16 and T-275/18 can be accessed at the site of the EU Court of Justice, <http://curia.europa.eu>.

4. What steps has Engie taken to ensure itself of the explicit consent of the Polisario Front as UN-recognised representative of the people of Western Sahara to its involvement in the Fom el Oued Technopole and the Dakhla desalination facility?
5. Does Engie today have a policy in place that will prevent the company from becoming involved in projects in occupied Western Sahara, unless with the explicit consent of the Polisario Front as representative of the people of Western Sahara?

We are convinced that it is not in the best interest of Engie to be associated with the continued occupation and new resumed armed conflict in Western Sahara, and thus encourage you to refrain from engaging in any business opportunity in the territory, as long as the conflict has not been settled in line with international law. Please do not hesitate to contact us should you require any further information to fully assess the above-outlined concerns: we will gladly oblige.

Looking forward to hearing from you,

Sincerely,

Sara Eyckmans
Coordinator
Western Sahara Resource Watch
coordinator@wsrw.org

Bernard Deglet
Coordinator
Amis du Peuple du Sahara Occidental (APSO)
Apsolument@yahoo.fr