

Siemens AG
Energy Sector
Wind Power Division
Lindenplatz 2
20099 Hamburg
Germany

To the attention of Mr Markus Tacke,
CEO of Siemens AG – Energy Sector

7 December 2017
Brussels

Dear Mr Tacke,

WSRW is writing to you with regard to Siemens' continued involvement in Morocco's plans to generate renewable energy in occupied Western Sahara. In recent months, Siemens' name has emerged as one of the companies connected to the 200 MW Aftissat wind farm, at present being constructed south of Boujdour, Western Sahara.

In our previous correspondence, and at the Siemens AGM of January 2017, we've asked what steps Siemens has taken to assure itself of the consent of the people of Western Sahara to its engagement in the wind farm projects in the territory. To date, that question remains unanswered.

Siemens has defended its connection to Africa's last colony by stating that developing "the region" would be to the benefit of the people. There are several comments to be made: first, Western Sahara is not a region – it has the status of a Non-Self-Governing Territory without an administering power appointed to it by the United Nations. That is important, as it has repercussions in terms of the legality of and risks associated with business activities in the territory. Second, given the cornerstone legal principle that applies to the decolonization of Western Sahara - that of self-determination - the evaluation needs be made whether potential benefits of any given project trump the right of the people to state whether they agree to or want the project in the first place. The Court of Justice of the European Union disagrees: it is not necessary to determine whether there are benefits to the people of the territory, rather, it is a must to receive their consent (§106, C-104/16 P, 21 December 2016, Council v Front Polisario).

Does Siemens consider that international companies are to respect and adhere to international law? It is not clear from your previous letter to us. You there responded to our question regarding the obtaining the Saharawi people's consent with the following statement: "Your questions that deal with the legal and political status of Western Sahara deal with matters of international public law. It is, therefore, the responsibility of the subjects of international public law (such as international bodies, states and others) to deal with these matters. The views of NGOs are, of course, also of great value. Companies like ours, on the other hand, refrain as a matter of policy from taking positions or making judgements on such issues."

A remarkable contrast with Siemens' response to the surfacing of its turbines in Crimea. Siemens described this development as "a blatant breach of Siemens' delivery contracts, trust and EU regulations" (*Siemens Press Release, 21 July 2017, "Official statement regarding turbines to Crimea"*). Yet at the same time, it ignores EU case-law as laid out by the Highest Court of the European Union in

above-mentioned Judgment of 21 December 2016, stipulating that Western Sahara is a territory that is “separate and distinct” from Morocco. Where Siemens acts swiftly against Russia in relation to its gas turbines turning up in Crimea, it works with Morocco to install wind turbines in Western Sahara.

We’d be grateful if you could clarify the following issues:

1. Has Siemens sought the consent of the people of Western Sahara for its involvement in the construction of energy infrastructure on their occupied land? What steps has it taken to obtain their consent through the UN recognized political representative of the people of Western Sahara, the Polisario Front?
2. Does Siemens agree with the conclusion of the Court of Justice of the European Union in the Court’s December 2016 appeal decision that Western Sahara is a territory that is “separate and distinct” from Morocco?
3. Does Siemens consider that it should take into consideration EU case-law and international law when it takes on a project in a conflict area? Is it only for “international bodies, states and others” to act in line with international law, and do multinational corporate entities operate outside of the legal order?
4. A 2016 policy paper by the European Parliament’s policy department called for a coherent approach to situations which are comparable under international law, specifically in the cases of Palestine, Crimea and Western Sahara? What is the basis of Siemens’ different position in respect of materials supplied into Crimea from that of Western Sahara?

Thank you for your consideration and we look forward to receiving your views.

Sincerely,

Sara Eyckmans

Coordinator

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