

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

Brussels  
26 September 2016

**Re.: Siemens' involvement in Morocco's renewable energy projects in Western Sahara**

Dear Mr Tacke,

It is our privilege to write to you. Western Sahara Resource Watch is at present finalizing a report about Morocco's renewable energy projects in occupied Western Sahara. Given Siemens' connection to all of those contentious projects, your firm will be featured in the report. Accordingly, we would be grateful for your comments to the questions below, so that we may accurately reflect Siemens' views and position in the upcoming publication.

Siemens, in collaboration with Enel Green Energy and Nareva, has been constructed by Morocco's National Office for Electricity and Water (ONEE) to construct five wind farms with a combined capacity of 850 MW. Three of those wind plants will be located in Morocco proper (Tangiers, Midelt and Jbel Hadid). The two other plants, accounting for almost half of the planned capacity, are to be constructed outside of the internationally recognized border of Morocco; inside the part of Western Sahara that Morocco illegally occupies since 1975; in Tiskrad and Boujdour. Three years ago, Siemens also participated in the construction of the Fom El Oued wind park, also located in what is often referred to as Africa's last colony.

In our previous letters to your company, we outlined our concerns with regard to Siemens' involvement, and explained why we consider such a participation in Morocco's colonial project in Western Sahara to be morally unacceptable, politically dangerous and legally questionable. We will not reiterate those concerns here.

However, we cannot see having received an answer to any of the questions that we raised in writing, including through the UN Global Compact mediated dialogue that we had requested. Hence, we wish to repeat the most pertinent of those questions here, as the answers are still relevant.

1. How has Siemens assured itself of the consent of the Saharawi people, through their internationally recognized representative body, the Frente Polisario, for the construction of wind energy plants in Western Sahara?
2. How does Siemens evaluate the construction of infrastructure on occupied land in view of its position on socially responsible investments?

3. Does Siemens consider the human rights compliance of its business partners to be relevant in the context of fulfilling the principles of UN Global Compact?
4. Does Siemens consider that the human rights impacts of sales agreements or of maintenance contracts are relevant in the context of assuring human rights within its sphere of influence?
5. Does Siemens consider it relevant to engage in talks with the local communities affected by the company's operations?

In addition, it is worth noting that the General Court of the Court of Justice of the European Union (CJEU) on 10 December 2015 partially annulled the EU-Morocco agricultural agreement in so far as it applied to Western Sahara. The Court stated that Western Sahara "is not included in the recognised international frontiers of [Morocco]", and "that the Kingdom of Morocco does not have any mandate granted by the UN or by another international body for the administration of [Western Sahara]" (points 232-233, Case T-512/12). As such, the CJEU echoes the 4 July 2014 Decision of Spain's High Court, the *Audiencia Nacional* which confirms that Spain, not Morocco, is the administering power over Western Sahara, and that the "territory cannot be considered Moroccan"(Case-Law Registry N° AAN 256/2014). Earlier this month, the General Advocate of the CJEU stated in his Legal Opinion that Western Sahara is not part of Morocco, and that no EU agreement with Morocco could apply to the territory (Conclusions de M. Wathelet, C-104/16).

Following these developments, we would welcome your reply to these additional questions.

6. Does Siemens consider Western Sahara to be part of Morocco – given its referral to the location of its projects in the territory as "south Morocco"?
7. How does Siemens assess the Decision of the *Audiencia Nacional* that Spanish criminal law still applies in Western Sahara, as Spain has never formally decolonized?
8. How does Siemens assess the views of the CJEU, that Western Sahara is not part of Morocco?

We would be grateful for your response before 4 October 2016. A reference to your response will be made in the mentioned report.

As always, we welcome the opportunity to provide you with any additional information that you may require to study this matter more closely. We thank you for your consideration of our letter and look forward to your reply.

Sincerely,

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Western Sahara Resource Watch  
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