

ACWA Power
Business Gate Office Complex
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Kingdom of Saudi Arabia

Brussels
29 November 2016

To the attention of Mr Paddy Padmanathan
President and CEO of ACWA Power

Re.: ACWA Power's involvement in NOOR Laayoune and NOOR Boujdour

Dear Mr Padmanathan,

Western Sahara Resource Watch (WSRW) is writing to you following the announcement that the Moroccan Agency for Solar Energy (MASEN) has selected ACWA Power for the construction and operation of 170 MW of photovoltaic capacity in Morocco. The NOOR PV I project will be carried out in three different sites; Ouerzazate, Laayoune and Boujdour.

However, the latter two locations are not located in Morocco proper, but inside the Non-Self-Governing Territory of Western Sahara that has been under Morocco's military control since 1975. The 80 MW NOOR Laayoune will be based in El Aaiun, the capital city of Western Sahara, while NOOR Boujdour is to be developed further south along the coastline, near the town called Boujdour.

ACWA Power's previous work at the Ouerzazate Solar Power Station, or Noor Power Station, is impressive; a state-of-the-art showpiece of solar technology. It would be regrettable if ACWA's reputation were to be tarnished through Noor PV I, which will implicate the firm into a protracted conflict.

Western Sahara is regarded by the United Nations as a Non-Self-Governing Territory that still awaits decolonization, and one without a legally accepted administering power in place. Its people, the Saharawi, have been accorded the right to self-determination – a right restated in now more than 100 UN resolutions. Just early November, the UN Human Rights Committee urged Morocco to allow the Saharawis to exercise that very right, and stressed the importance of their "prior, free and informed consent to the realization of developmental projects and [resource] extraction operations". See: <http://wsrw.org/a105x3627>

The war between Morocco and Frente Polisario has resulted in a military division of the territory and a ceasefire that is being monitored by the UN. Meanwhile, Morocco continues to trample the most basic human rights of Saharawis that live under the yoke of its occupation. Approximately 160.000 Saharawi refugees today live in inhumane conditions in Algerian refugee camps, located in the most inhospitable part of the Saharan desert, as a consequence of the invasion.

The UN Legal Opinion on economic activities in Western Sahara notes that two legal requirements ought to be fulfilled in order for the any activity inside or affecting Western Sahara to be permissible under international law: they must be in accordance with the wishes and to the benefit of the Saharawi people. The author of that Opinion, ex-UN Under-Secretary General for Legal Affairs Hans

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Western Sahara Resource Watch works to raise awareness of the illegal occupation of Western Sahara and to support the recognition of the Saharawi people's right to self-determination.

Corell, has stated earlier this month that these principles also apply to renewable resources and energy sources.

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). In September 2016, 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).

Our organization would be grateful for an answer to the following questions:

1. What steps has ACWA Power undertaken, if any, to obtain the prior, free and informed consent of the Saharawi people, through their internationally recognized political representation, the Frente Polisario, with regard to the construction of NOOR Laayoune and NOOR Boujdour?
2. How does ACWA Power consider the Saharawi people's right to self-determination over the territory, and their right to decide over their own resources?
3. How does ACWA Power assess the views of the CJEU, that Western Sahara is not part of Morocco?

We do not believe it is in ACWA Power's interest to be associated with an illegal occupation. The very idea of developing renewable energy in a human rights blackspot is unfathomable. We sincerely hope that you will reconsider your engagement in Western Sahara.

Thank you very much for your consideration of our letter, and we look forward to hearing from you.

Sincerely,

Sara Eyckmans
Coordinator
Western Sahara Resource Watch
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