

Climate Bonds Initiative

14 February 2017
Brussels

To the attention of CEO Sean Kidney

Regarding certification of Green Bonds for projects in occupied Western Sahara

Dear Mr. Kidney

Thank you for your mail to us on 22 January 2017. We appreciate your expeditious response. As you seem to have been in a hurry on your way to India, and responded swiftly before our trip to London, we see that maybe this was not an effort to respond to the letter, but rather to clarify your lack of availability on the suggested dates. So we write this new letter to you, bearing in mind that you could still be working on a response to our initial letter. Having this matter of the CBI certification of Moroccan projects outside of Morocco rectified is a matter of great urgency.

The little which was indeed written in your mail does not address our concerns, so allow us to try to spell them out more clearly.

The concern expressed in our letter was twofold. First, that CBI *has no right* to certify bonds in Western Sahara. Second, that the already certified bonds are erroneously presented on your website and vis-à-vis investors. Lastly, we requested some information from the verifier's report.

First point first.

You state in your mail to us that the "Certification does not address background and jurisdictional governance issues". CBI would know far better than us what the certification is meant to address or not, and we will not question that. Please note that we have *not* asked if the certification should address such issues.

As we've elaborated in the previous letter: it is our opinion that CBI *has no right* to undertake the work to certify bonds covering Moroccan projects in Western Sahara. Whatever the standard is saying or not saying is irrelevant. CBI is obliged – for instance in view of the UN Guiding Principles for Business and Human Rights – to not contribute to violations of human rights *itself*. The energy projects constitute a grave example of human rights violations, as they have failed to obtain consent of the people of the territory. And CBI itself is responsible for making sure that *its own activities* are not equally violating the rights of the Saharawis.

As we see it, CBI is not in a position to – lacking the consent of the people of occupied Western Sahara – facilitate what is to be the financing of projects on their land. CBI's act of certifying such projects is violating the rights of the Saharawi people. This is why we question whether CBI might have been misled by Vigeo Eiris, which has a very deep interest in Morocco.

Just to underline: North Korea and Turkmenistan which you mention in your mail, are both sovereign states. Even though investing in such states will require extremely careful due diligence, these two states do have governments with a certain legal right to carry out projects on their own national territory. Both those states are members of the UN, and both have borders which are internationally recognised. Morocco, too, is a sovereign country, and has all right to develop all the projects that it wants. Morocco too, has borders which are internationally recognised.

But, as explained in the mail, Western Sahara is different. The projects in Western Sahara are initiated by an institution with no legal right to the land where the projects are located. The territory is "distinct and separate" from Morocco, as the Court of Justice of the European Union puts it. CBI has in other words

entered into an agreement to secure financing projects – and that agreement in itself is against the wishes of the people who are affected by that agreement.

Our concern is thus that CBI has decided to undertake a work commissioned by Morocco for a project located at a place which is not Morocco. We are talking of *the role of CBI* and its obligations to respect and protect human rights *itself*, and its obligations in not interfering in matters in the territory of Western Sahara against the wishes of the people of Western Sahara. We do *not* question what the standard is meant to address.

On this basis, we wish to repeat our first request:

To take immediate measures to find out how this could have happened, and reverse the decision to certify bonds for those of MASEN's projects that are located in Western Sahara.

The second point is regarding the false information on your website. We see that this is not mentioned in your email to us, and the website remains unchanged since our first request to you.

CBI is currently providing misleading information regarding the locations of the projects.

CBI has a moral responsibility to not give legitimacy to the brutal occupation of the territory. Equally, it has a responsibility vis-à-vis investors to not mislead them into investing in projects in Western Sahara.

We are not questioning what the standard is including or not, we are asking that CBI, while **waiting for the cancellation of such certifications, immediately rectifies the errors on your website, with a notification that MASEN's projects are not only in "Morocco", as is written now, but also in occupied Western Sahara, which is not in Morocco.**

For all we know, the false information about the location of "Morocco" could be included also in other documents or reports circulating.

Lastly, we look forward to receive the verifier's report relating to the MASEN projects, as it is not published online. <https://www.climatebonds.net/standards/certification>

We look forward to answers to those three elements.

We cannot underline strongly enough the importance for the credibility of this system to correct this matter. From our side, we would be required to contact all institutional investors that we have developed relations with over the last decades to prevent them from investing in these CBI/Vigeo Eiris certified bonds, as they are fundamentally unethical. These banks have systematically divested from companies operating in Western Sahara and need to be aware of the controversy.

If this is not corrected, the Saharawi civil society would need to publicly denounce all the players behind this certification system, for facilitating the financing of illegal projects on their land. The liberation movement has proven able to take such issues to court.

We send this reply mail - and our original request - in copy to some institutions which we've kept in copy in our dialogue with Vigeo Eiris; many of which have stated that they'd wish to be kept updated:

-Peter Webster and to the other participants of the panel debate in the UN Business Forum on Business and Human Rights where WSRW attended last year.

-The Eiris staff that I'm in contact with and met, as well as people in the Eiris sales and information department who perhaps will hear about this issue from concerned clients in Europe, as well as the extractives group, which I believe has been looking at issues of Western Sahara's plunder in the past, and the Crimea/Palestine project.

-Business and Human Rights, which has undertaken several studies on ethics in the renewable sector, and who organised a constructive panel debate on ethics and rights in the renewable sector in the forum in

Geneva.

-Our member organisation Western Sahara Campaign UK, which has taken the UK customs to court over labelling of Western Sahara goods, as well as the association APSO which follows this issue in France.

-Jalihenna Mohamed, who is running the Saharawi Campaign Against the Plunder. Some months ago, they had hundreds of refugees protesting against a wind energy project.

-Frente Polisario's lawyer Gilles Devers who handled/handles Polisario's cases in the Court of Justice of the EU.

Looking forward to hearing from you as soon as possible.

Sincerely

/sign./

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