

Climate Bonds Initiative

19 January 2017  
Brussels

To the attention of CEO Sean Kidney

**Regarding certification of Green Bonds for projects in occupied Western Sahara**

Dear Sir,

Western Sahara Resource Watch is an NGO that investigates the companies and governments involved in the maintenance of the Moroccan occupation of Western Sahara through investments and trade agreements.

First, allow us to commend you for the very important work that CBI is doing for the renewable transition. The reason we write, however, is regarding the Green Bonds certified for Morocco's energy projects outside of the internationally recognised borders of Morocco, in Western Sahara.

Over the last years, our association has been looking into the matter of Morocco's renewable energy projects in Western Sahara. There are several problematic aspects in this: the sector provides energy to the continued plundering of non-renewable resources, it has negative effect on the population composition through the influx of settlers from neighbouring Morocco, it gives an impression of a "normalisation" of the occupation, it is not to the benefit of the people of the territory, the representative body of the people of Western Sahara object to it, and the industry is to a large extent controlled by a company controlled by the Moroccan royal family.

Morocco's claims to the territory are rejected by the International Court of Justice and now lately by the Court of Justice of the EU in a judgement on 21 December 2016. The occupation is condemned by the UN. The UN Human Rights Council has twice in 2015 and 2016 expressed that Morocco in its dealings in Western Sahara fails to respect the human rights of the people of the territory by not seeking their consent in matters of the investments in the territory.

A report that we published in November 2016, 'Powering the Plunder', documents how 26% of the renewable energy of Morocco in 2020 will be produced outside of Morocco, in the territory that it so brutally holds under occupation.

Concerned about these issues, WSRW has been in contact with numerous private and public investors. EIB, the European Commission, the World Bank and the KfW have all stated it would not be possible for them to give credit to such projects in the territory. The certification company DNV GL has not wished to certify projects in Western Sahara, exactly due to their location.

Then we find it deeply worrisome, perhaps 'confusing' is a better word, to observe that the CBI/green bonds system now could allow for that.

The fact that these projects are positive for the global climate is irrelevant in this context. Our concern is one of international law and human rights. Agreements signed for Western Sahara by the neighbouring country of Morocco are null and void.

Bonds issued for projects in Western Sahara carry a very high financial risk. The representative body of the people of Western Sahara, Polisario Front, has not given its consent to the projects or to the bonds. Polisario's demand in the Court of Justice to exclude Western Sahara from the application of the EU-Morocco trade agreements won through in December 2016. Few sectors of Moroccan business in Western Sahara are more damaging for the realisation of the right to self-determination for the Saharawi people, than Morocco's renewable energy strategies today. Polisario could possibly challenge such projects in court. A speculation about Polisario's will to take legal steps against the Moroccan king's wind energy

company to court was recently published in Africa Intelligence (12 January 2017, 'Polisario has nareva in its sights in Brussels').

We find it surprising that one would expose investors to such risk, offering bonds for Moroccan projects which are based on agreements that are null and void, and whose long term value depends on the continued illegal Moroccan presence in the territory.

The certification of these projects obviously risk tarnishing the image not only of the companies involved in the facilitation of such illegal projects, but the same could happen to the entire concept of green bonds.

It is WSRW's opinion that CBI has no right to certify bonds covering Moroccan projects in Western Sahara. Neither CBI nor MASEN seem to have taken initiatives to seek the consent of the legal representatives of the people of the territory. We suggest that CBI does a careful study of the judgement of the CJEU, which elaborates on the necessity of seeking such consent.

Vigeo Eiris, who carried out the assessment of MASEN's issuance, is a company with strong financial interests in Morocco. The involvement of Vigeo Eiris in this process came as a shock to us. We have previously had a good contact with Eiris prior to the merger with Vigeo, they have shown a good understanding of principles of international law. The problem with these bonds came after the Vigeo Eiris merger, through Vigeo's presence on the Moroccan market.

The letter that Vigeo Eiris sent us on 19 December 2016 and the erroneous maps which it has published on its website (and which is still there, 2 whole months after we first contacted them), underlines the political position which Vigeo Eiris has taken on the conflict, and the fundamental lack of knowledge that the company has in relation to principles of international law applying to the question of Western Sahara. The position of Vigeo Eiris on this matter does not reflect those of the United Nations.

We requested confirmation from Vigeo Eiris on the veracity of the news in a letter on 18 November. They confirmed this on 19 December. We sent them a new letter on 23 December, which we still wait for response to. We have now requested Business and Human Rights Centre to assist us to achieve a response from the company.

You might have seen it already: we posted an article on our website on 23 December regarding the certification of these bonds in Western Sahara. <http://wsrw.org/a105x3704>

Vigeo Eiris wrote to WSRW on 19 December that "The CBI framework focuses solely on projects' impact on climate change and their contribution to energy transition and efficiency". That misses the point. A basic due diligence would not allow MASENs two projects in Western Sahara to be certified in the first place, considering their location and the status of MASEN in relation to the territory the projects are located on.

Based on the content of Vigeo Eiris's letter, it seems clear why the controversy had not been picked up. The company seems either incompetent or not independent enough to pronounce itself on matters of human rights and international law regarding projects in the non-self-governing territory of Western Sahara.

We are also concerned that on the website of CBI – on several places – one gets the impression that the MASEN bonds are in relation to projects in Morocco. That obfuscates half the truth. The mistake seems to be in all contexts where MASEN is mentioned. Private and public investors all over Europe have blacklisted companies who work in Western Sahara, and would not like to be lured into buying bonds in Western Sahara, thinking they are in fact located in Morocco.

This is a serious matter for the Saharawi people. The people that our association is in contact with are furious, and CBI needs to address this problem, the sooner the better.

WSRW hereby requests CBI:

- 1) 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 located in Western Sahara.
- 2) While waiting for the cancellation of such bonds, immediately rectifying the errors on your website, with a notification that MASEN's projects are not only in "Morocco", as it is written now, but also in occupied Western Sahara, which is not in Morocco.
- 3) To send us the verifier's report relating to the MASEN projects.

**Finally, we would appreciate if we can meet:**

**We will be in London on 2 February in the afternoon (after 1 PM) and on the 3 February at any time before 5 PM. A meeting on one of these two dates would be highly appreciated.**

Looking forward to hear from you as soon as possible. Again, we want to underline that we have a deep respect for the work that CBI is doing for the climate. We hope we can find a way together to solve this problem that has emerged, immediately, and that the important efforts that you are undertaking are not undermined by any legitimate campaigning from the Saharawi people.

A copy of this letter is sent to CEO of Vigeo Eiris, Ms. Nicole Notat.

Sincerely

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