

 <p>CDM: FORM FOR SUBMISSION OF A “LETTER TO THE BOARD” (Version 01.2)</p> <p>This form should be used only by project participants and other stakeholders for submitting a “Letter to the Board” in accordance with the latest version of the <i>Modalities and procedures for direct communication with stakeholders</i></p>	
Name of the stakeholder ¹ submitting this form (individual/organization):	Sara Eyckmans Western Sahara Resource Watch
Address and contact details of the individual submitting this form:	Address: Lindelsebaan 260B, 3900 Overpelt, Belgium Telephone number: +32 475 45 86 95 E-mail address: coordinator@wsrw.org
Title/Subject (give a short title or specify the subject of your submission)	Western Sahara and the CDM-UNFCCC Fom el Oued Windfarm Project
Please mention whether the submitter of the form is:	<input type="checkbox"/> Project participant x Other stakeholder, please specify Non-Governmental Organisation
Specify whether you want the letter to be treated as confidential ² :	<input type="checkbox"/> To be treated as confidential x To be publicly available (UNFCCC CDM web site)
Please choose any of the type(s) below ³ to describe the purpose of this submission.	
<input type="checkbox"/> Type I: <input type="checkbox"/> Request for clarification <input type="checkbox"/> Revision of existing rules <input type="checkbox"/> Standards. Please specify reference <input type="checkbox"/> Procedures. Please specify reference <input type="checkbox"/> Guidance. Please specify reference <input type="checkbox"/> Forms. Please specify reference <input type="checkbox"/> Others. Please specify reference <input type="checkbox"/> Type II: Request for Introduction of new rules <input checked="" type="checkbox"/> Type III: Provision of information and suggestions on policy issues	
Please describe in detail the issue on which you request a response from the Board, including the exact reference source and version (if applicable).	

¹ DNAs and DOEs shall use the respective DNA/DOE forms for communication with the Board.

² As per the applicable modalities and procedures, the Board may make its response publicly available.

³ Latest CDM regulatory documents and information are available at: <http://cdm.unfccc.int/Reference/index.html> .

We write to express our grave concern about funding proposed to be obtained from the Clean Development Mechanism for the Fom el Oued wind power project at el-Aauin in Western Sahara. We request funding not be advanced and that the Clean Development Mechanism consider measures to ensure proposals of such kind are avoided in the future.

Western Sahara Resource Watch (WSRW) works in solidarity with the Saharawi people who are the original, rightful inhabitants of Western Sahara. Half the Saharawi people have lived in desert refugee camps since they fled Morocco's invasion of their homeland in 1975. Others remain in the occupied part of Western Sahara where they suffer serious human rights violations and have been substantially denied participation in the primary economic activities of mining and fishing. Numerous United Nations resolutions support the Saharawi people's right of self-determination, a universal norm confirmed in 2010 by the International Court of Justice in its Kosovo advisory opinion.

Western Sahara - Background

Western Sahara has been called Africa's last colony. The Saharawi are ethnically, culturally and linguistically distinct from their neighbours. For more than 40 years the people of the territory have been declared by the United Nations as having the right to be decolonized, that is, to determine their legal and political status in the organized international community. When Spain left Western Sahara in November 1975 the International Court of Justice had recently upheld the right of the Saharawi people to self-determination.

After Spain gave up the Sahara, the territory was invaded and occupied by Mauritania and Morocco. Mauritania left the territory in 1979 after concluding a peace treaty with the Saharawi national liberation movement, the Frente POLISARIO. On February 27, 1976, the Frente POLISARIO declared the independence of the Saharawi Arab Democratic Republic, a state recognized by more than 70 countries and a member of the African Union since 1984. Morocco began settling its nationals into Western Sahara not long after its occupation was secure in early 1976. They now outnumber Saharawi who remain in the territory by at least two to one, not including more than 100,000 Royal Moroccan Armed Forces soldiers who garrison Western Sahara. A United Nations mission has been deployed in Western Sahara for more than 20 years. That mission, MINURSO, was not intended for peacekeeping but rather was to ensure the Saharawi people would realize their self-determination, as with South West Africa (Namibia) and East Timor (Timor-Leste) before.

The facts of Morocco's occupation of Western Sahara are well known and uncontroversial. The occupation fails to meet basic requirements of the *Fourth Geneva Convention* and the *International Covenant on Civil and Political Rights* as well as other requirements of customary international law. Morocco's occupation of Western Sahara has been declared illegal under the United Nations *Charter*, and violates the law of self-determination for colonized (non-self-governing) peoples as well as international criminal law. The taking of resources from Western Sahara has been a continuing problem, prolonging the occupation and reducing resources for the future economic and social development of the Saharawi people. In 2011 the value of the principal resources of the fishery and exported phosphate rock exceeded \$500M. Serious concerns over the EU-Morocco *Fisheries Partnership Treaty* that had allowed fishing by foreign vessels on the coast of occupied Western Sahara resulted in its rejection in December 2011 by the European Parliament.

The UNFCCC-CDM Project in Occupied Western Sahara

The Clean Development Mechanism (CDM) of the United Nations Framework Convention on Climate Change (UNFCCC) is considering an application to finance construction of the Fom El Oued Wind Farm Project. A Project Development Document (PDD) details the proposed construction and operation of forty-four 2.3 megawatt turbines in "a 100 megawatt (MW) grid-connected wind farm in the municipality of Laayoune, 9 km east of the wharf in the south of Morocco [sic]". NAREVA Holding, a Moroccan industrial and financial group, is to own and operate the wind farm. Fom el Oued is inside the internationally recognized borders of the territory of Western Sahara. The PDD identifies Morocco as the "host country" without mentioning the status of Western Sahara. The project would be done in territory illegally occupied by Morocco and held by armed force.

Version 01.2/ 8 February 2012

The Fom El Oued Project Development Document describes the proposed works as part of an ongoing intensification of the exploitation of resources in occupied Western Sahara involving increasing activity by

Please provide any specific suggestions or further information which would address the issue raised in the previous section, including the exact reference source and version (if applicable).

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[replace this bracket with text, the field will expand automatically with size of text]

If necessary, list attached files containing relevant information (if any)

- [NB! The formatting of this word file does not seem to allow entering more than 1 page letter. Please find a copy of our entire letter attached. Thank you for letting us know if the completion of this form is not done adequately. Sincerely, Sara Eyckmans]

Section below to be filled in by UNFCCC secretariat

Date when the form was received at UNFCCC secretariat	16 May 2012
Reference number	2012-111-S

History of document

Version	Date	Nature of revision
01.2	08 February 2012	Editorial revision.
01.1	09 August 2011	Editorial revision.
01	04 August 2011	Initial publication date.
Decision Class: Regulatory Document Type: Form Business Function: Governance		

14 May 2012

To the attention of Mr. Maosheng Duan
Chair, Executive Board
Clean Development Mechanism
UNFCCC Secretariat
Martin-Luther-King Strasse 8
D 53153 Bonn
Germany

Western Sahara and the UNFCCC-CDM Fom el Oued Proposed Windfarm Project

Dear Mr. Duan:

We write to express our grave concern about funding proposed to be obtained from the Clean Development Mechanism for the Fom el Oued wind power project at el-Aauin in Western Sahara. We request funding not be advanced and that the Clean Development Mechanism consider measures to ensure proposals of such kind are avoided in the future.

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WSRW consists of organisations and individuals from more than 30 countries who research and monitor all aspects of natural resource exploitation and environmental protection in occupied Western Sahara. We believe that the occupation of Western Sahara will not end as long as Morocco profits from it.

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Western Sahara not long after its occupation was secure in early 1976. They now outnumber Saharawi who remain in the territory by at least two to one, not including more than 100,000 Royal Moroccan Armed Forces soldiers who garrison Western Sahara. A United Nations mission has been deployed in Western Sahara for more than 20 years. That mission, MINURSO, was not intended for peacekeeping but rather was to ensure the Saharawi people would realize their self-determination, as with South West Africa (Namibia) and East Timor (Timor-Leste) before.

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The Fom El Oued Project Development Document describes the proposed works as part of an ongoing intensification of the exploitation of resources in occupied Western Sahara involving increasing activity by firms supported by the Moroccan government. The project is evidently behind schedule given that its first phase was expected to start on 15 October 2011. In fact, the project remains at the validation stage and so at the present time has not yet been finally approved. CDM financing is said to be required to ensure the project is attractive to NAREVA Holding by revenues through the sale of Certified Emissions Reductions (CERs).

The Fom El Oued project is objectionable for three reasons. First, the Saharawi people have not consented to the project. It is accepted under international law that development in a non-self-governing territory such as Western Sahara cannot be undertaken unless there is consent by the legitimate inhabitants of the territory and the direction of benefits to them. Here it must be understood that those Moroccan nationals illegally settled in occupied Western Sahara are not "inhabitants" competent to give consent for industrial and infrastructure development in the territory.

Second, building infrastructure in Western Sahara entrenches an illegal occupation. Construction for electrical power generation and distribution gives the appearance of legitimacy to the annexation of the territory in circumstances that continue to delay the Saharawi people's exercise of self-

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determination. While ensuring electrical power in an occupied territory is acceptable as a matter of international humanitarian law, the Fom el Oued project is being done to expand electrical capacity in the territory, something that will permit additional Moroccan settlers in Western Sahara. Troublingly, it appears that part of the electricity is intended for export to Morocco's national grid itself.

Third, the Saharawi people who live in refugee camps inside Algeria will derive no benefit from the Fom El Oued Wind Farm Project. The majority of this population does not have access to mains electrical power, with resulting problems of safety, food hygiene, education and social activities.

Suggested reforms to CDM project vetting

It is unfortunate that the Fom el Oued project has progressed to the present point, for it was manifestly flawed from the outset. The advancement of the project to preliminary consideration and approval could have been avoided. We suggest the Clean Development Mechanism vetting guidelines can be improved, including as they apply to funding requests from states known to be engaged in international conflicts or occupying territories in which there is a United Nations peacekeeping presence or for which - as here - the United Nations has declared a territory to be under occupation. In such instances, it may be acceptable to proceed if the consent of the legitimate, original inhabitants is secured directly by the CDM on a free, prior and informed basis.

The present draft *Guidelines for Completing the Project Design Document form for Carbon Capture and Storage CDM Project Activities* could usefully include criteria to flag proposed projects in international conflict zones and areas which the United Nations have designated as non-self-governing for self-determination purposes.

We further suggest that the present terms of reference for the CDM Accreditation Team and Accreditation Panel be revised to ensure there is a sufficient capacity, including for the independent gathering of evidence as to the impacts and desirability of a project from peoples in a proposed project area, independent from that of the applicant organization.

Conclusion

We hope for your understanding that we find this a subject of extreme urgency. We respectfully request that validation of the Fom el Oued wind park project be withheld and that the Clean Development Mechanism considers measures to ensure proposals of such kind are avoided in the future. We'd be most grateful to hear how the CDM-UNFCCC intends to address the matter.

We thank you for your consideration of the foregoing representations in what is a matter of great importance for the Saharawi people. Should you require any further information, please do not hesitate to contact us.

Yours sincerely,

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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.

- c: His Excellency Hany Abdel-Aziz, Special Representative of the Secretary-General,
United Nations Mission for the Referendum in Western Sahara, MINURSO

- c: Mr. Georg Kell, Executive Director of UN Global Compact

- c: Dr. Margaret Jungk, Chair-Rapporteur of the Working Group on the issue of human rights and
transnational corporations and other business enterprises

- c: Dr. Felix Ferlemann, Chief Executive Officer of the Wind Power Division, Siemens AG