

To: David Bent-Hazelwood, Eiris Foundation, board member of Vigeo Eiris



28 November 2018, London

RE: Vigeo Eiris and its support of projects in occupied Western Sahara and the role of the Eiris Foundation

I am contacting you in your capacity as a board member of Vigeo Eiris as a representative of the Eiris Foundation.

We greatly admire the Eiris Foundation's intention to map and systematise information relating to businesses on occupied land, and we have studied what the foundation has published regarding the database of foreign commercial activity in occupied Palestine and Crimea. We have also read the excellent report *Questions to help companies respect human rights in occupied territories* published by the Eiris Foundation in November 2018.

This kind of research is also the *raison d'être* of our association. Western Sahara Resource Watch maps companies operating in occupied Western Sahara, and we confront the companies as to how they assess the legality and consequences of the operations they undertake. As your organisation so accurately puts it on your website: "occupying governments use economic activity to help secure and maintain their control of territory".

We presume that your foundation has taken note of our association's efforts to get clarification from Vigeo Eiris relating to its certification of bonds for a Saudi-Moroccan energy project in the occupied territory of Western Sahara in 2016. Vigeo Eiris has openly defended the activities it undertook with regard to supporting commercial activities in Western Sahara. The company's approach to the conflict is not in line with that of the United Nations. Vigeo Eiris consistently applies terminology and maps that are identical to the ones of the Government of Morocco, and refuses to answer our questions regarding its interpretation of international law. We welcome you to read an article summarising our dialogue with Vigeo Eiris on our website.¹ That article contains links to our entire correspondence with the company.

A number of questions that we sent to Vigeo Eiris in 2016 – in relation to international law and their own policies – hitherto remain unanswered.

We at WSRW consider it paradoxical that the Eiris Foundation on the one hand runs a database on companies operating on occupied land in Palestine and Crimea, while at the same time sitting on the board of Vigeo Eiris, which actively supports Moroccan businesses in occupied Western Sahara.

We also note that Vigeo Eiris' Director of International Affairs is the CEO of the Eiris Foundation and that the Eiris Foundation is a shareholder of Vigeo Eiris.²

The fact that shareholders have leverage on the ethical behaviour of their companies is underlined in your recent report *Questions to help companies respect human rights in occupied territories*. The report addresses primarily the situations in Crimea and Palestine, but notes that the tools can also be applied in Western Sahara.

¹ <https://wsrw.org/a246x3765>

² Eiris Foundation notes on its website both to control 5% and to be "the single largest shareholder (19%) of the research agency Vigeo Eiris".

<http://www.eirisfoundation.org/who-we-are/>

<http://www.businessinoccupiedlands.org/about-us>.

We expect the reference to 19% is no longer correct

With a substantial competence in matters of international law, with a proven expertise on issues of due diligence in relation to operations on occupied land, and simultaneously as a board member and shareholder of Vigeo Eiris, we now approach you and the Eiris Foundation, to ask what has been done to confront Vigeo Eiris' management in aiding Moroccan and foreign business operations in the occupation of Western Sahara.

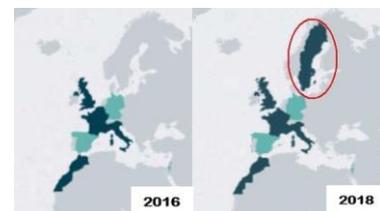
On this basis, WSRW would be grateful for an answer to the following questions:

Regarding international law and the Eiris Foundation's methodology

- 1) Is it of the opinion of the Eiris Foundation that Western Sahara is under illegal Moroccan occupation (ref. UN General Assembly 34/37)?
- 2) Is it of the opinion of the Eiris Foundation that Morocco has no sovereign rights to Western Sahara (ref. the Court of Justice of the European Union judgments of 21 December 2016 and 27 February 2018, and the ICJ advisory opinion of 1975)?
- 3) Vigeo Eiris does not agree with the terminology of 'occupation' of Western Sahara since that term is 'not endorsed by the whole international community'. On the Definitions section of the Business in Occupied Lands website, the Eiris Foundation writes the following regarding Crimea and Palestine: "In determining that these two territories are occupied, we consider the decisions of the United Nations (UN) General Assembly and relevant UN agencies."³
Does the Eiris Foundation believe that the use of the term 'occupation' by 'the whole international community' is a prerequisite for defining a territory as occupied, or is it sufficient that, for instance, the United Nations General Assembly has applied such terms?
- 4) Vigeo Eiris states that it cannot refuse to certify Moroccan projects in Western Sahara since it wants to maintain an 'independent' role. In view of the Eiris Foundation's expertise on occupied Palestine and Crimea, how does it assess such a line of argument? For instance, if a company that facilitates Russian infrastructure projects in Crimea were to label Crimea with Russian terminology, and were to present maps that include Crimea as part of Russia, would such a company fall out of the scope of the controversies of international law (as defined by the methodology of your project), if they were to assure that they operate there in an 'independent' capacity?
- 5) Vigeo Eiris argues that Moroccan infrastructure projects in Western Sahara are positive, as they support the local population and improve clean energy production. Would you view similar projects as positive when undertaken by Israel or Russia in occupied Palestine or Crimea?

As a board member of Vigeo Eiris, representing the Eiris Foundation:

- 6) Have you requested that Vigeo Eiris stops facilitating Moroccan and international businesses in occupied Western Sahara? If not, will the Eiris Foundation do so?
- 7) Have you requested that the Vigeo Eiris website apply maps of Morocco that are in line with those of the United Nations, and not ones where the occupied territories of Western Sahara are included? If not, will the Eiris Foundation do so? For ease of reference, you can compare the map on the front page of www.vigeo-eiris.com (screenshot to the right) with the one used by the United Nations: <https://www.un.org/Depts/Cartographic/map/profile/africa.pdf>



Western Sahara is part of Morocco, according to Vigeo Eiris. See map at the bottom of www.vigeo-eiris.com. The map was in 2018 changed to include Sweden, but Western Sahara remains as if part of Morocco.

³ <http://www.businessinoccupiedlands.org/methodology#definitions>

8) We notice that the Eiris Foundation applies the correct UN terminology on the territory – which is *Western Sahara* – and that Vigeo Eiris applies Moroccan terminology on the territory, such as ‘the region of Sahara’ or ‘the western side of Sahara’. These terms are even submitted by Vigeo Eiris in its COP report to the UN Global Compact. Have you ever requested that Vigeo Eiris apply UN terminology on such situations of occupation in general and Western Sahara in particular? If not, will you and the Eiris Foundation do so from now on?

9) From the statements given by Vigeo Eiris on the matter, it appears that it has not undertaken human rights due diligence when choosing to certify bonds for the controversial energy project. Have you or the Eiris Foundation raised with the management of Vigeo Eiris whether the company has competence or an interest in undertaking due diligence of its own operations (e.g. prior to issuance of certificates for projects on occupied lands), for instance by seeking external advice from actors competent on due diligence? If not, will you do so now?

10) Do you believe that Vigeo Eiris’ vocal support of the Moroccan occupation of Western Sahara through maps, statements and actions can put in question the credibility of the purpose, methodology and content of your ‘Business in Occupied Lands’ database or its general advice to investors in relation to investments on occupied lands?

11) Do you expect Vigeo Eiris to respond to questions from civil society?

We are strongly of the opinion that unless Vigeo Eiris ceases to support the occupation of Western Sahara through its commercial activities and its political statements, it leaves the Eiris Foundation with one of two options:

- 1) To totally disassociate itself from Vigeo Eiris, e.g. by ending its shareholder relationship, leaving the board and possibly changing its name.
- 2) To refrain from continuing any project relating to international law and databases on occupied territories, as the Foundation’s eloquent arguments on shareholder engagement vis-à-vis companies on occupied lands could be seen as only lip service that do not need to be followed up in practice.

We look forward to hearing from you,

Yours faithfully,



Beccy Allen

Member of Western Sahara Resource Watch / Committee Member of Western Sahara Campaign UK

A copy of this mail has been sent to:

Nicole Notat, president, Vigeo Eiris
Peter Webster, CEO, the Eiris Foundation
The Open Society Foundations