

2024

INTERNATIONAL COMPANIES OPERATING IN  
OCCUPIED WESTERN SAHARA - INTERNATIONAL  
LAW AND PERSPECTIVES



*Mohamed OULD CHERIF/Dr Ghali ZBER*

CENTRE D'ÉTUDES ET DE

DOCUMENTATION FRANCO-SAHRAOUI,

Ahmed Baba MISKE

02/02/2024

Table of contents

Legal Situation of Foreign Companies in the Occupied Territories of Western Sahara .....2  
CSR, a cosmetic façade for Western companies .....2  
Greenwashing Coupled with Rampant Colonialism.....3  
Perspectives .....4  
Details and Sectoral Analysis .....5

## Legal Situation of Foreign Companies in the Occupied Territories of Western Sahara

Despite the clear status of Western Sahara as a non-self-governing territory awaiting decolonization, recognized by the United Nations, several companies persist in their activities in these occupied territories. This situation raises major concerns, as it goes against the principles of Corporate Social Responsibility (CSR) and constitutes a blatant violation of international norms of behavior. Before reviewing the companies operating in Western Sahara, let's take a closer look at this issue and the implications of such illegal activities.

Indeed, according to the principles of the United Nations Charter, decolonization should occur through the free expression of the will of the people, ideally through a referendum for self-determination. However, despite an impartial census undertaken by the United Nations Mission for the Referendum in Western Sahara (MINURSO), Morocco contested and refused the results, leading to a revocation of its commitments to the Polisario Front and the UN for the referendum.

Since Morocco blocked the exercise of self-determination by the Sahrawi People, several judicial decisions (European, African) have confirmed the illegality of exploiting the resources of Western Sahara without the consent of the Sahrawi People or their sole representative, the Polisario Front.

These multiple legal decisions should serve as a benchmark for Corporate Social Responsibility (CSR). Consequently, non-compliance with international norms of behavior, particularly regarding the status of Western Sahara, constitutes a blatant violation of CSR principles. Companies are required to adhere to ethical standards and principles of international law when operating in contested areas.

However, Morocco, known for conducting diplomacy focused on corruption, especially in the corruption scandal involving the European Parliament, continues to lead companies (and lately, Israeli companies have "joined the fray") to engage in illegal activities in Western Sahara. These activities clearly contravene the principles of Corporate Social Responsibility (CSR). This situation raises concerns about the integrity of business practices in the region."

### CSR, a cosmetic façade for Western companies

Illegal activities and blatant violations of CSR standards reflect the persistent limitation of these standards, often perceived as an ever-evolving concept, or even by some companies as a mere "cosmetic" facade. International action remains crucial to ensure compliance with ethical standards, environmental regulations, and principles of international law, especially in contested areas such as Western Sahara. It is also noteworthy that 36 companies have ceased their activities in Western Sahara, demonstrating a significant response to the complex context of the region.

In this context, it is interesting to note that, in descending order, the number of companies engaging in illegal activities in Western Sahara mainly comes from the following countries: Spain (31), France (19), China (14), Germany (12), United Kingdom/USA (tied: 10), Israel (9), and Sweden (8). This

reflects both the diversity of actors and the sectors involved in this plunder. This underscores the importance of a comprehensive approach to address the complex issues of the Western Sahara conflict, although the original basis of the conflict is simple and evident both from an international law and legal standpoint, namely, unfinished decolonization.

A key and emblematic economic sector of the conflict of unfinished decolonization is the fishing industry. Indeed, the former colonizer, Spain, stands far ahead of other countries in its exploitation of the Sahrawi People's fishery resources. It is therefore not surprising to see that Spain has been a major actor in the almost constant contestation of decisions by the European Court of Justice regarding illegal fishing agreements between the EU and Morocco. These decisions declare that the exploitation of fishery resources without the consent of the Sahrawi People is illegal."

## Greenwashing Coupled with Rampant Colonialism

The analysis of sectors where these companies operate is also crucial. Indeed, recent years have seen a rise in the activities of the renewable energy sector. This raises serious concerns. The use of companies to exploit the natural resources of the region and the resort to greenwashing, by presenting themselves as engaged in clean energy projects, contribute to perpetuating the unjust situation of the illegal occupation of 70 to 75% of Western Sahara, coupled with rampant colonialism to provide a workforce within these companies; and effectively bypassing and violating international law. In this 'greenwashing' sector, the top 5 countries with companies preying on the resources of the Sahrawi People are Spain, France, China, Germany, the USA, and Italy.

Thus, in the document presented by the Sahrawi Arab Democratic Republic at the 26th climate summit (NDC - Nationally Determined Contributions), it is estimated that "Morocco's ability to achieve its climate goals and comply with the Paris Agreement depends in part on the development of renewable energy infrastructure in occupied Western Sahara. Thus, Morocco directly contributes to achieving the goals of the Paris Agreement by using climate finance to promote development in occupied lands for the benefit of the occupying state, depriving Sahrawi refugees of assistance and reinforcing structural inequalities resulting from the conflict, contrary to the principles of climate justice.

Morocco, which enhances its image through clean energy projects mainly located in occupied Western Sahara, has succeeded in securing climate finance totaling \$293.8 millions from multilateral climate funds until the end of December 2020, while Algeria and Mauritania received \$13.8 millions and \$74.4 millions respectively. Palestine, whose situation is similar to that of the Sahrawi Arab Democratic Republic, obtained \$28.3 millions, whereas the latter received no specific climate finance.

It should be noted that in May 2022, Morocco also obtained approval from the World Bank for a \$350 millions loan aimed, according to announcements, at "supporting the financing of the Blue Economy program and contributing to its economic growth by exploiting coastal resources to enhance

resilience to climate change." It is also noteworthy that most economic activities targeted by this program are oriented towards increased exploitation of marine resources in the part of Western Sahara illegally occupied by the Kingdom of Morocco.

The use of sustainable development and renewable energy projects as a cover for justifying and perpetuating an illegal and contentious occupation reveals a glaring irony. Furthermore, the reliance on international aid funds to finance these projects emphasizes the necessity for heightened scrutiny concerning their allocation and actual implementation on the ground.

This also underscores the importance of transparency, accountability, and international oversight to ensure that companies adhere to ethical standards and principles of international law, and that international funds are used consistently with stated sustainable development goals ».

## Perspectives

In the absence of action from the UN or the international community, from which we can rightfully expect defense of international law, civil society has an important role to play. It can contribute to raising awareness and condemning such practices because every company has a responsibility to adhere to international standards, especially in contexts like that of Western Sahara, where the political and legal groundwork available is more than sufficient.

Civil society can adopt various perspectives and actions to denounce the illegal activities of companies operating in Western Sahara. Some strategies may include approaches similar to those of BDS (Boycott, Divestment, Sanctions) or awareness campaigns targeting regional and state institutions in Europe, particularly local communities that often issue national or international tenders, as this level may bypass potential pitfalls of state reasons they could face.

The success of such actions has been demonstrated in the past, as was the case in the defeat of the apartheid regime in South Africa and continues today in the case of boycotting companies like Starbucks, McDonald's, Puma, or the French company Carrefour, in the case of the war Israel is waging against Palestinians in Palestine. In particular, civil society's pursuit of transparency and respect for human rights in projects funded by international aid (as in the case of the "Blue Economy" program mentioned above) should be facilitated by the nature of this aid. Access to data and traceability of these funds is much easier than in the case of private investments, and sustainable development projects cannot be conceived on the grave of human rights. Among these rights is the right of indigenous populations to control the resources of their respective territories.

In addition to the efforts of civil society, it is crucial to take action on the ground where Morocco has launched mining exploration operations targeting primarily gold, rare earths, and uranium, especially in collaboration with Canadian companies (representing 34% of companies in this sector). The

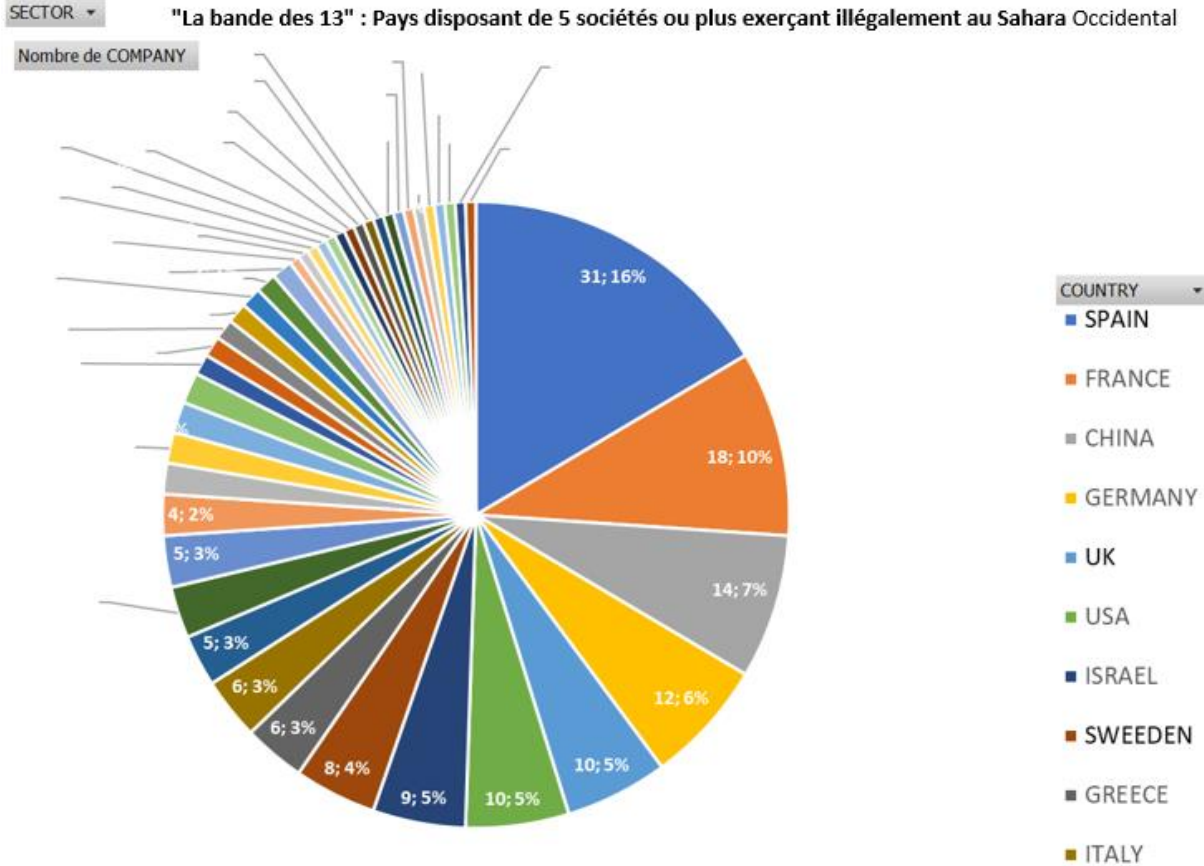
authorities of the Sahrawi Arab Democratic Republic and the Polisario Front should not allow this illegal activity to take place, or at least not allow it to develop into industrial activity.

If put into action, this initiative by the Sahrawi people would not only rest on solid legal grounds but also serve as a clear signal to other parties involved. Additionally, it would deter the exploitation of mining activities as a tool to further entrench occupation and impede the decolonization process in Western Sahara. Furthermore, recent experiences in similar situations in several African countries demonstrate that such mining discoveries are often synonymous with devastating bloody conflicts. Putting an end to these explorations now in the occupied territories of Western Sahara is an act that could prevent the region from encountering perilous outcomes and undesirable repercussions.

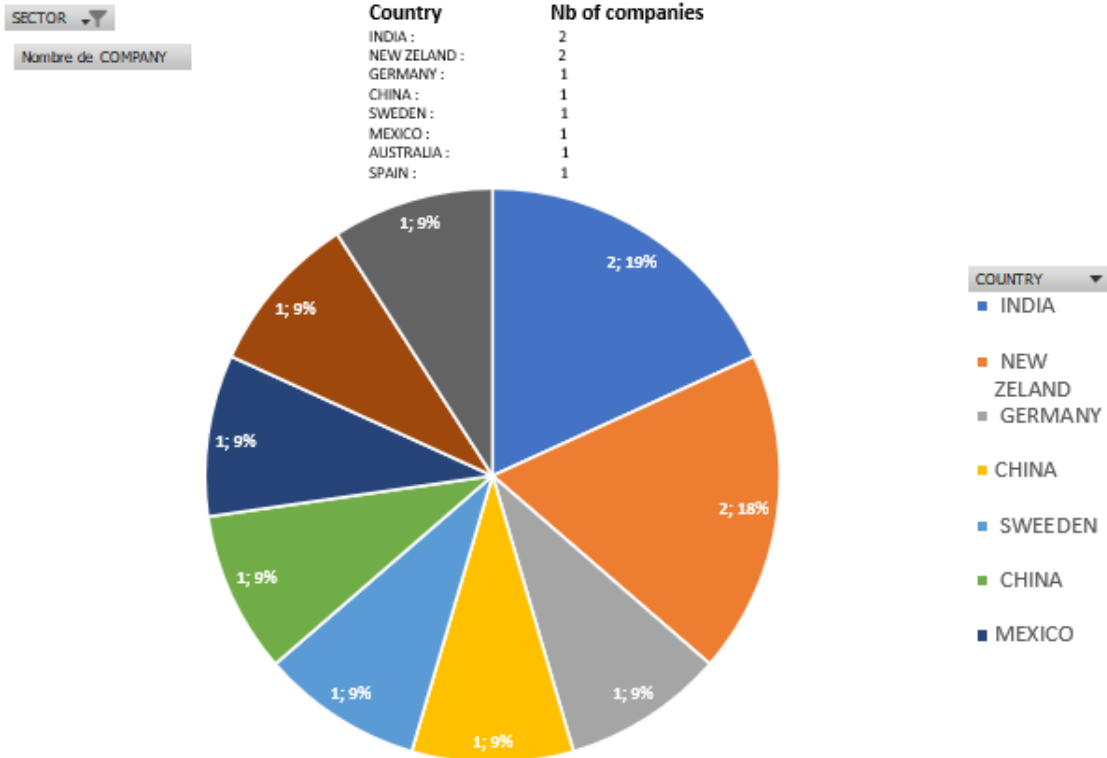
### Details and Sectoral Analysis

Below, we provide various cross-analyses of companies involved in the plundering of the resources of Western Sahara and directly contributing to complicity in the crime of settler colonialism:

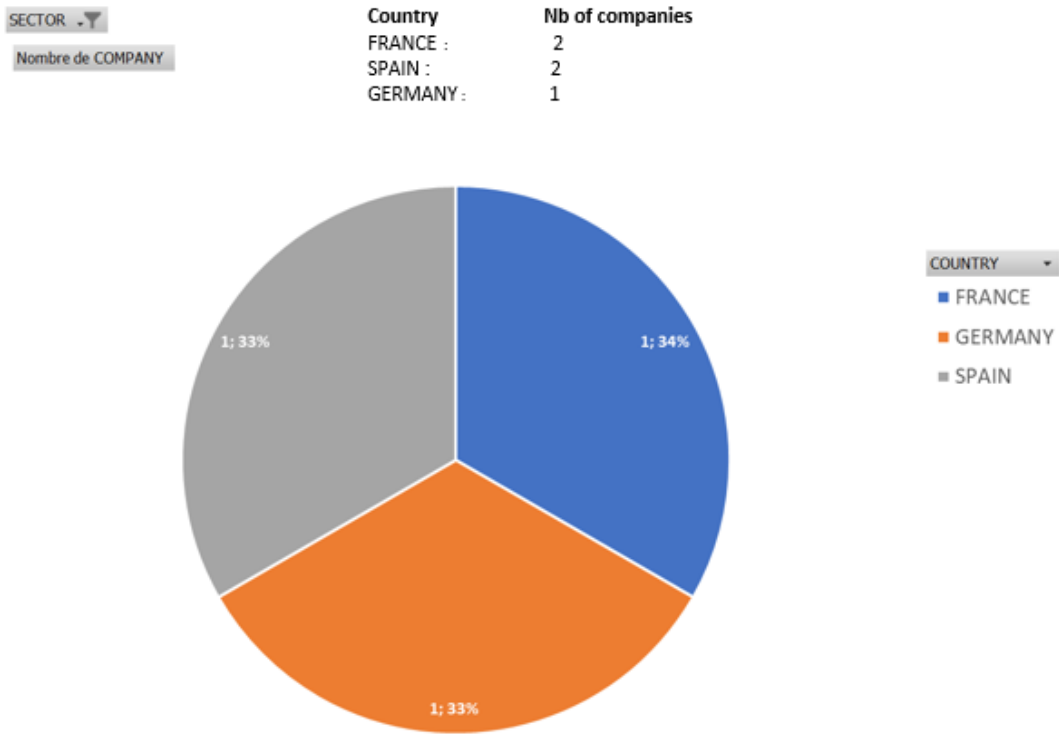
#### General Overview and Distribution of Companies by Nationality and Sector of Activity



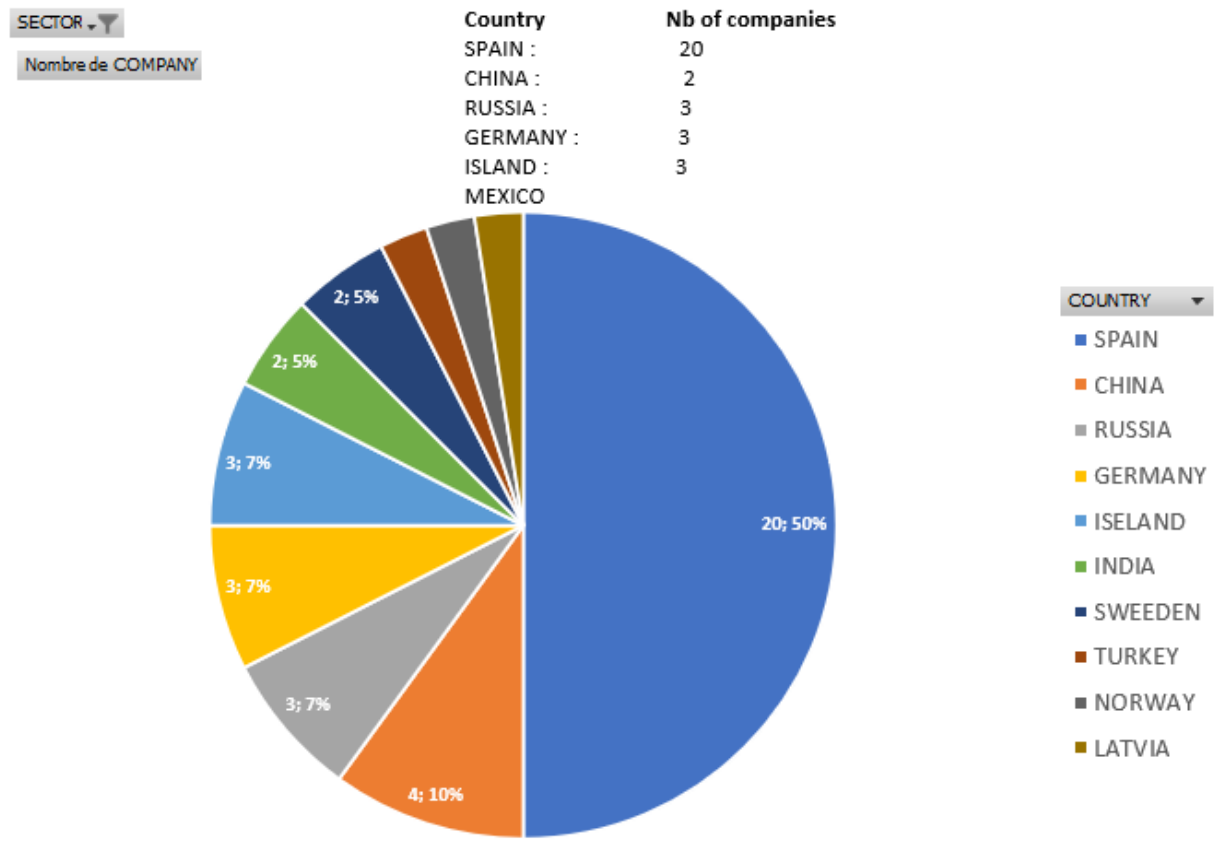
**PHOSPHATE : THE TOP TWO ON THE LIST - INDIA & NEW ZEALAND**



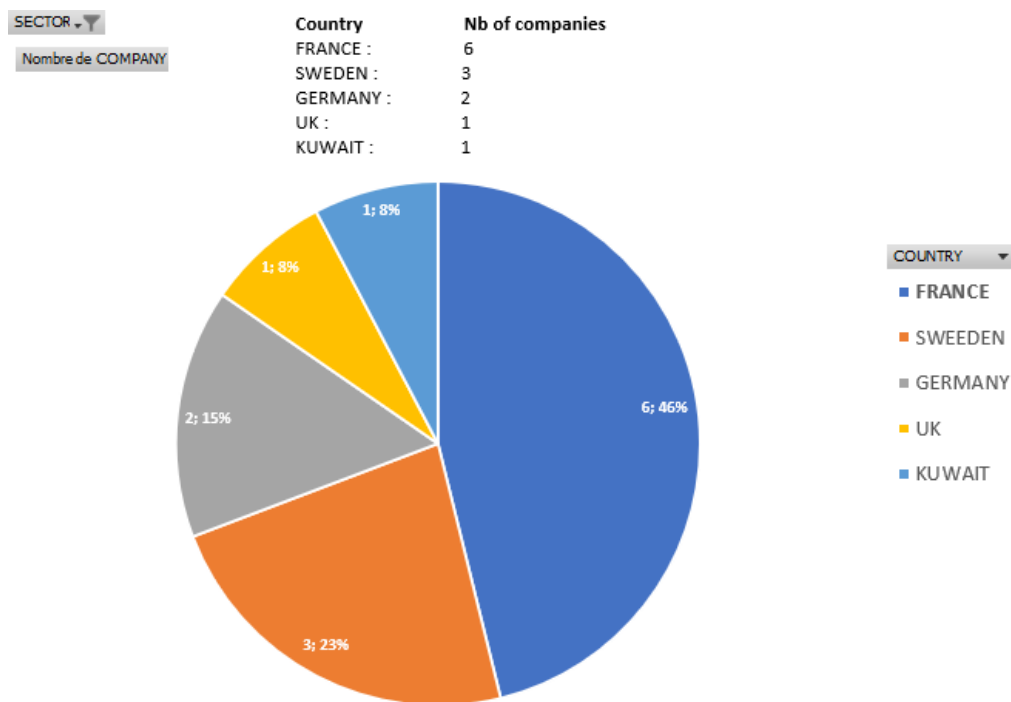
**CANNED FISH : TIED - SPAIN, FRANCE, GERMANY**



**FISHING : SPAIN - THE TOP PILLAGING COUNTRY OF THE FISHERY RESOURCES OF WESTERN SAHARA**

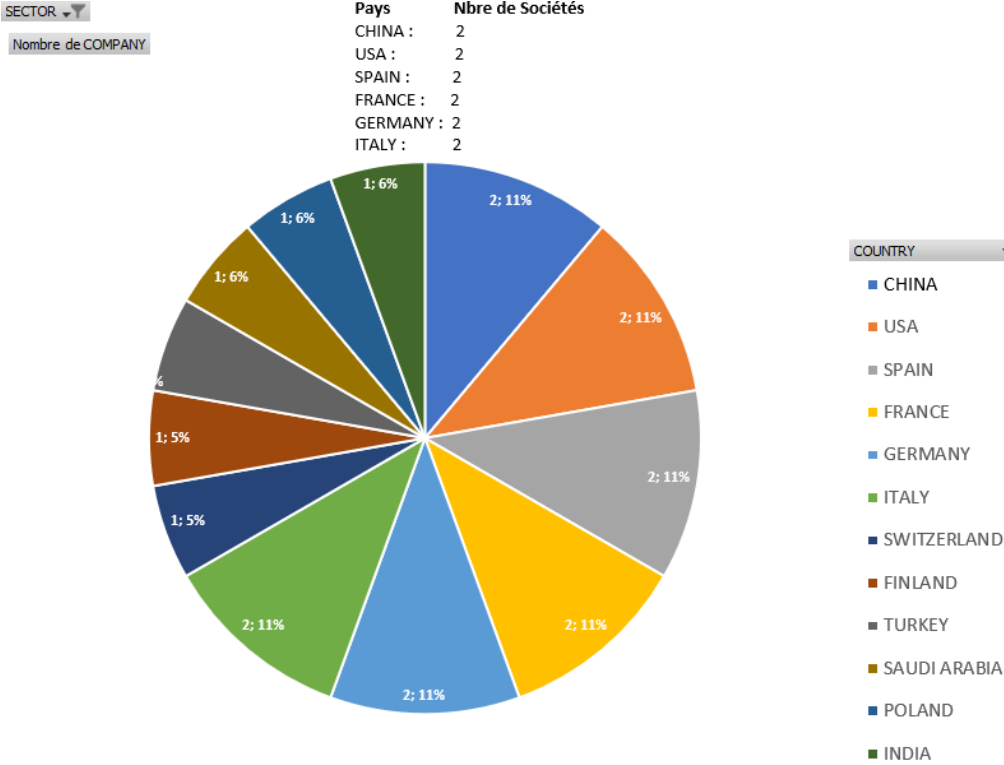


**FINANCE : FRANCE AND SWEDEN ARE THE LEADERS**

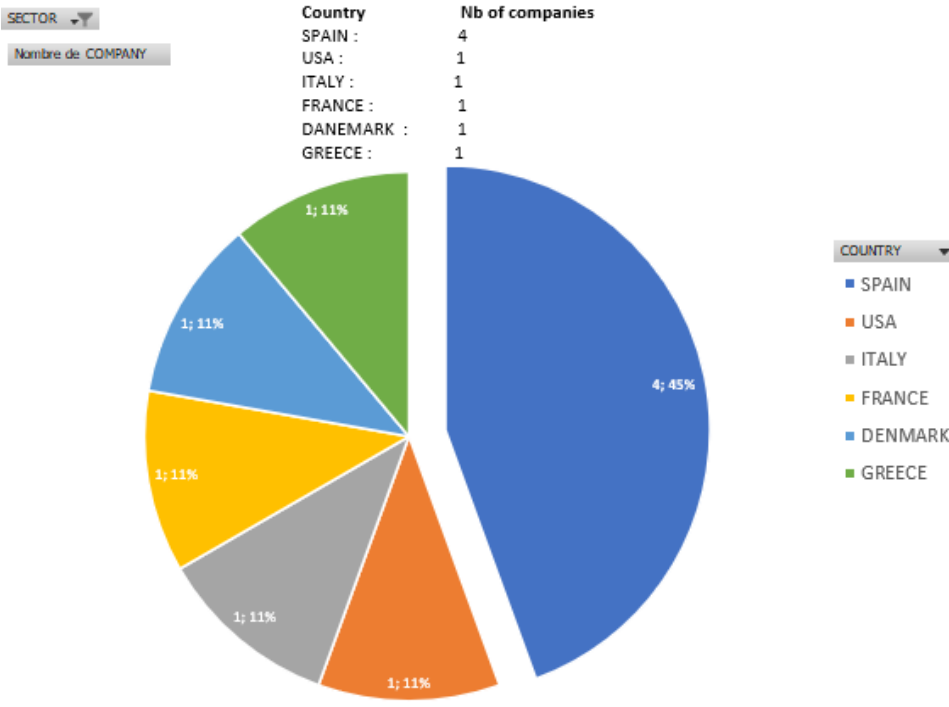




**RENEWABLE ENERGY : 6 MAJOR PLAYERS**



**CONSTRUCTION : SPAIN CONTROLS HALF OF THE SECTOR**



**SHIPPING : TOP 3 - CHINA-GREECE-DENMARK**

