

S2H2+Bm

Att: Mr. Magnus Pousette, Chief Executive Officer

Talenom Redovisning AB, Box 842

101 36 Stockholm

Sweden

Stockholm/Brussels, 20.12.2023

## RE. S2H2+BM'S REPORTED INTEREST IN THE HYDROGEN POTENTIAL OF OCCUPIED WESTERN SAHARA

Dear Mr Pousette,

Western Sahara Resource Watch and Artikel2 are privileged to present you with our compliments. We are writing to inquire about statements in Moroccan media, alleging S2H2+Bm's interest to set up a green hydrogen project "in the southern half" of the country.

Several Moroccan media outlets quote you as having stated "the southern half of Morocco as a world-class PVPP location". Some media hint that this statement is referring to the so-called "southern provinces",<sup>1</sup> The notion "southern provinces" is worrisome, as it is typically used to refer to the parts of Western Sahara that Morocco has held under illegal, military occupation since 1975. As such, we'd be grateful if you would clarify the statement attributed to you. Specifically, an answer to the following questions would be most welcome:

1. *Is the statement attributed to you in Moroccan media outlets correct, i.e., is S2H2+Bm interested in unrolling a green hydrogen project in "the southern half of Morocco"?*
2. *If so, where will the project take place, exactly – in Morocco or in Western Sahara?*
3. *Will S2H2+Bm limit its business activities to the territory internationally regarded as Morocco proper, and thus refrain from undertaking projects in occupied Western Sahara?*

For context, the United Nations consider Western Sahara to be a Non-Self-Governing Territory without an administering power appointed to it, still to complete the process of decolonisation.<sup>2</sup> The International Court of Justice has confirmed that Morocco has no sovereignty over the territory, and that the people of Western Sahara have a right to self-determination – the right to determine the future status of the territory.<sup>3</sup> In 1988, the UN was able to broker a ceasefire arrangement between Morocco and the Western Sahara liberation movement, Polisario, in which both parties agreed to hold a referendum on self-determination.<sup>4</sup> To that goal, a UN mission (MINURSO) has been deployed to the territory, but it has not been able to organise a referendum as Morocco continues to block any effort that offers a choice beyond integration.

While well over a hundred of UN Resolutions, and rulings by the International Court of Justice, the European Court of Justice<sup>5</sup> and the African Court on Human and People's Rights<sup>6</sup>, all underline that Morocco has no

---

<sup>1</sup> Le360, 14.12.2023, Hydrogène vert: dès 2025, le Suédois S2H2+Bm érigera au Maroc une usine au concept novateur, [https://fr.le360.ma/economie/hydrogene-vert-des-2025-le-suedois-s2h2bm-erigera-au-maroc-une-usine-au-concept-novateur\\_E3USKD7QTJG03IQUNPTCTKN72Y/](https://fr.le360.ma/economie/hydrogene-vert-des-2025-le-suedois-s2h2bm-erigera-au-maroc-une-usine-au-concept-novateur_E3USKD7QTJG03IQUNPTCTKN72Y/)

<sup>2</sup> United Nations, Non-Self-Governing Territories, <https://www.un.org/dppa/decolonization/en/nsqt>

<sup>3</sup> International Court of Justice, Western Sahara, <https://www.icj-cij.org/case/61>

<sup>4</sup> The "settlement proposals" are included in the Report of the UN Secretary General on Western Sahara of June 1990, available here: [https://minurso.unmissions.org/sites/default/files/unsq\\_report\\_18\\_june\\_1990.pdf](https://minurso.unmissions.org/sites/default/files/unsq_report_18_june_1990.pdf)

<sup>5</sup> The Rulings for cases T-512/12, T-180/14, C-266/16, T-275/18 and combined cases T-344/19, T-356/19 and T-279/19 can be accessed at the site of the EU Court of Justice, <http://curia.europa.eu>.

<sup>6</sup> African Court on Human and People's Rights, 22.09.2022, Ruling on Application N° 028/2018 <https://www.african-court.org/cpmt/storage/app/uploads/public/632/e0f/3ad/632e0f3ad580e748464681.pdf>

sovereignty or administering mandate over Western Sahara, Morocco continues to militarily control about three-quarters of the territory. Incentivized by its exploitation of the territory's resources, Morocco has little interest to genuinely take part in the UN-mediated peace process. Meanwhile, the lingering conflict continues to have a high human and humanitarian cost: over 170,000 Saharawis are stuck in refugee camps in neighbouring Algeria, surviving in harsh desert conditions and dwindling humanitarian aid. Saharawis who live under the yoke of Morocco's occupation are victims of serious human rights violations that have been reported by the UN Human Rights Committee, UN Working Group on Arbitrary Detention, the UN Special Rapporteur on Human Rights Defenders, in addition to credible international organisations such as Human Rights Watch, Amnesty International, and others. Earlier this year, the UN High Commissioner for Human Rights lamented the fact that his Office has not been allowed to visit Western Sahara for the last eight years.<sup>7</sup>

The status of the territory comes with repercussions for business activities. As established in 2002 by the UN Legal Counsel at the request of the Security Council, the Swede Hans Corell, any economic activity in the territory would be in violation of international law if not undertaken in accordance with the wishes and the interests of the people of the territory.<sup>8</sup> In seven consecutive rulings, the Court of Justice of the European Union has concluded that Morocco has no sovereignty over Western Sahara, nor any international mandate to administer it, as the territory is separate and distinct from Morocco. As a consequence, the Court ruled, EU agreements with Morocco cannot be extended to Western Sahara in a lawful manner, unless with the explicit consent of the people of the territory – the latter being the natural corollary of the people of Western Sahara's right to self-determination.<sup>9</sup> It ought to be noted that subsequent Swedish governments have taken a strong stance defending this exact interpretation of international law in relation to Western Sahara. We also refer to the conclusions of the UN Treaty Body on Economic, Social and Cultural Rights<sup>10</sup> and of the UN Human Rights Committee<sup>11</sup>, which have both emphasized the need of obtaining the Saharawi people's "prior, free and informed consent to the realization of developmental projects and [resource] extraction operations".

Our two organizations are convinced that it is not in the interest of S2H2+Bm to become associated with the continued colonisation and occupation of Western Sahara, and that the company will limit its operations to the territory of Morocco proper.

To be transparent, we also wish to inform that Western Sahara Resource Watch is about to write an article on our website [www.wsrw.org](http://www.wsrw.org) in relation to Morocco's green hydrogen plans. In view thereof, we would appreciate an answer to this letter before 29 December 2023, allowing us to correctly reflect S2H2+Bm's stance.

Artikel2 (formerly Emmaus Stockholm) is a Stockholm based association that advocates for the rights of the Saharawi people.

We thank you for considering our letter and look forward to your response.

Sincerely

Sara Eyckmans

Coordinator, Western Sahara Resource Watch

[coordinator@wsrw.org](mailto:coordinator@wsrw.org)

Sinan Ferhan

Program Manager, Artikel2

[sinan.ferhan@artikel2.se](mailto:sinan.ferhan@artikel2.se)

---

<sup>7</sup> OHCHR, 07.03.2023, GLOBAL UPDATE: HIGH COMMISSIONER OUTLINES CONCERNS IN OVER 40 COUNTRIES, <https://www.ohchr.org/en/statements-and-speeches/2023/03/global-update-high-commissioner-outlines-concerns-over-40-countries>

<sup>8</sup> UN Security Council, 12.02.2002, Letter dated 29 January 2002 from the Under-Secretary-General for Legal Affairs, the Legal Counsel, addressed to the President of the Security Council, S/2002/161, <https://undocs.org/S/2002/161>

<sup>9</sup> See footnote 9.

<sup>10</sup> UN Economic and Social Council, 22.10.2015, Concluding Observations on the fourth periodic report of Morocco, E/C.12/MAR/CO/4\*, §6, [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fMAR%2fCO%2f4&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fMAR%2fCO%2f4&Lang=en)

<sup>11</sup> UN Human Rights Committee, 01.12.2016, Concluding Observations on the sixth periodic report of Morocco, §10, [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR/C/MAR/CO/6&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR/C/MAR/CO/6&Lang=en)