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Denmark



To the attention of Mr Kristian Holmelund Jakobsen  
Communications and Press Officer

5 May 2020  
Brussels

Dear Mr Holmelund Jakobsen,

Thank you for your response of 26 April 2020 to our inquiry regarding the status of Vestas' dialogue with Soluna concerning the construction of a wind farm in Dakhla, occupied Western Sahara.

We understand – and praise – Vestas' commitment to fighting the climate crisis. And, across the board, working with local authorities and communities to deliver value, is a decent approach.

However, we do maintain that the very specific nature of the conflict in Western Sahara requires a different approach, precisely because of the deliberate blurring of such notions as “local authorities” and “local communities”. The situation in itself is straightforward: Western Sahara is a Non-Self-Governing Territory with no administering power appointed to it by the United Nations, which tries to broker a just and lasting peace to the conflict in line with the cornerstone principle of self-determination. Meanwhile, the sovereign rights to the land and its resources lie with the people of Western Sahara, still awaiting the opportunity to exercise their right to self-determination: to decide the future status of the land.

It is Morocco's attempts to involve foreign enterprises to create facts on the ground – so as to avoid a negotiated peace but rather creating a *fait accompli* – that have complicated the matter. In the occupied part of Western Sahara, the “local authorities” are Moroccan and as such in no way legitimately or lawfully representative of the people of Western Sahara. The “local community” in the occupied territory nowadays exists of 3 Moroccan settlers for every indigenous Saharawi who has not yet fled the brutal repression used against Saharawis by the Moroccan army, police and secret service.

The recently emerging body of law on economic activities in Western Sahara is clear: Morocco has no sovereignty over the territory, and no mandate to administer the territory. As such, the people of Western Sahara ought to give their prior, free and informed consent for any such activity to be lawful.

An approach as the one you stipulate in your 26 April email to us would in many other contexts globally make sense. You state that “Vestas always follows local and international law, and we consistently strive to ensure dialogue with relevant stakeholders around our projects, including project owners, authorities and local communities”.

However, such approach would be fundamentally be flawed in Western Sahara. If taking part in Soluna's bid, these are the considerations to make:

- Vestas would have to assess which country's laws apply in the occupied part of the non-self-governing territory of Western Sahara. Most likely, it will not be Morocco's laws, as no international body or court has given Morocco a mandate to be present in or to control the territory.

- A reference to local authorities is confusing in this context, as it could be interpreted as part of the Moroccan administration - but Western Sahara is not part of Morocco according to the UN and international courts. Addressing these authorities would not only be irrelevant from a legal perspective, but also controversial.
- There would be little value in engaging in dialogue with local Moroccan bodies elected at Moroccan parliamentary or municipality elections, unless Vestas were to consider Moroccan elections outside of their internationally recognised borders as legitimate.
- Arguing that activities “relay value back into local infrastructures” would be highly controversial in Western Sahara, as there is a legal and reputational risk to aiding and abetting in a situation of foreign occupation.
- Finally, we would like to underline that a “dialogue” with “stakeholders” is not the most pressing thing a company should do in any context globally. The most important thing a company would need to do, is to get the relevant permission from the relevant authorities. The international courts refer to the consent of the people of the territory, and are in unison that Morocco has no authority in Western Sahara. So permissions obtained by Moroccan bodies would be null and void. Before engaging, e.g. in the Soluna project, Vestas would have to consider what legal status Morocco has in relation to the land, and what legal rights the people of the territory, the Saharawi people, have over that territory.

In our letter to your company of 31 March 2020, we had asked three questions. We regret that your response on 26 April does not contain an answer to any of them. Hence, we would like to repeat the three questions:

1. Is the information provided by Soluna correct, that Vestas is in the running to obtain the single turnkey EPC contract for their Dakhla wind farm?
2. Is Vestas aware that the project site is in fact located in occupied Western Sahara?
3. How does Vestas assess the potential acquisition of the bid, which would lead it to construct infrastructure on occupied land, with its position on socially responsible investment?

Thank you for your consideration, and we look forward to hearing from you.

Kind regards,

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