

S2H2+Bm Concept AB

Att: Mr. Magnus Pousette, Chief Executive Officer

Talenom Redovisning

AB Box 842 101 36

Stockholm, Sweden

Brussels, 05.09.2025

RE: S2H2+BM'S REPORTED GREEN HYDROGEN PLANS IN MOROCCO AND WESTERN SAHARA

Dear Mr Pousette,

Western Sahara Resource Watch and Artikel2 present you with our compliments.

We refer to our correspondence of December 2023 concerning S2H2+Bm's reported interest in establishing a green hydrogen plant in "the southern half of Morocco."¹ We appreciated your swift reply of 21 December, though, as noted in our follow-up of 22 December, it did not clarify whether your project would be located within Morocco's internationally recognised borders or in the territory of Western Sahara, which Morocco occupies without sovereignty or an administering mandate. Nor did your response indicate the position your company would take if the land offered for the project were located in that Non-Self-Governing Territory.

We have since noted your company's June 2025 white paper², which refers to an application for land allocation under the Moroccan government's offer, and to Morocco's indication that your application is well placed. This development further underlines the importance of clarity on the location of your planned operations.

We therefore respectfully seek your clear response to the following:

1. Will S2H2+Bm's project be located in Morocco proper, i.e. within its internationally recognised borders, or in Western Sahara?
2. If the precise location cannot yet be disclosed, can S2H2+Bm take a principled position that it will not undertake projects in Western Sahara on the basis of agreements with the Moroccan government?

As confirmed by the United Nations, the International Court of Justice, and the Court of Justice of the European Union (CJEU), Morocco has no sovereignty over Western Sahara and no international mandate to administer it. Since 2015, the CJEU has delivered ten consecutive rulings on this matter, establishing beyond doubt that:

- The territory of Western Sahara constitutes a territory distinct from that of the Kingdom of Morocco.³
- Morocco has no sovereignty⁴ or administering mandate⁵ over Western Sahara.

¹ WSRW letter to S2H2+BM, 20.12.2023, https://vest-sahara.s3.amazonaws.com/wsrw/feature-images/File/1651/6585338a3c259_20231220WSRW-S2H2%2BBm.pdf

S2H2+BM letter to WSRW, 21.12.2023, https://vest-sahara.s3.amazonaws.com/wsrw/feature-images/File/2552/68b6e1e978190_S2H2BM-WSRW_21.12.2023.jpg

WSRW letter to S2H2+BM, 20.12.2023, https://vest-sahara.s3.amazonaws.com/wsrw/feature-images/File/1669/65c6004742451_20231222WSRW-S2H2%2BBm.pdf

² https://vest-sahara.s3.amazonaws.com/wsrw/feature-images/File/2553/68b6e23719f70_S2H2-White-Paper-Q2-2025.pdf

³ Judgment of 21 December 2016, EU:C:2016:973, §92, and reiterated in the Judgment of 27 February 2018, EU:C:2018:118, §62, Judgment of 4 October 2024, EU:C:2024:833, §163, Judgment of 4 October 2024, EU:C:2024:839, §85 and Judgment of 4 October, EU:C:2024:835, §134

⁴ Judgment of 10 December 2015, EU:T:2015:953, §241. Considered a settled matter in subsequent rulings.

⁵ "Account must also be taken of the fact that the Kingdom of Morocco does not have any mandate granted by the UN or by another international body for the administration of that territory, and it is common ground that it does not transmit to the UN information relating to that territory, such as those provided for by Article 73(e) of the UN Charter." Judgment of 10 December 2015, EU:T:2015:953, §233. Considered a settled matter in subsequent rulings.

- Consequently, the waters adjacent to Western Sahara cannot be regarded as part of the Moroccan fishing zone, territorial waters, exclusive economic zone, or any other notion used to describe Morocco's role vis-à-vis the waters off Western Sahara.⁶
- The people of Western Sahara are to be regarded as a third party to the EU's agreements with Morocco, and that as such, no agreement can affect their territory without their consent, as a corollary of the right to self-determination.⁷
- The Court is clear that the right to consent resides with the people of Western Sahara, and not with the population of the territory.⁸ The Court stipulates that "a majority of the population of Western Sahara is not part of the people holding the right to self-determination, namely the people of Western Sahara. That people, which for the most part has been displaced, is the sole holder of the right to self-determination with regard to the territory of Western Sahara."⁹ The Court adds that "there is a difference in that regard between the concept of the 'population' of a non-self-governing territory and of the 'people' of that territory. The latter refers to a political unit which holds the right to self-determination, whereas the concept of 'population' refers to the inhabitants of a territory."¹⁰
- The Court has firmly established the position of Front Polisario, the UN-recognised representation of the people of Western Sahara to be able to bring cases before EU Courts on behalf of the Saharawi people, and that it has access to the Court to defend their right to self-determination.¹¹
- In Case C-399/22, which specifically dealt with the labelling of products from Western Sahara, the Court again emphasised the separate and distinct status of the territory in relation to Morocco, and concluded that at the stages of import and sale to the consumer, the labelling of the goods from Western Sahara must indicate Western Sahara alone as the country of origin of those goods.¹²

These consistent rulings underscore the legal and reputational risks of entering into arrangements that treat Morocco as sovereign in Western Sahara.

We are convinced it is not in S2H2+Bm's interest to be associated with the occupation of Western Sahara, and we trust your company will adopt a clear stance in line with international and EU law.

We thank you for your consideration and kindly request your reply by 15 September 2025, so that we may accurately reflect S2H2+Bm's position in our public reporting.

Sincerely,

Sara Eyckmans
Western Sahara Resource Watch
coordinator@wsrw.org
www.wsrw.org

Sinan Ferhan
Program Manager Artikel2
Sinan.ferhan@artikel2.se
www.artikel2.se

⁶ Judgment of 27 February 2018, EU:C:2018:118, §67-85. Considered settled in subsequent rulings.

⁷ Judgment of 21 December 2016, EU:C:2016:973, §104. Reiterated and refined in subsequent rulings.

⁸ Judgment of 4 October 2024, EU:C:2024:833, §180-181. Judgment of 4 October 2024, EU:C:2024:835, §152-153.

⁹ Judgment of 4 October 2024, EU:C:2024:833, §157. Judgment of 4 October 2024, EU:C:2024:835, §128.

¹⁰ Judgment of 4 October 2024, EU:C:2024:833, §158. Judgment of 4 October 2024, EU:C:2024:835, §129.

¹¹ Judgment of 4 October 2024, EU:C:2024:833, §96-138, Judgment of 4 October 2024, EU:C:2024:835, §70-109.

¹² Judgment of 4 October 2024, EU:C:2024:839, §89.