

To:

The Czech Presidency of the Council of the European Union
Member State Ambassadors to the Council of the European Union
European Parliament Rapporteurs & Shadow Rapporteurs
CC: Commissioners Thierry Breton & Virginijus Sinkevičius

Brussels, 6th of October 2022

Dear co-legislators,

Since the publication of the European Commission's proposal for a Battery Regulation in December 2020, the need for sustainable batteries in Europe has accelerated. The war in Ukraine has made it clear that Europe must wean itself off fossil fuels as quickly as possible. Further to this, since the draft law was originally presented, the co-legislators have backed the proposed phase out of the internal combustion engine by 2035. Acting with speed is therefore key, as sustainable electrification will play a key role in the race to zero.

With trilogue negotiations ongoing since April, the undersigned NGOs welcome the progress made so far under the French and Czech Council presidencies. Some concerns however still remain as the final text is being agreed upon. Ahead of the next trilogue and in light of recent developments, we would like to address the following outstanding issues.

Regardless of their end use, whether they are placed in phones or in energy storage applications, battery raw materials are often linked to human rights and environmental harm. For this reason, all types of batteries must be covered by the due diligence rules as well as all types of businesses, including SMEs. In fact, many European SMEs acknowledge¹ that responsibility for human rights and the environment is not a matter of company size, and that their inclusion in human rights due diligence frameworks would give them even more weight and legal certainty.

This regulation is set to become a blueprint for other product-specific legislative initiatives as well as for other regions to follow. The due diligence regime must therefore be as strong as it can be. It must be linked to a liability regime and ensure industry schemes are not treated as an equivalent for due diligence.

Battery chemistries are constantly evolving: it is predicted that by 2030, 40% of batteries will be lithium-iron-phosphate (LFP) based². It would be shortsighted of co-legislators to not include in the regulation other raw materials commonly used in batteries, such as copper, iron and bauxite, and ultimately ensure that all batteries are made with sustainably sourced materials.

As the final law is being agreed upon, we therefore call on you to:

¹ https://media.business-humanrights.org/media/documents/EU_Business_Statement_February2022.pdf

² <https://www.spglobal.com/commodityinsights/en/market-insights/latest-news/energy-transition/081622-ubs-raises-lfp-global-battery-market-share-outlook-to-40-by-2030>

- Ensure all types of batteries are covered by the due diligence rules, as well as all types of businesses, including SMEs.
- Put in place a liability regime under which companies can be held liable and provide remediation for any harm that they have caused or contributed to, as referred to under amendment 255 of the European Parliament.
- Ensure that membership or participation in industry supply chain due diligence schemes is not treated as an equivalent for effective due diligence, as is proposed by the European Parliament amendments 245 and 254.
- Ensure that the list of raw materials in Annex X (1) includes bauxite, iron and copper, as reflected in the European Parliament amendments 459, 460 and 461.

Your sincerely,

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|-------------------------------------------------------|----------------------------------------------------------------------|
| 1. Amnesty International | 21. MiningWatch Canada |
| 2. ECODES | 22. SOMO |
| 3. Transport & Environment | 23. Sbilanciamoci |
| 4. Friends of the Earth Europe | 24. PowerShift |
| 5. INKOTA | 25. Climate + Community Project |
| 6. Finnwatch | 26. Legambiente |
| 7. Earthjustice | 27. Deutsche Umwelthilfe |
| 8. FPPE - Fundacja Promocji Pojazdów Elektrycznych | 28. Levegő Munkacsoport – Clean Air Action Group |
| 9. Bellona Europa | 29. Kyoto Club |
| 10. Good Shepherd International Foundation | 30. Human Rights Watch |
| 11. Global Witness | 31. Polski Klub Ekologiczny - Polish Ecological Club Mazovian Branch |
| 12. London Mining Network | 32. ECOS – Environmental Coalition on Standards |
| 13. Bond Beter Leefmilieu | 33. Setem Catalunya |
| 14. Brot für die Welt | 34. Green Transition Denmark |
| 15. VCÖ - Mobilität mit Zukunft | 35. AirClim – Air Pollution and Climate Secretariat |
| 16. 11.11.11 | 36. Milieudefensie |
| 17. FOCUS - društvo za sonaraven razvoj je samostojna | |
| 18. European Environmental Bureau | |
| 19. Québec Meilleure Mine | |
| 20. Earthworks | |





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