Input by Finnwatch
to the UN Special Rapporteur on climate change
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Subject: Input – renewable energy and critical minerals

Finnwatch is a corporate accountability watchdog organisation based in Helsinki, Finland (see finnwatch.org). Over the last couple of years, one focus area of our work has been just transition and transition minerals.

In the field of renewables and critical minerals, Finnwatch has conducted research into purchasing practices and human rights due diligence of companies that 1) market solar panels or that are involved in building solar farms, 2) are producing green hydrogen energy or mine platinum for hydrogen industry, 3) are electric grid companies and 4) are aluminium companies. The negative human rights impacts that arise in these value chains include:

- forced labour of Uyghurs and other minorities in China (see an electronic translation of our report here)
- poor housing conditions of platinum mine workers in South Africa (see our report in English here)
- violations of Indigenous Peoples' rights in the context of bauxite mining in India (see an electronic translation of our report here)
- environmental contamination in the context of refining ferronickel in Brazil and problems in access to justice (see our report in English here)
- lack of access to benefits of mining to local communities (see for example an electronic translation of our report on tax holidays given to a mining company in Brazil).
- in all of our above mentioned reports we have also documented issues in buyer companies' human rights due diligence practices.

One clear barrier that undermines the protection of human rights in critical minerals supply chains is the lack of traceability. What the above mentioned pieces of Finnwatch research have in common is that the downstream companies have no detailed knowledge of the origin of minerals to the level of mine. At best, their sourcing policies focus on excluding materials of certain origin (e.g. Xinjiang) from their supply chains but only in a few cases companies seek to actually verify the origin by traceability audits.

Whereas traceability on the sector on the whole should be improved, at the same time the lack of full traceability should not in itself become a barrier for companies taking action to prevent and minimize sectoral risks. In many cases, the likely origins of raw materials can fairly certainly be identified at a country / regional level as production of many critical minerals is relatively concentrated.

At the regulatory level, traceability of supply chains could be improved, for example, by increasing transparency of customs information on trade parties (e.g. importer, exporter, manufacturer). In many jurisdictions, such data is available to the public (through commercial

Finnwatch ry, Malminrinne 1 B, 00180 Helsinki
www.finnwatch.org

serviced providers) but e.g. in the European Union, customs data on trade parties is in practice considered confidential.

Robust legislation, such as the Uyghur Forced Labour Prevention Act in the U.S., have also proven influential and has led to reorganisation of supply chains and improved traceability. Factors contributing to UFLPA's success include reversed burden of proof (or rebuttable presumption) and strong enforcement.

We have also witnessed the impacts of upcoming EU corporate sustainability legislation such as Corporate Sustainability Reporting Directive (CSRD), forced labour regulation and most importantly the Corporate Sustainability Due Diligence Directive (CSDDD). We regret that the European Commission has initiated an omnibus process to radically water down already agreed sustainability rules. If omnibus proposals are passed, they will have a detrimental effect on the buyer companies' nascent human rights due diligence efforts.

Finnwatch ry, Malminrinne 1 B, 00180 Helsinki
www.finnwatch.org