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## **RE: Proposed Sustainable Corporate Governance Directive**

Dear Commissioners,

We write to you collectively as the Green 10 concerning the Commission's forthcoming Sustainable Corporate Governance legislative proposal. The Green10 represents ten of Europe's largest environmental NGOs.

We would like to firstly acknowledge the historic and continuously growing impact the private sector has on the environment and human rights. The historic reality of these harmful impacts led to the international endorsement of the *United Nations Guiding Principles on Business & Human Rights* in 2011. For many years *prior* to the UNGPs, several of our organisations and networks were documenting and responding to instances of severe environmental and human rights abuses by corporations. The UNGPs finally clarified that States must take measures to ensure that businesses respect human rights throughout their value chains as well as take measures to improve access to judicial remedy for victims of corporate abuses. Since 2011, the Commission has repeatedly stressed its commitment to the UNGPs.

States have been incredibly slow to respond to their 2011 commitments, with some of the most severe and violent instances of modern corporate abuse persisting during this past decade of State inaction. We therefore cannot stress enough how long global civil society has been calling for this legal protection.

Given the overdue state action, the ever-growing impact of the private sector on the environment and human rights, as well as the compounding and multiple crises facing our planet, it is crucial that the EU's response stays true to the ambition and commitment of the UNGPs.

We welcome that, as part of the European Green Deal, the Commission announced in 2020 that it will launch a legislative proposal on Sustainable Corporate Governance. The European Parliament has already sent a strong and united signal in this regard when it adopted its report

on Corporate due diligence and corporate accountability in March this year. EU and non-EU citizens have also voiced their strong expectations from their towns, cities and provinces, when over 550,000 people took part in the EU public consultation on the upcoming law, demanding a strong law on human rights and environmental due diligence covering the full value chain and including strong provisions on liability, enforcement and providing victims with judicial remedy.

**We therefore express our serious concerns regarding recent undue business influence on this file**, the likes of which have already succeeded in severely weakening a recent similar German legislative initiative. The announcement of the EU legislative proposal on Sustainable Corporate Governance has provoked severe corporate backlash. But we simply cannot water down the standards and commitments that have already been made through the UNGPs. For the sake of the credibility of the European Commission and Europe's values, it is absolutely essential that the Commission maintains this ambition.

An effective instrument must include a number of key elements. Firstly, business enterprises must have an obligation to identify, cease, prevent, mitigate, monitor and account for potential and actual human rights and environmental adverse impacts through an ongoing **due diligence process**.

**Improving access to justice for victims of corporate abuse** is another key priority and is not negotiable within the UNGP framework. The EU and all the Member States have committed internationally to improving the right to effective remedy in cases of corporate abuse. **Strong value chain civil liability rules** will incentivize compliance with corporate due diligence obligations, while guaranteeing that victims – typically already some of the world's most vulnerable – are not left struggling to pay the associated costs of harm inflicted upon them. Common Law jurisprudence has already made big advancements in this regard, advancing liability for harms occurring throughout the value chain by subsidiaries and potentially even suppliers. Civil jurisdictions are lagging behind. It is essential that the EU also advance a common value chain standard of civil liability for companies operating from its jurisdictions. This will allow victims to seek justice in EU courts for human rights violations of EU based companies. Nothing would send a stronger signal that the EU actually cares about justice.

**The multiple environmental crises facing our planet necessitate a comprehensive corporate obligation not only to respect human rights but to respect the environment and the climate as well.** The obligation should create a general standard of care for corporations for which they can be held liable and make use of existing principles and normative standards of international environmental law and agreements, including *inter alia* the Paris Agreement and the Convention on Biodiversity.

It is moreover essential that competent authorities are properly empowered and equipped to pursue companies for failing to comply with their due diligence obligations and for the harm they have caused. **The UNGPs are very clear that due diligence covers the entire value chain.** The last tiers of the value chain are where the most and the worst forms of environmental and

human rights abuses occur, including where a significant portion of EU companies' GHGs are emitted, and these cannot be left to escape regulatory design and protection.

Furthermore, the involvement of directors is paramount to ensuring that companies are able to consider, and take the necessary strategic decisions with regard to the management and oversight of sustainability risks and impacts, both from the perspective of their own success as well as that of their responsibilities to society. The European Parliament's report on sustainable corporate governance was also very clear in this regard and now the Commission must move forward accordingly

The forthcoming months will be crucial for the advancement of this legislative proposal. We would therefore like to request a meeting with you to discuss the Commission's proposal and our priorities, as outlined in this letter. Please contact Diana Rubini ([secretariat@green10.org](mailto:secretariat@green10.org)) for confirmation and scheduling of such a meeting.

Yours truly,



Jagoda Munic

Director Friends of the Earth Europe

Also on behalf of the Green 10 Directors:

Mark Martin, Executive Director, Executive Director - Bankwatch Network

Ariel Brunner, Acting Director & Senior Head of Policy - BirdLife Europe

Wendel Trio, Director - Climate Action Network (CAN) Europe

Jeremy Wates, Secretary General- EEB

Jorgo Riss, Director - Greenpeace European Unit

Genon K. Jensen, Executive Director - Health and Environment Alliance (HEAL)

Andrea Lichtenecker, Executive Director - Naturefriends International

William Todts, Executive Director- European Federation for Transport and Environment (T&E)

Ester Asin, Director - WWF European Policy Office