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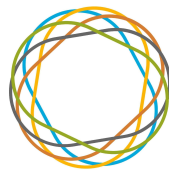
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**Statement submitted by Resource Matters, a
non-governmental organization not in consultative status
with the Economic and Social Council***

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Scramble for energy transition minerals risks affecting the fight against corruption

10th Conference of States Parties to the UN Convention Against Corruption
Atlanta (GA) 11-15 December 2023

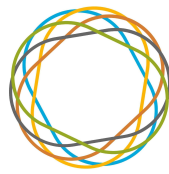
The transition from a fossil-based to a clean energy-based economy has increased the demand for critical minerals such as lithium, nickel, copper and cobalt. These minerals are essential components of batteries of electric vehicles and, more in general, of chargeable devices. Taking the demand for cobalt, according to [recent studies](#), it amounted to 71,000 tons in 2010, it almost doubled in 2017, and it is expected to reach 222,000 tons by 2025.

Some of these resources can be found in countries where corruption has been endemic, where political elites have captured resource rent for their personal enrichment and to consolidate power for decades and have prevented their citizens from fully benefiting from the promises natural riches bring.

So far, foreign judicial powers have been among the few actors able to hold to account companies and officials involved in these practices. The US Foreign Corrupt Practices Act (FCPA) and the UK Bribery Act have allowed, to some extent, to hold accountable some multinational companies operating in the business of energy transition minerals, such as the Anglo-Swiss company Glencore, which has reached a settlement with both countries (and Brazil) in 2022, admitting guilty of [corruption under the FCPA](#) and under the [Bribery Act](#).

The power of judicial actions has been complemented in the past few years by the US Global Magnitsky Act, a regime of sanctions against individuals and entities that are linked to human rights violations or corrupt activities. It is under the Global Magnitsky regime that the [most famous individual](#) acting as a middleman between Glencore's branches in the Democratic Republic of Congo and Congolese political elite has been sanctioned, and thus denied access to the US market and currency since 2017.

Unfortunately, geopolitical competition between Western countries on the one hand and China on the other risks nullifying these efforts. These competing economic powers have engaged in a new scramble for these resources, eager to



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engage in a series of strategic partnerships to secure access to these minerals from resource-rich countries.

This race risks eroding the fight against corruption. Countries that have taken valuable steps seem to be back-pedaling. For instance, recent discussions about [considerable sanctions relief](#) against the individual mentioned above seem by and large motivated by the wish to access copper and cobalt resources. Coincidentally, the UK Serious Fraud Office has [dropped](#) an investigation against the Kazakh mining company ENRC (now ERG), another major cobalt producer, despite a decade-long investigation and significant information sharing from Switzerland. The general sentiment seems to be a willingness to soften anti-corruption measures in exchange for access to critical resources.

Other major blocks have lagged behind in taking any significant accountability measures. China, India and several EU member states have massively invested in weak governance jurisdictions; while they have ratified the UNCAC convention, they have an abysmal track record in enforcing foreign bribery legislation. These jurisdictions also lack an anti-corruption sanctions regime, allowing entities sanctioned for high-level corruption to rely on an alternative currency to stay in business. The EU's new pieces of legislation in the sector, including the Critical Raw Materials Act and the Battery Regulation, almost completely overlook corruption risks and how to mitigate them.

The UNCAC Convention binds States parties to adopt measures criminalizing the bribery of foreign public officials (art. 16) and to maximize the effectiveness of law enforcement measures (art. 30.3). States should also engage in international cooperation to strengthen the fight against corruption through law enforcement cooperation.

If countries are to effectively engage in a *just* energy transition, UNCAC States parties should increase their commitments to implementing these provisions of the UNCAC. Instead of engaging in a race to the bottom as they rush for access to critical minerals, State parties should take the opportunity of the 10th CoSP to engage in genuine discussions about a level playing field for investors to ensure fair, competitive and bribe-free access to minerals so that the citizens from resource-rich countries can finally benefit from their natural wealth.