



Karel de Gucht  
 Commissioner for Trade  
 Member of the European Commission  
[Karel.DE-GUCHT@ec.europa.eu](mailto:Karel.DE-GUCHT@ec.europa.eu)  
 Fax (+32-02) 29 80899

Cc:

Catherine Ashton, High Representative and Vice President of the European Commission  
 Barbara Lochbihler, Chair of the Subcommittee on Human Rights of the European Parliament  
 Jean-François Cautain, Ambassador of the European Union to the Kingdom of Cambodia  
 Generalised Preferences Committee

June 26, 2012

Dear Commissioner de Gucht,

We, the undersigned civil society organizations, call on the European Commission to investigate the escalating human rights abuses in Cambodia resulting from the granting of economic land concessions for agro-industrial development, in connection with agricultural goods being exported to the European Union under the Everything But Arms initiative (EBA).

Reports and statements of United Nations monitoring bodies, as well as publicly available reports from independent media and non-governmental organizations provide an immense body of evidence that agro-industrial concessions have forced tens of thousands of Cambodians from their homes and stripped hundreds of thousands of their means of subsistence.

In the 16 months since detailed information on these violations was provided to the Commission<sup>1</sup> there has been a dramatic escalation in the granting of agro-industrial

<sup>1</sup> Letter from 4 Cambodian CSOs to Karel de Gucht, Commission for Trade, European Commission, 7 January 2011 & Letter by APRODEV to Commissioner de Gucht on 7 July 2011.

concessions to private companies.<sup>2</sup> The record increase in new concessions in 2011 brought the amount of land under the control of agro-industrial firms to more than 2 million hectares or roughly 12 percent of Cambodia's total land mass.<sup>3</sup>

The result of this sell-off has been an alarming erosion in the enjoyment of the fundamental human rights of affected people, who have suffered from forced eviction, reduced access to farming and grazing land, and the destruction of forests that they depend upon for their livelihoods. Monitoring by human rights organizations indicates that at least 700,000 people across the country have been affected by this land-grabbing epidemic since 2000, including approximately 51,000 people in the past year alone.<sup>4</sup>

UN Commission on Human Rights Resolution 1933/77 affirms that forced evictions constitute a gross violation of human rights, particularly the right to adequate housing.<sup>5</sup>

In addition to the gross violation of the right to adequate housing, agro-industry induced displacement in Cambodia has led to widespread violations of the right to food; the right to health; the right to education; the rights of indigenous peoples; and the right of self-determination, including the right not to be deprived of one's means of subsistence.<sup>6</sup>

This does not just concern economic, social and cultural rights. Serious violations of civil and political rights have also been part and parcel of the Royal Government of Cambodia (RGC)'s land concession policy. According to human rights monitoring group ADHOC, community protests against land grabs led to the arrest of 95 people and the detainment of 48 people in 2011.<sup>7</sup> In the past two months, Chut Wutty, an environmental activist who was very outspoken about impact of agro-industrial and mining concessions, was shot dead by armed forces after taking two journalists to a logging area in Koh Kong province; a 14 year old girl, Heng Chantha, was shot dead by a soldier during a brutal forced eviction of a village in Kratie province in connection with an agro-industrial concession; and 15 community representatives of the Boeung Kak Lake community in Phnom Penh were imprisoned after peacefully protesting against their community's forced eviction. Thirteen of the Boeung Kak Lake activists were sentenced to 2.5 years in prison just two days after their arrests. Their convictions followed an approximately three-hour long mass trial that violated not only international fair trial standards, but Cambodia's own Code of Criminal Procedure.

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<sup>2</sup> We note that Prime Minister Hun Sen announced a moratorium on new land concessions on 7 May. Eleven days later he granted three new economic land concessions totalling more than 20,000 hectares for rubber plantations in three provinces.

<sup>3</sup> Licadho/ Cambodia Daily, 'Carving Up Cambodia One Concession at a Time', available at <http://www.licadho-cambodia.org/land2012/>.

<sup>4</sup> Ibid.

<sup>5</sup> UN Commission on Human Rights, Resolution 1993/77, para. 1.

<sup>6</sup> See "Economic land concessions in Cambodia, A human rights perspective," Special Representative of the Secretary-General for human rights in Cambodia, June 2007. See also Concluding Observations of the Committee on Economic, Social and Cultural Rights on Cambodia, 42<sup>nd</sup> Session, May 2009.

<sup>7</sup> "The great land giveaway," Phnom Penh Post, 23 March 2012, page 1.

These violations amount to a serious and systematic breach of Cambodia's international obligations arising from its ratification of the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and the International Convention on the Elimination of all Forms of Racial Discrimination. We note that these are listed as core human and labour rights conventions in Annex III, Part A of EC Regulation No 732/2008.

Evidence of serious and systematic violations of these core conventions, which has been provided to the European Commission, justifies an investigation into whether trade preferences under the EBA should be applied to certain agricultural goods produced in the Kingdom of Cambodia under the large-scale concessions investment model.

We note that the Commission has to date adopted 'cooperation, transparency and dialogue as more efficient tools' to achieve human rights objectives in Cambodia, as opposed to withdrawal of EBA preferences, which it considers as a last resort.<sup>8</sup>

We strongly believe that it should not be an *either/or* proposition. It is important for the EU to engage the RGC through dialogue and cooperation in order to advance human rights goals. However, there are two reasons for a more robust response. The first is that an investigation, with the possibility of concrete measures, is an appropriate method to achieve the EU's objectives of promoting respect for human rights in the world. The second is that the EU has the obligation to ensure that it does not contribute to these human rights violations by enabling perpetrators to benefit from EU trade preferences. This is not simply a matter of policy; it is a legal obligation under Article 21 of the Treaty on European Union and Article 207 and 208 of the Treaty on the Functioning of the European Union. Furthermore it is required, under Article 17 of the GSP Regulation, that where the Commission or a Member State considers that there are sufficient grounds for an investigation, it **shall** inform the GSP Committee and request consultations.

The Commission chooses to assume that preferential treatment under the EBA will address the development needs of beneficiary countries. In the Cambodian context, however, we have seen the EBA have the opposite effect with respect to agro-industrial investment and trade. This industry has uprooted and impoverished a significant segment of the Cambodian population, while the benefits have remained concentrated in the hands of a business and political elite. Meanwhile, exports to the EU of agricultural commodities such as sugar have surged under the incentives provided by the EBA scheme.<sup>9</sup> This situation indicates that in the specific context of the agro-industrial sector in Cambodia the economic logic of the EBA, and indeed its justification under the WTO enabling clause, may be mistaken.

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<sup>8</sup> Letter of the Commissioner Karel de Gucht, to Mrs Wikstrom, Member of the European Parliament, 25 July 2011.

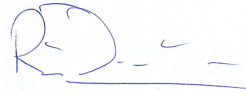
<sup>9</sup> According to trade statistics on EU imports, the value of EU imported cane sugar in 2010 from Cambodia represented an import value of 3,3 Mio Euro and an import volume of 10 000 tonnes. In 2011, EU sugar imports from Cambodia more than doubled and amounted to 22 500 tonnes representing an import value of 11,3 Mio Euro.

We urge you to undertake consultations on this matter within the GSP Committee without further delay.

Sincerely,



Dr. Pung Chhiv Kek  
President  
League for the Promotion & Defense of  
Human Rights (LICADHO)



Robert W.F. van Drimmelen  
General Secretary  
APRODEV



Sia Phearum  
Secretariat Director  
Housing Rights Task Force (HRTF)  
Cambodia



David Pred  
Managing Associate  
Inclusive Development International



Ee Sarom  
Representative  
Sahmakum Teang Tnaut



Roman Herre  
Policy Advisor – Land and Agriculture  
FIAN Germany



Eang Vuthy  
Representative  
Equitable Cambodia



Souhayr Belhassen  
President  
International Federation for Human  
Rights (FIDH)



Yeng Virak  
Executive Director  
Community Legal Education Center



Pietje Vervest  
Programme Coordinator  
Transnational Institute (TNI)