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Cc:
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Commissioner for Trade
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27th November 2014

Via Electronic Mail

Dear High Representative,

The undersigned International, European, Asian and Cambodian civil society organisations, engaged in human rights related work in Cambodia have long denounced the human rights violations occurring in the context of agro-industrial development, and particularly sugarcane production in Cambodia. The comprehensive and empirical assessment compiled in the study *Bittersweet Harvest* (attached to this letter) found that the expansion of agro-industrial sugarcane production led to numerous human rights violations, including violations of the right to housing and the right to food through forced evictions, destruction of houses and loss of access to land and water. It is estimated that more than 12,000 Cambodian villagers have been negatively affected by the introduction and expansion of sugar cane plantations.

The EU policy of granting preferential tariffs, namely the Everything But Arms (EBA) initiative has been instrumental to the development and expansion of agro-industrial sugar cane production in Cambodia. From negligible or zero exports before 2009, Cambodia's export of sugar skyrocketed to 64.917 tonnes in 2013, with virtually all of it shipped to the EU. In short, the EBA initiative has incentivized an extremely abusive industry.

As you well know, the Treaty of the European Union Article 3(5) and Article 21 and the Treaty on the Functioning of the European Union Article 207, oblige the EU to respect and protect human rights in its external actions and commercial policy, ensure that the EU is not contributing to human rights violations in third countries, and ensure that its policies and activities are designed and implemented in order to consolidate and support the rule of law and human rights. The Treaty on the Functioning of the European Union, Article 208, states in addition that '[t]he Union shall take account of the objectives of development cooperation in the policies that it implements which are likely to affect developing countries'.

We have long requested the European Commission to comply with those obligations and to launch an investigation into human rights violations committed by companies benefiting from Cambodia's EBA status, and an assessment of the overall human rights impacts of the trade scheme in Cambodia. Recently, the EC has made steps in the right direction, but those have not yet translated into concrete changes for affected peoples on the ground.

In accordance with the Lisbon Treaty, the High Representative of the Union for Foreign Affairs and Security Policy, assisted by the EEAS, is responsible for ensuring the coordination and coherence of the external actions including that external trade policies are consistent with the general provisions defined in Article 21 of the TEU which includes the principle of the universality and indivisibility of human rights.

Because of your mandate we hereby call on you to ensure that the EU fulfils its commitments to promote, respect and protect human rights, with a focus on the following priority areas:

1) Keep working with the Cambodian government and related companies to undertake a comprehensive audit of human rights impacts, economic losses, and compensation deficits suffered by communities affected by sugarcane plantations and provide full restitution without further delay. We acknowledge the EU's plans to provide technical assistance to the Cambodian government for the preparation of such an audit. This is a welcome - although long-awaited - development. In order to ensure effective progress on the ground for affected people, we believe it is essential for the EU to connect this process with clearly defined deadlines and benchmarks, and with the use of Art.19 of the GSP regulation in case of non-compliance with such time-bound indicators.

2) Examine the overall links between the EBA and human rights violations and take corrective action where needed. While we welcome enhanced "reporting on the implementation record of GSP+ beneficiaries by reporting to both the Council and the European Parliament every two years"¹ and the mechanism put in place to that end in the new regulation on GSP, there remains no equivalent mechanism to assess the negative impacts on human rights of EBA itself, with the consequences we have seen in the Cambodian sugar sector. The EU should undertake, in consultation with the civil society and all concerned and affected people, human rights impact assessments of the EBA in all beneficiary countries.

3) Revise the GSP regulation in order to institute a system of human rights due diligence for all products imported to the EU under the EBA arrangement. Trade preferences should only be granted to beneficiaries that respect human rights. The European Commission should verify, on a regular basis, that producers/exporters benefiting from preferential treatment are not responsible for, or complicit in, human rights violations, just as it currently ensures compliance with the rules concerning the origin of products. To this extent, the Commission could make use of instruments like import licences.

To conclude, we would also like to recall the recommendations of the 15th EU-NGO Human Rights Forum (Brussels, 5-6 December 2013) which the EU organised in order to implement the commitments made in *EU Strategic Framework and Action Plan on Human Rights and Democracy*. The recommendations (also attached to this letter) include:

"Ensure policy coherence between economic, social and cultural rights, and investment and trade policies, including through [...] a systematic monitoring of the impacts of EU policies leading to correction of these policies when necessary."

"Ensure accountability of ESCR violations by:

¹ Council of the European Union (13th May 2013) EU Annual Report on Human Rights and Democracy in the World in 2012 (Thematic Reports), 9431/13, p.58

- Ensuring better integration of ESCRs in the EU external relations and EU action in international fora, notably through the inclusion of accountability for ESCR violations as a standing item on the agenda of bilateral human rights and high level political dialogues, and through insuring that the voice of civil society and victims are consistently heard.
- Secure accountability of ESCRs violations including through oversight, vetting and addressing corruption, through:
 - Ensuring that EU-based companies respect human rights and due diligence when operating outside of the EU including through subsidiaries.
 - Putting in place mechanisms within the EU to ensure company extraterritorial liability.
 - Ensuring Member States fully implement the Brussels I Regulation.”

We ask you to take concrete steps towards the implementation of these recommendations in order to meet the human rights obligations of the EU as described above.

Sincerely Yours,

Undersigning organisations

ActionAid International

APRODEV

Cambodian Human Rights and Development Association (ADHOC)

Cambodian League for the Promotion and Defense of Human Rights (LICADHO)

Community Peace-Building Network (CPN)

Community Legal Education Center (CLEC)

Equitable Cambodia

FIAN Germany

Focus on the Global South

Forum Syd

Global Witness

Inclusive Development International

International Federation for Human Rights (FIDH)

Transnational Institute

Welthungerhilfe