



EUROPEAN COMMISSION

Directorate-General for International Cooperation and Development

Director-General

Brussels, 19ES(2016)3244358
devco.h.1.dir(2016)3885187

Subject: Your request for access to documents – Ref GestDem No 2016/2859

Dear Mr Davies,

We have reviewed your request for access to documents registered on 23 May 2016 under the above mentioned reference number.

There has been no audit funded by the European Union on sugar plantations land concessions in Cambodia. The Government of Cambodia has agreed to conduct what will be an assessment on land disputes in the sugar sector, leading to a process of eventual redress of complaints and damages incurred by the affected stakeholders in Cambodia.

The European Union provided technical expertise to assist the development of a methodology upon which to conduct this assessment. This methodology is yet to be finalised and is currently the subject of discussions within the Government of Cambodia. The actual assessment process is expected to follow once the methodology has been agreed and adopted by the Government. In this context, the EU Delegation to Cambodia has had a range of correspondence with the Government, to follow up on the work of the technical expertise and the finalisation of the methodology.

Please find attached relevant documents which we are in position to disclose, covering exchanges between the EU and third parties related to the discussions with the Cambodian Government on addressing the sugar sector land concession issues. Please note that some of these documents have already been made available to the public on the EU Commission public websites.

Attached is also a list with an overview of relevant exchanges between the EU Delegation and the Government of Cambodia which we are, however, not in position to disclose, as this would undermine the protection of the public interest as regards international relations (outlined in the Art. 4(1) 3d indent of Regulation (EC) No 1049/2001 regarding public access to documents). Publishing this correspondence would undermine the internal decision making process currently underway by the Government of Cambodia, as well as potentially compromise future tendering with respect to conducting the above mentioned assessment, thus undermining the very process of

Mr Jack Davies
25 Willes Close, Faringdon
Oxfordshire SN7 7DU
United Kingdom

addressing land rights related grievances in the sugar sector which the EU is seeking to support.

In accordance with Article 7(2) of Regulation 1049/2001, you are entitled to make a confirmatory application requesting the Commission to review this position.

Such a confirmatory application should be addressed within 15 working days upon receipt of this letter to the Secretary-General of the Commission at the following address:

European Commission
Secretary-General
Transparency unit SG-B-4
BERL 5/282
B-1049 Bruxelles

or by email to: sg-acc-doc@ec.europa.eu

Yours sincerely,


Stefano MANSERVISI

Enclosures:

- Joint letter by EU HR/VP Mogherini and TRADE Commissioner Malmström to ActionAid International
- Letter by EU Special Representative for Human Rights Lambrinidis to NGOs
- DG TRADE Note to the file – Report of Commissioner Malmström's meetings with ASEAN
- Overview of exchanges on the issue of sugar sector land concessions between the EU Delegation in Cambodia and the Royal Government of Cambodia (not for public disclosure)

Brussels, **01 SEP. 2015**

Dear Mrs Brachet,

We would like to thank you for your letter in which you shared with us the latest report published by ActionAid Cambodia concerning land grabbing in Oddar Meanchey province. Contributions of organisations like yours are important for the EU's assessment of the situation.

The European Union shares the concerns expressed in your letter about the impact of economic land concessions (ELCs) in Cambodia and has not spared efforts to address this issue through diplomatic channels as well as through concrete projects. As you know, land management and human rights is one of the highest political priorities in our relations with the Government of Cambodia, and we constantly monitor how the Government handles this issue.

Thank you for the recognition in your letter of the EU efforts to press the Cambodian authorities to take tangible measures to address the situation of families affected by land evictions and in particular to set up the Ad Hoc Inter-Ministerial Committee on land disputes in the sugar sector. The EU believes that the setting-up of this Committee is a positive sign of the Government's willingness to address the complaints about land grabbing for sugarcane plantations. In this context, the EU has played an instrumental role in ensuring that the Royal

Isabelle Brachet
Head of European Advocacy
ActionAid International
Europe Office
10 rue de l'industrie
1000 Brussels
Belgium

Cc: Bernd Lange, President of the International Trade Committee, European Parliament

Government of Cambodia accepts an independent assessment to audit the complaints addressed under this Committee. It has been a time-consuming and complex negotiation.

The EU has been funding the inception work of the two independent experts to draft the terms of reference for the audit. We have reached with the Government a critical point on the planned work of this independent audit. For the first phase of the audit aiming at identifying the legitimate claimants to be effective, the timely collaboration of the civil society organisations in handing over the lists of affected families is crucial. Failing this, the whole process risks being considerably delayed, in particular the second phase of the audit regarding the compensation mechanism that is already well advanced.

With reference to your report, I would like to confirm that the EU has also insisted that complaints filed in the Oddar Meanchey province are part of this independent audit and that return of land should remain an option.

To conclude, we would like to reassure you that the EU will continue to monitor closely the progress of this audit process and press the Government for the speedy implementation of its recommendations. More generally, you can count on the EU's continuing efforts in the area of land grabbing as long as they are needed. We look forward to continuing our valuable collaboration with organisations like yours as well as with the Royal Government of Cambodia in order to put an end to the human rights violations and to help those who have suffered from them.

Yours sincerely,



High Representative and Vice-President
Federica Mogherini



Commissioner for Trade
Cecilia Malmström

EUROPEAN EXTERNAL ACTION SERVICE



Stavros Lambrinidis
European Union Special Representative for Human Rights

Brussels,
EEAS I.A3 (2014) 4394139

Re: 27 November 2014 NGO letter on Cambodia

Dear representatives of civil society organisations,

Thank you for your letter of 27 November to High Representative Federica Mogherini, in which you share your concerns about the human rights situation in Cambodia, in particular related to the effects of the Everything But Arms (EBA) initiative for Cambodian villagers. The High Representative has asked me to reply on her behalf.

The European Union shares the concerns expressed in your letter about the impact of economic land concessions (ELCs) in Cambodia and has not spared efforts to address this issue through diplomatic channels as well as through concrete projects.

The EU Delegation in Phnom Penh regularly raises these concerns with the Government and they feature high on the agenda of high-level meetings such as the bi-annual EU-Cambodia Joint Committee, which has a Sub-group on Institution Building, Administrative Reform, Legal and Judicial Reform, Governance and Human Rights (last meeting in March 2014) or the latest meeting between the former Commissioner for Trade Karel De Gucht and Minister of Commerce Sun Chanthol also in March 2014.

Positive developments such as the land titling campaign, the moratorium on the granting of new ELCs and the setting-up of an ad hoc working group to address concretely land disputes in the sugar sector in order to compensate affected communities are due in large part to the combined relentless efforts of the EU at all levels as well as of organisations like yours.

Recognizing the leading role of civil society in this and other fields, the EU is a lead donor in Cambodia in supporting civil society organisations engaged in the promotion and protection of human rights. In the last 10 years, the EU has funded over 60 such initiatives, many of which have been directly focusing on the promotion and defence of land rights. Eleven EU-funded land rights projects are currently being implemented by international and local NGOs in Cambodia such as the Cambodia Centre for Human Rights, Danish Church Aid, Licadho, Oxfam GB, People in Need, and others. More specifically, four EU grants were awarded to NGOs in 2014 and seven other land projects funded in previous years have continued to be implemented throughout 2014, focusing on enhancing land security especially for indigenous communities.

The EU – both Headquarters and the Delegation – also continues to hold regular consultations with NGOs involved in land issues and the rights of indigenous communities. It holds field visits addressing these topics including on-the-spot coordination with NGOs and populations.

Moreover, the EU Delegation attends the meetings of the ad hoc working group set up by the Minister of Commerce, which aims at setting up a mechanism of fair compensations for the victims of land evictions in the sugar sector. The EU Delegation has played a key role in the Government decision to conduct an independent assessment of land disputes. As you mention in your letter, the EU will indeed provide technical assistance to help establish an assessment methodology and benchmarks in accordance with Cambodian law and international standards. It is a tangible proof of the EU's readiness to contribute concretely to the process aiming at addressing the long-standing land disputes related to sugar plantations.

Furthermore, the EU Delegation in Phnom Penh continued, together with Germany as lead development partner in the land sector, to insist on the need for more transparency (towards the public and development partners) on the Government's land titling efforts; on the announced review of state land granted as ELCs; on the future use of land already excised from ELCs; on land conflict resolution efforts; and on future country-wide plans for land distribution to the poor in form of Social Land Concessions (SLC).

The EU has a shared interest with Cambodia in promoting investments that contribute positively to the economy and the social development of the country. The EU Delegation together with European business representatives (EuroCham) has been making efforts to raise awareness on corporate social responsibility (CSR) among the business community as well as to promote and present European CSR best practices to local businesses. CSR was also discussed in the EU-Cambodia Joint Committee to encourage further Government engagement with current regional and international initiatives.

With regard to corrective action in cases of violations, the Generalised Scheme of Preferences (GSP) Regulation contains clear legal conditions for the opening of an investigation and the potential withdrawal of preferences. These include a serious and systematic violation of the principles laid down in the listed core international conventions on human and labour rights. In doing so, the EU is guided by the findings and recommendations of the relevant monitoring bodies under these conventions. The European Commission is constantly reviewing the assessment and evidence provided by these bodies. The most recent information (Resolutions of the UN Human Rights Council, August 2014 report by the UN Special Rapporteur) and developments on the ground indicate that there has been progress with respect to land-titling issues. Yet a lot remains

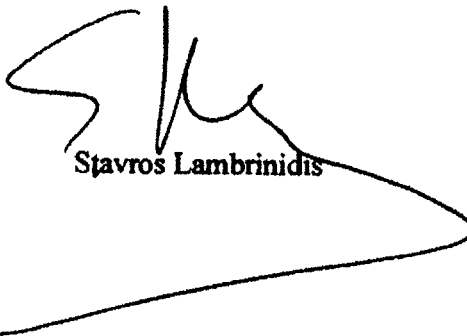
to be done. The Commission continues to monitor closely the situation and to engage with the Government of Cambodia on this.

In terms of assessing the general impact of EBA on human rights, the mid-term review of the GSP Regulation is due by 21 November 2017. At that point, the European Commission will conduct an in-depth assessment of the effects of the reformed GSP scheme on all beneficiary countries, including on EBA countries. In addition, as you rightly point out, by 1 January 2016 and subsequently every two years after, the Commission will present a report on the effectiveness of the GSP scheme with, however, a special focus on the implementation of the GSP Plus provisions.

Lastly, with regard to instituting a system of due diligence for individual products, it must be noted that the overall objective of the GSP Regulation is to promote development through trade and economic growth. In that context, the EU grants unilaterally tariff-free, quota-free access to the EU market to all LDCs as determined by the United Nations on a non-discriminatory basis without requiring any specific undertaking. As such, the GSP Regulation applies to beneficiary countries, not to individual companies. Thus, the EU cannot impose product-specific import requirements on individual economic operators or traders under the GSP Regulation.

To conclude, I hope to have reassured you about the various concrete steps taken by the EU towards the implementation of the recommendations and commitments made in the EU Strategic Framework and Action Plan on Human Rights and Democracy. You can count on the EU's continuing efforts in this area as long as they are needed. Therefore, the EU also foresees to prolong its support to concerned NGOs and looks forward to continuing its valuable collaboration with them as well as with the Royal Government of Cambodia in order to put an end to the human rights violations and to help those who have suffered from them.

Yours sincerely,



Stavros Lambrinidis



EUROPEAN COMMISSION

Directorate-General for Trade

Directorate C - Asia and Latin America

South and South East Asia, Australia, New Zealand

Brussels,

TRADE.C.2/

[Art. 4.1(b)]

NOTE TO THE FILE

Subject: Report of Commissioner Malmström's meetings with ASEAN (3 March 2016, Chiang Mai, Thailand)

During her second trip to ASEAN, the Commissioner co-chaired the annual ASEAN Economic Ministers (AEM) -EU Trade Commissioner Consultations and held bilateral meetings with some ASEAN Ministers.

1. AEM -EU Trade Commissioner Consultations

[Out of scope of the request]

[Out of scope of the request]

2. Meeting with EU industry

[Out of scope of the request]

3. Bilateral meetings

[Out of scope of the request]

[Out of scope of the request]

With **Cambodia**, Minister Sun Chanthol, recognising that the bilateral FTA was not in the cards, expressed great appreciation for EBA which was contributing to Cambodia's development, in particular in garments, rice or bicycles exports. The Commissioner welcomed the positive contribution of EBA to the economy but reiterated EU concerns about land grabbing in the sugar sector and expressed disappointment that the high-level working group to undertake an independent audit of complaints of land evictions in the sugar sector was stalled at the level of the Terms of Reference. She reminded that the EU was under continuous pressure by NGOs and the EP and that there was always a risk that the trade preferences could be suspended. She urged Minister Chanthol - as Chair of the working group - to show Cambodia's commitment to this audit process and that progress be made towards a permanent solution to the affected families. Minister Sun Chanthol noted that a meeting of the working group would take place in March.

[Out of scope of the request]

[Out of scope of the request]

[Out of scope of the request]

[Art. 4.1(b)]

Visa: Jon Nyman

Cc: Mauro Raffaele PETRICCIONE, Peter SANDLER, Rupert SCHLEGELMILCH, Helena KONIG, Sandra GALLINA, Ignacio GARCIA BERCERO, Denis REDONNET, Signe RATSO, Leopoldo RUBINACCI, [REDACTED]

(DG TRADE)

George EDGAR. (EU Delegation to Cambodia)

Vincent GUEREND, [REDACTED] (EU Delegation to Indonesia)

(EU Delegation to Laos)

Luc VANDEBON, (EU Delegation to Malaysia)

Roland KOBIA (EU Delegation to Myanmar)

Franz JESSEN, [REDACTED] (EU Delegation to the Philippines)

Michael PULCH, (EU Delegation to Singapore),

SANZ Jesus Miguel, (EU Delegation
to Thailand)

Bruno ANGELET, [REDACTED] (EU Delegation to Vietnam)

Francisco FONTAN (EU Delegation to ASEAN)

NYMAN Jon (Cabinet Commissioner Malmström)

Ugo ASTUTO, (EEAS)

**Overview of exchanges on the issue of sugar sector land concessions between the EU
Delegation in Cambodia and the Royal Government of Cambodia**

Not for public disclosure

(Art. 4(1) 3d indent of Regulation (EC) No 1049/2001 regarding public access to documents)

Date	To	From
01-Sep-2012	Ministry of Commerce, Royal Government of Cambodia	EU Delegation to Cambodia
30-May-2014	Ministry of Commerce, Royal Government of Cambodia	EU Delegation to Cambodia
18-Jul-2014	Ministry of Commerce, Royal Government of Cambodia	EU Delegation to Cambodia
08-Aug-2014	EU Delegation to Cambodia	Ministry of Commerce, Royal Government of Cambodia
17-Sep-2014	EU Delegation to Cambodia	Ministry of Commerce, Royal Government of Cambodia
29-Nov-2014	EU Delegation to Cambodia	Ministry of Commerce, Royal Government of Cambodia
12-Dec-2014	Ministry of Commerce, Royal Government of Cambodia	EU Delegation to Cambodia
16-Jan-2015	EU Delegation to Cambodia	Ministry of Commerce, Royal Government of Cambodia
21-Jan-2015	EU Delegation to Cambodia	Ministry of Commerce, Royal Government of Cambodia
02-Jun-2015	Ministry of Commerce, Royal Government of Cambodia	EU Delegation to Cambodia
09-Oct-2015	Ministry of Commerce, Royal Government of Cambodia	EU Delegation to Cambodia
09-Dec-2015	Ministry of Commerce, Royal Government of Cambodia	EU Delegation to Cambodia
21-Jan-2016	Ministry of Commerce, Royal Government of Cambodia	EU Delegation to Cambodia
17-Feb-2016	Ministry of Commerce, Royal Government of Cambodia	EU Delegation to Cambodia
22-Apr-2016	EU Delegation to Cambodia	Ministry of Commerce, Royal Government of Cambodia
25-Apr-2016	Ministry of Commerce, Royal Government of Cambodia	Ministry of Commerce, Royal Government of Cambodia
25-Apr-2016	EU Delegation to Cambodia	Ministry of Commerce, Royal Government of Cambodia

