



## Trade/Human Rights: withdrawal of Cambodia's preferential access to the EU market - Factsheet

On 12 February 2020, the Commission decided to partially withdraw trade preferences for products imported from Cambodia due to serious and systematic violations of human rights. This is the first time the Commission adopts a partial withdrawal of tariff preferences<sup>1</sup>.

### 1. EU trade preferences to Cambodia under the Everything But Arms (EBA) trade arrangement

The United Nations classifies Cambodia as a Least Developed Country (LDC). With this status, Cambodia benefits from Everything But Arms (EBA) preferences. The EBA arrangement is the most generous one under the EU Generalised Scheme of Preferences (GSP) Regulation<sup>2</sup>. It grants duty-free, quota-free access for all products (except arms and ammunition) originating in Cambodia and exported to the EU.

The EBA tariff preferences have clearly had a remarkable impact on economic growth and jobs in Cambodia. Cambodia is now the second largest beneficiary of EBA preferences after Bangladesh. The EU is Cambodia's largest trading partner, accounting for 45% of its total exports in 2018. Exports from Cambodia to the EU reached €5.4 billion in 2018, more than double of the €2.5 billion recorded in 2013. 95.7% of these exports entered the EU market under EBA tariff preferences (i.e. €5.2 billion out of the total €5.4 billion).

The GSP Regulation comes with the obligation to respect human rights and labour rights. This is an important objective of EU trade policy. The EBA preferences may be withdrawn in case of serious and systematic violations of these rights. In this framework, the Commission identified Bangladesh, Cambodia and Myanmar in the [2016-2017 biennial GSP Report](#) for EBA enhanced engagement because of the declining human rights and labour rights situations in these three countries.

### 2. Process that led to the withdrawal decision

#### *Enhanced engagement*

In its [Conclusions](#) on Cambodia of 26 February 2018, the Council expressed deep concern on the deterioration of democracy, respect for human rights and the rule of law, including the escalating repression of the opposition, media and civil society. The Council highlighted Cambodian authorities' actions against the now dissolved Cambodian National Rescue Party (CNRP) and its members, in particular the arrest of the CNRP leader Kem Sokha. The Council called for the release of Kem Sokha, reversal of the CNRP dissolution and reinstatement of the elected CNRP officials. The Council invited

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<sup>1</sup> Sri Lanka, a GSP+ beneficiary country, has previously had its tariff preferences under the GSP Regulation fully withdrawn. Belarus' GSP preferences remain fully withdrawn due to the political situation in that country.

<sup>2</sup> Regulation 978/2012 of the European Parliament and of the Council of 25 October 2012.

the Commission to enhance the monitoring of the situation and to step-up the engagement with Cambodia, in light of the provisions of the GSP Regulation.

The European Parliament passed in September 2018 a [Resolution](#) expressing similar concerns as the Council, and called on the Commission and the External Action Service (EEAS) to closely monitor the situation in the country and consider possible consequences for EBA trade preferences for Cambodia.

In 2018, the Commission initiated an enhanced engagement with Cambodia, closely monitoring the situation and intensifying dialogue so that Cambodia takes concrete remedial action. A fact-finding mission took place in Cambodia from 5-11 July 2018. High-level meetings took place and Cambodian delegations visited Brussels to meet with senior officials of the Commission and the EEAS. The Commission interacted with all other stakeholders, such as non-governmental organisations and civil society organisations, trade unions, international organisations and businesses.

Enhanced engagement has also been initiated with Myanmar and Bangladesh. More information about these procedures can be found in the [Staff Working Document](#) of the [Commission and HRVP GSP Report 2018-2019](#) published on 10 February 2020.

### ***Procedure for temporary withdrawal of EBA preferences***

The Commission concluded on 11 February 2019 that there was sufficient evidence to start the procedure for the temporary withdrawal of EBA tariff preferences granted to Cambodia. The evidence pointed to serious and systematic violation of principles of the following core human rights and labour rights international conventions:

- International Covenant on Civil and Political Rights (1966) (ICCPR)
- Convention concerning Freedom of Association and Protection of the Right to Organise, No 87 (1948)
- Convention concerning the Application of the Principles of the Right to Organise and to Bargain Collectively, No 98 (1949)
- International Covenant on Economic Social and Cultural Rights (1966) (ICESCR)

The initiation of the withdrawal procedure started a six-month monitoring and evaluation period (from the date of publication of the [Notice of initiation](#) on 12 February 2019). During this period, the Commission sought all necessary information, including observations from stakeholders such as international organisations and monitoring bodies of the United Nations and International Labour Organisation, business, civil society organisations and Cambodian authorities.

The Commission provided Cambodia with every opportunity to cooperate, including at political level. An EU monitoring mission took place on 3-10 June 2019. During this mission, the Commission and the EEAS met members of the Cambodian Government as well as representatives of international organisation such as the UN and the ILO, non-governmental stakeholders, civil society and trade unions, industry representatives and the Embassies of EU Member States in Cambodia, as well as other diplomatic missions.

On 15 December 2019, EU High Representative Josep Borrell met with Cambodian Deputy Prime Minister and Minister of Foreign Affairs Prak Sokhonn. The High Representative reiterated the importance to take immediate action to open the political space in the country, to establish the necessary conditions for a credible, democratic opposition and to initiate a process of national reconciliation through genuine and inclusive dialogue.

The monitoring and evaluation period concluded with the Commission's Report of Findings and Conclusions. The Commission transmitted this report to the Government of Cambodia on 12 November

2019 and invited them to respond. Cambodian authorities responded on 12 December 2019, disagreeing with the Commission's findings and conclusions on civil and political rights.

### **3. Commission's findings**

The Commission found serious and systematic violations of principles of the - International Covenant on Civil and Political Rights (ICCPR) by Cambodia - more specifically, the rights to political participation and to freedoms of expression, peaceful assembly and association.

The Delegated Regulation on temporary withdrawal of EBA tariff preferences adopted on 12 February 2020 is based on the findings contained in the Report of Findings of November 2019 and its underlying evidence, subsequent evaluation and assessment in the light of Cambodia's response on 12 December 2019, as well as new facts and developments that occurred after that date.

#### ***Political participation***

The actions taken by authorities of Cambodia since 2017 point to a politically motivated scheme consisting of legislative, judicial and administrative measures designed to curtail political participation and electoral rights, in particular ahead of the July 2018 general elections. The legislative amendments and actions taken against the CNRP and its members in particular, had a strong negative impact on democracy and political participation in Cambodia.

These actions have hindered the full enjoyment of political rights by Cambodians, including the right to take part in the conduct of public affairs, to vote and to be elected at genuine periodical elections and to have access, on general terms of equality, to public service in their country.

#### ***Freedom of expression***

Cambodian authorities have curtailed the right to freedom of expression through judicial and administrative actions, which are based on vaguely and ambiguously worded provisions in Cambodian law. These actions were taken in particular against journalists, press and media, Non-Governmental Organisations (NGOs) and human rights defenders. Even though Cambodia accepted the Universal Periodic Review (UPR)<sup>3</sup> recommendations on independence of media and freedom of expression of journalists, no actions have been taken to effectively implement these recommendations.

#### ***Freedom for association and peaceful assembly***

Cambodian authorities have taken a series of actions to suppress the exercise of freedom of association including under the Law on Non-Governmental Organisation (LANGO). These actions have included arrests, detentions and sentencing of civil society activists, including land right and environmental activists. Civil society activists and their families continues to experience intrusive monitoring and harassment by Cambodian authorities, despite the Government of Cambodia having accepted the UPR recommendations to cease all kinds of harassment, intimidation, use of force and

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<sup>3</sup> UPR, [A/HR/41/17/Add. 1](#).

arbitrary interference with the freedom of association and peaceful assembly<sup>4</sup>. The above-mentioned actions have resulted in a shrinking space for civil society.

### **Land rights**

The Commission notes tangible progress in resolving land disputes on economic land concessions in the sugar sector. However, shortcomings still exist in several areas, such as land registration, the rights of indigenous communities, and lack of appropriate and impartial review.

### **Labour rights**

Serious concerns also remain in the area of human rights and labour rights. In particular, the unresolved civil and criminal cases against trade union leaders and the failure to conclude the independent investigations into murders of trade union leaders are in serious violation of ILO Conventions 87 and 98 and the ICCPR. The Law on Trade Unions should be amended to comply with ILO Conventions 87 and 98, for example by expanding the scope to include all workers and civil servants.

### **Conclusion**

Given the nature of the rights infringed, duration, scale, and the impact of Cambodian authorities' actions and omissions, the Commission found serious and systematic violations of the principles laid down in Articles 19, 21, 22 and 25 of the ICCPR. The EU's tariff preferences for Cambodia under the EBA arrangement should therefore be withdrawn partially and temporarily until it is decided that the reasons for justifying the withdrawal no longer apply. This means that certain products imported from Cambodia will not enjoy preferential access to the EU market as provided by EBA but will be subject to most favoured nation (MFN) import tariffs.

## **4. General considerations**

The temporary withdrawal of EBA preferences is a measure of last resort. The European Union has informed Cambodian authorities on many occasions of its concerns on the shortcomings on human rights and labour rights.

The temporary withdrawal of EBA tariff preferences should, to the extent possible, take the social and economic development objectives of the EBA arrangement into account, while maintaining the necessary pressure on the Cambodian authorities to address the violations of human rights.

In deciding the scope of the tariff preferences withdrawal, the Commission considered the following issues:

- **Cambodia's exports to the EU**

The EU is Cambodia's largest export destination, accounting up to €5.4 billion in 2018.<sup>5</sup> The majority of Cambodian exports to the EU consists of garments (74.2%), which are followed by footwear (12.6%), bicycles (5.7%) and rice (3%).

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<sup>4</sup> Report of the Working Group on the Universal Periodic Review: Cambodia, A/HRC/41/17.

- **Social and economic development**

The garment industry is a major employer in Cambodia. It employs hundreds of thousands of workers. The Commission paid particular attention to preferences for products that require significant training and investment in skills, thus limiting the impact on Cambodia's overall industrial development. Bicycles and garment products with higher added value were therefore excluded.

- **Cooperation and progress by Cambodia**

The Commission recognised the progress made by Cambodia, notably on labour rights and land disputes in the sugar sector.

In light of the above, the Commission considered that the withdrawal of preferential import tariffs and replacement with MFN tariffs with respect to certain products (partial withdrawal) is proportionate and appropriate. The product selection represents a balanced approach of preserving the social and economic development in Cambodia while safeguarding the respect for human rights.

The affected products are in the following sectors: low added-value garment products, footwear, travel goods and sugar.

## **5. Next steps**

The Commission adopted the Delegated Regulation on 12 February 2020. If the European Parliament and the Council do not object to the Delegated Regulation, it will take effect on 12 August 2020.

The Commission will continue its enhanced engagement with Cambodia and closely monitor the situation, including on the issues of civil and political rights, labour rights and land and housing rights.

The European Union reiterates the importance of Cambodian authorities to take action to re-open the political space in the country, to create the necessary conditions for the re-establishment of a credible, democratic opposition and to initiate a democratic process of national reconciliation through genuine and inclusive dialogue. The Commission and the EEAS have outlined these necessary actions in the Commission's Report of Findings and Conclusions and on many occasions to Cambodian authorities. These actions include notably the reinstatement of the political rights of the opposition members and the repeal/revision of laws, such as the Law on Political Parties and the Law on Non-governmental Organisations.

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<sup>5</sup> See the Commission's [factsheet](#) about the EU-Cambodian trade in 2018.