

## EU trade sanctions on Cambodia: an ethical debate

### Recommendations on the EU democratisation policy

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In response to what are regarded as “democratic setbacks” in Cambodia, the European Commission announced on 5 October 2018 it would hit the country with trade sanctions. Damaging the national economy on which ordinary people depend for their health and welfare as the means to attain policy goals raises a significant ethical debate. Historical experience demonstrates that economic sanctions are largely ineffective in achieving their objectives and their use can negatively impact the population. Boundaries and specifications need to be placed on economic sanctions to ensure that potential socio-economic damage is minimised.

Because of the pressure to show results, international actors such as the EU continue to pursue forms of democracy promotion that are short-term, instead of adopting a non-linear approach to help build democracy in the long-term. In Cambodia as in many countries, democracy aid focuses on elections but less on the strengthening of continuous accountability mechanisms. The EU should consider specific structural conditions in Cambodia and build on a commonly agreed conception of democracy.

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*This paper expresses the view of the authors and not the European Institute for Asian Studies*

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## 1. EU's response to democratic backsliding in Cambodia

The EU has regarded the political context in Cambodia as deteriorating for a number of years. In parallel to the increasing repression of both written and broadcast media and civil society, the Supreme Court dissolved the main opposition Cambodian National Rescue Party (CNRP) in 2017, and arrested its leader Kem Sokha, leaving the country as a *de facto* one-party state. Unsurprisingly, Cambodia's ruling party claimed a general election victory on 29 July 2018 and won all 125 parliamentary seats.<sup>2</sup>

Prior to the election, the EU along other members of the international community issued several statements expressing grave concerns about the continuing deterioration of democracy, respect of Human Rights and the rule of law. The EU had declined to observe the election and suspended its financial assistance to the Cambodian National Election Committee (NEC). In the ensuing days of the elections, the EU<sup>3</sup> and some of its member states, such as Germany,<sup>4</sup> France,<sup>5</sup> the UK<sup>6</sup> and Sweden<sup>7</sup> expressed concerns over the lack of legitimacy of the election in the absence of the main opposition party.

On 5 October 2018, the EU announced it would hit the country with trade sanctions. EU Trade Commissioner Cecilia Malmstrom said that, along with High Representative Federica Mogherini, she was launching the process for the withdrawal of Cambodia's Everything But Arms (EBA) preferences that grant Cambodian exports tax-free entry into the European market.<sup>8</sup> The imposition of tariffs is likely to cause a major industry disruption for Cambodia's exports to the European market, accounting for 40 percent of all its exports<sup>9</sup> and would incur a cost of US\$676 million.<sup>10</sup> The European Commission's

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<sup>2</sup> REUTERS (2018), Cambodia's ruling party says it won all 125 parliamentary seats, by Prak Chan Tul, on 30 July 2018 <https://www.reuters.com/article/us-cambodia-election-result/cambodias-ruling-party-says-it-won-all-125-parliamentary-seats-idUSKBN1KK0HN>

<sup>3</sup> EU External Action Service - EEAS (2018), Statement by the Spokesperson on the general elections in Cambodia, on 30 July 2018 [https://eeas.europa.eu/headquarters/headquarters-homepage/48957/statement-spokesperson-general-elections-cambodia\\_en](https://eeas.europa.eu/headquarters/headquarters-homepage/48957/statement-spokesperson-general-elections-cambodia_en)

<sup>4</sup> German Federal Office (2018), Statement by the Federal Foreign Office on the elections in Cambodia, on 30 July 2018 <https://www.auswaertiges-amt.de/en/newsroom/news/elections-kambodscha/2123102>

<sup>5</sup> Ministère des Affaires Étrangères de France (2018), Déclarations officielles de politique étrangère, on 30 July 2018 <https://basedoc.diplomatie.gouv.fr/FranceDiplomatie/PDF/bafr2018-07-30.pdf>

<sup>6</sup> UK Government (2018) Statement by Minister for Asia and the Pacific Mark Field following the election in Cambodia, press release, on 31 July 2018 <https://www.gov.uk/government/news/minister-for-asia-the-pacific-statement-on-cambodias-election>

<sup>7</sup> Twitter (2018) Margot Wallstrom, Deputy Prime Minister of Sweden on 2 August 2018 <https://twitter.com/margotwallstrom/status/1025022821745999872>

<sup>8</sup> EUROPEAN COMMISSION (2018), On Myanmar and Cambodia, by Cecilia Malmstrom, blog post, on 5 October 2018 [https://ec.europa.eu/commission/commissioners/2014-2019/malmstrom/blog/myanmar-and-cambodia\\_en](https://ec.europa.eu/commission/commissioners/2014-2019/malmstrom/blog/myanmar-and-cambodia_en)

<sup>9</sup> EUROPEAN COMMISSION (2018) Cambodia: EU mission assesses human rights and labour situation, press release, 12 July 2018 [http://europa.eu/rapid/press-release\\_IP-18-4467\\_en.htm](http://europa.eu/rapid/press-release_IP-18-4467_en.htm)

<sup>10</sup> ASIA TIMES (2018.), « EU tariffs threaten to flatten Cambodia » by David Hutt, on 9 October 2018 <http://www.atimes.com/article/eu-tariffs-threaten-to-flatten-cambodia/>

decision to remove Cambodia's access to EBA came six months after the Foreign Affairs Council of the EU threatened of sanctions.<sup>11</sup> The current process of withdrawal takes six months to review of Cambodia's duty-free access to the EU and another six months for a report of findings. During this period, the EU keeps the channels of dialogue open with Cambodia and leaves the possibility to reverse the situation.<sup>12</sup>

## **2. Economic sanctions: risks, legitimacy and limited success**

### **2.1. Risks: Increasing poverty and unemployment**

Sanctions are one of the EU's tools to promote peace, democracy and the respect for the rule of law, human rights and international law. The objective is to ensure the Cambodian government complies to the EU's demands to restore a democratic environment, specifically through the release of Kem Sokha, the reinstatement of CNRP, and an end to repression and intimidation of media outlets and civil society groups.<sup>13</sup> Although viewed as more humane than military intervention, economic sanctions are known as *double-edge swords*. They often have unintended and unwanted consequences effecting poverty and economic growth.<sup>14</sup> They could also potentially have a severe impact upon the hard-won results of the EU-Cambodia cooperation, which aim at socio-economic development. As access to the EBA scheme has allowed the country "to gain a competitive advantage, grow the economy and generate employment,"<sup>15</sup> its removal would have a damaging effect on these economic gains.

Although the outcome is unpredictable, it is possible that those who enjoy access to state power and economic resources, will displace the costs of sanctions onto weaker social groups.<sup>16</sup> Research demonstrates that economic sanctions lead to an increase in the poverty gap and deprived sections of the population – in particular women, minority communities and other marginalised groups - feel the most impact.<sup>17</sup> The sanctions

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<sup>11</sup> EU COUNCIL (2018), Council conclusions on Cambodia, as adopted by the Council at its 3598th meeting held on 26 February 2018, from the General Secretariat of the Council to delegations, 6416/18

<http://data.consilium.europa.eu/doc/document/ST-6416-2018-INIT/en/pdf>

<sup>12</sup> EU delegation to Cambodia (2018), Media Release, 7 October 2018

<sup>13</sup> EU COUNCIL (2018), Council conclusions on Cambodia, Ibid.

<sup>14</sup> O'DRISCOLL (2017), Impact of Economic sanctions on poverty and economic growth, University of Manchester in K4D Knowledge and learning for development, on 14 June 2017 <http://gsdrc.org/wp-content/uploads/2017/06/136-Impact-of-economic-sanctions-on-poverty-and-economic-growth.pdf>

<sup>15</sup> KHMER TIMES (2018), EU a key economic partner in Cambodia: Ambassador, 5 October 2018

<https://www.khmertimeskh.com/50539696/eu-a-key-economic-partner-in-cambodia-ambassador/>

<sup>16</sup> JONES, L. (2015), How Do International Economic Sanctions (Not) Work? The Foreign Policy Centre, in November 2015 <https://www.files.ethz.ch/isn/194802/1708.pdf>

<sup>17</sup> O'DRISCOLL (2017), Op. Cit.

would harm the 13.5 percent of the Cambodian population <sup>18</sup> that are underneath the national poverty line and a large section just above it categorized by the United Nations Development Programme (UNDP) as “vulnerable to economic shock.” <sup>19</sup> The National Union Alliance Chamber of Cambodia estimates that removing the EBA tariff system from Cambodia will directly affect the employment and livelihoods of about three million workers and their families. <sup>20</sup> In the vital sector of garments, 43% of workers (nearly 225,000 people) would lose their jobs. In addition, 20% of workers in footwear factories (more than 20,000 people) would also become unemployed. <sup>21</sup>

Furthermore, sanctions would also hurt both sides in EU-Cambodia relations. About 500 companies from the EU are present in the country according to the European Chamber of Commerce in Cambodia. <sup>22</sup> Financial burdens would rise on European businesses affecting jobs and salaries they offer to European and Cambodian workers. Removing preferential trade access would likely lead to factory closures. <sup>23</sup> Some estimate that “within 18 months, up to 50 per cent of manufacturers would move out of Cambodia.” <sup>24</sup>

## **2.2. Legitimacy: an ethical question**

A significant ethical debate surrounds the use of economic sanctions. Damaging the national economy on which ordinary people depend for their health and welfare as a mean of attaining policy goals such as democratisation and respect for human rights is not without controversy. The UN Secretary General stated that sanctions “raise the ethical question of whether suffering inflicted on vulnerable groups in the target country

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<sup>18</sup> VOA Cambodia (2018), UN ‘Apologizes’ to End Row With Cambodia Over Poverty Level Measurement, by Aun Chhengpor, on 10 October 2018 <https://www.voacambodia.com/a/un-apologizes-to-end-row-with-cambodia-over-poverty-level-measurement/4607615.html>

<sup>19</sup> VOA Cambodia (2018), Q&A: Nick Beresford, UNDP Cambodia Country Director, Sotheary You, on 5 September 2018, <https://www.voacambodia.com/a/interview-nick-beresford-undp-cambodia-country-director/4558884.html>

<sup>20</sup> KHMER TIMES (2018) EU initiates process to withdraw Cambodia’s trade preferences, on 6 October 2018 <https://www.khmertimeskh.com/540068/eu-initiates-process-to-withdraw-cambodias-trade-preferences/>

<sup>21</sup> POR N. (2018) Analysis of Potential Impacts of Foreign Sanction on Cambodia’s Economy in International Journal of Sciences: Basic and Applied Research (IJSBAR) Volume 38, No 2, pp 75-88 <http://gssrr.org/index.php?journal=JournalOfBasicAndApplied&page=article&op=download&path%5B%5D=8923&path%5B%5D=4006>

<sup>22</sup> KHMER TIMES (2018), EU a key economic partner in Cambodia: Ambassador, op. cit.

<sup>23</sup> REUTERS (2018), EU, U.S. reluctant to remove trade preferences for Cambodia garments: Fitch's BMI, 24 April 2018 <https://www.reuters.com/article/us-cambodia-politics-garments/eu-u-s-reluctant-to-remove-trade-preferences-for-cambodia-garments-fitchs-bmi-idUSKBN1HV0BL>

<sup>24</sup> THE PHNOM PENH POST (2018), A sector too big to fail? By Robin Spiess, 5 April 2018 <https://www.phnompenhpost.com/business/sector-too-big-fail>

is a legitimate means of exerting pressure on political leaders.”<sup>25</sup> Sarah Zaidi, co-founder of the Centre for Economic and Social Rights shared her views at an event held by the Office of the United Nations High Commissioner for Human Rights (UN OHCHR). “The rights and well-being of civilians and vulnerable populations cannot be sacrificed because their governments are in conflict with powerful States or multilateral institutions.”<sup>26</sup>

The Council of the EU states that sanctions “are developed in such a way as to minimise adverse consequences for those not responsible for the policies or actions leading to the adoption of sanctions.”<sup>27</sup> However, considering the potential damaging effect that complete suspension of EBA may have upon ordinary citizens, the EU’s principle of “minimise the effects on the local civilian population and on legitimate activities in or with the country concerned”<sup>28</sup> is put to test.

### 2.3. A probability of failure

Historical experience shows that sanctions fail most of the time to achieve their aims. Research based on statistical evidence predicts a 5%,<sup>29</sup> 22 %<sup>30</sup> or 30 %<sup>31</sup> chance of success. In other words, “economic sanctions fail between 65-95% of the time in achieving their intended goals,” said Dursun Peksen at an event held by UN OHCHR.<sup>32</sup> Although each society is unique and the Cambodian case demands specific analysis, quantitative indicators can not be ignored.

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<sup>25</sup> HOTTON, C (2016), Targeted Sanctions: Providing a Solution to the Issue of General Sanctions, in Creighton International and Comparative Law Journal, p. 90

<https://dspace2.creighton.edu/xmlui/bitstream/handle/10504/87764/7%20CICLJ%2086%20-%20Hotton%20Article.pdf?sequence=1&isAllowed=y>

<sup>26</sup> UN OHCHR (2014) Bearing the brunt of economic sanctions, on 17 June 2014

<https://www.ohchr.org/EN/NewsEvents/Pages/UnilateralCoerciveMeasures.aspx>

<sup>27</sup> EU External Action Service – EEAS, Sanctions policy [https://eeas.europa.eu/topics/external-investment-plan/423/sanctions-policy\\_en](https://eeas.europa.eu/topics/external-investment-plan/423/sanctions-policy_en)

<sup>28</sup> Idem.

<sup>29</sup> PAPE, R. (1997), Why Economic Sanctions Do Not Work, in International Security, Volume 22, Issue 2 (Autumn), pp 90-136.

<sup>30</sup> A 2013 study by a group of academics called the Targeted Sanctions Consortium mentioned by BOYLE, D. (2018), Donor scramble as Cambodia hits undo on democracy, in the Interpreter, on 11 June 2018, The Lowy Institute <https://www.loyyinstitute.org/the-interpreter/donor-scramble-cambodia-hits-undo-democracy>

<sup>31</sup> SHAHADAT, M., and VAN BERGEIK, P., (2012) Reconsidering economic sanctions reconsidered. A detailed analysis of the Peterson Institute Sanction database, working paper n° 549, International Institute of Social Studies.

<sup>32</sup> PEKSEN D. (2014) Socio-Economic and Political Consequences of Economic Sanctions for Target and Third-Party Countries, University of Memphis event at UN OHCHR on 17 June 2014

<https://www.ohchr.org/Documents/Events/Seminars/CoercitiveMeasures/DursunPeksen.pdf>

It is difficult to predict how the Cambodian government will respond. Sanctions are frequently imposed because – or called for with respect to – the assumed morality of target regimes.<sup>33</sup> However, the level of distrust for Hun Sen’s regime has been growing over the past years and was accentuated by the international pressure in 2017 and 2018. Shortly after Cecilia Malmstrom’s statement on 5 October 2018, the Cambodian government expressed its “indignation vis-à-vis the EU’s decision to set in motion the formal procedure for the temporary withdrawal of the EBA preferences for Cambodia,” and called the trade threat as an “extreme injustice.”<sup>34</sup>

Qualified as “blunt instruments” by the Secretary General of the UN,<sup>35</sup> sanctions and their efficiency have been called into question for the past decades. “It is hard to see how sanctions will have any long terms benefit. Sanctions are generally blunt instruments and if the EU were to adopt these measures in Cambodia, they would not likely have a significant impact politically,” said John Harley Breen, researcher at the London’s School of Economics (LSE).<sup>36</sup>

Furthermore, the EU’s coercive measures on Cambodia may be counterproductive with respect to advancing human rights and democracy. Cambodian leaders may perceive it as a threat to sovereignty, and particularly to regime survival. Economic sanctions worsen levels of democracy, creating incentives for the leadership to restrict political liberties and consolidate power, argue Peksen and Drury based on a quantitative study of 102 countries from 1972 to 2000.<sup>37</sup> Another study led by Wood on 157 countries from 1976 to 2001 demonstrates that “the imposition of economic sanctions negatively impacts Human Rights (...) and threaten the stability of target incumbents, leading them to augment their level of repression in an effort to stabilise the regime.”<sup>38</sup> Peksen explains that target elites might respond by changing their priorities to military spending in order to enhance their coercive capacity and redirecting the resources to their supporters to maintain their loyalty and support.<sup>39</sup>

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<sup>33</sup> JONES, L. (2015), *op. cit.*, p. 6

<sup>34</sup> FRESH NEWS (2018), Cambodia Releases Communiqué in Response to the EU’s Announcement on EBA and Cambodia, on 11 October 2018 <http://en.freshnewsasia.com/index.php/en/11468-2018-10-11-02-38-06.html>

<sup>35</sup> HOTTON, C (2016), *op. cit.*, p. 90

<sup>36</sup> BREEN, J. Interview by email on 25 April 2018.

<sup>37</sup> PEKSEN, D., & DRURY, A. C. (2010), « Coercive or Corrosive: The Negative Impact of Economic Sanctions on Democracy » in *International Interactions*, 36(3), pp. 240-264.

<sup>38</sup> WOOD, R (2008) “A Hand upon the Throat of the Nation”: Economic Sanctions and State Repression, 1976–2001, in *International Studies Quarterly* (2008) 52, pp. 489–513

<sup>39</sup> PEKSEN D. (2014), *op. cit.*

### 3. Recommendations

#### 3.1 An encouraging sanctions policy

The level of trust between the EU and the Cambodian Government as well as between the main Cambodian forces and actors has been severely damaged. The international pressure, the prospect of coercive measures, and media coverage have increased the perception that the current Cambodian Government can not be relied upon. Throughout the process of withdrawing of EBA, EU officials should bear in mind that “the more cordial the relationship between the target and the sender, the more likely that the economic sanction would be successful.”<sup>40</sup> Sanctions advocates, such as the CNRP,<sup>41</sup> Human Rights Watch<sup>42</sup> or Global Witness,<sup>43</sup> do not aim at harming populations and damaging Cambodia’s economy but encourage a political change. This is probably because they assume a moral similarity of the targeted regime to prevent the socio-economic damage caused by a withdrawal of EBA.<sup>44</sup> Therefore, it is necessary to gradually restore a sufficient level of trust through cooperative efforts, realistic expectations and flexibility. Positive steps such as the release of political prisoners should be officially acknowledged and welcomed.

In addition, boundaries and specifications need to be placed on economic sanctions to ensure that human rights violations and economic destruction are avoided. According to article 19 paragraph 1 of the GSP regulation, trade preferences “in respect of all or of certain products” may be withdrawn. The EU should opt for partial and calibrated sanctions and avoid adversely impacting the vital industry of garment and footwear which accounts for 75 percent of Cambodia’s exports to the EU and provides employment for some of the most vulnerable segments of Cambodian society.<sup>45</sup> Instead, it should target minor industries to minimise negative economic and social consequences. If a temporary withdrawal of EBA is made, it should be as short as possible. It is statistically proven that “the larger the length of the duration of economic sanctions, the less likely that the economic sanction would be successful.”<sup>46</sup>

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<sup>40</sup> SHAHADAT, M., and VAN BERGEIK, P., op. cit. p. 22

<sup>41</sup> THE GEOPOLITICS (2018), EU Move to End Cambodia’s Free Trade Status Must Be Trigger for Democratic Change, by Sam Rainsy, 9 October 2018 <https://thegeopolitics.com/eu-move-to-end-cambodias-free-trade-status-must-be-trigger-for-democratic-change/>

<sup>42</sup> EU OBSERVER (2018) Will EU suspend trade deal with Cambodia? By Brad Adams, Asia Division Director at Human Rights Watch, on 12 July 2018 <https://euobserver.com/opinion/142321>

<sup>43</sup> GLOBAL WITNESS (2018), Don’t be fooled there’s nothing ‘humanitarian’ with Cambodia’s dictatorship, blog by Emma Burnett, on 30 August 2018 <https://www.globalwitness.org/en/blog/dont-be-fooled-there-nothing-humanitarian-about-cambodias-dictatorship/>

<sup>44</sup> JONES, L. (2015), op. cit., p. 6

<sup>45</sup> KHMER TIMES (2018) EU initiates process to withdraw Cambodia’s trade preferences, op. cit.

<sup>46</sup> SHAHADAT, M., and VAN BERGEIK, P., op. cit. p. 22

Finally, both the EU and the Cambodian Government as well as sanctions advocates should hear civil society's repetitive calls. Decision-makers should take responsibility for the consequences of their decisions. Various labour unions issued statements<sup>47</sup> and sent petitions<sup>48</sup> to the EU to consider the impact of removing the EBA on the employment and livelihoods of workers, whilst some called on the Cambodian government to accept EU demands and warned of protests.<sup>49</sup> Other unions called on both the Government and the EU to arrive at "an amicable solution with mutual understanding," affirming that "continuous engagement, not sanctions, would be a way forward."<sup>50</sup> The UN called on the EU to take upon itself partial responsibility for the situation within a country, when sanctions are imposed. "It also unavoidably assumes a responsibility to do all within its powers to protect the economic, social and cultural rights of the affected population," stressing that this would be in line with the EU's commitment to uphold human rights and international law.<sup>51</sup>

### **3. 2 A democratic model adapted to local structural conditions**

There is a need to analyse how the European democratic model can be translated in Cambodian political life. Linder and Bachtiger suggest that "the Westminster model of democracy may not be the optimal choice for societies in transition"<sup>52</sup> and stress the need for a democratisation analysis from a "multidimensional viewpoint taking into account both favourable and unfavourable political, cultural and economic factors."<sup>53</sup> In Cambodia, the analysis should examine particular dimensions: distrust of others, kinship solidarity, familism and patron-client structure. Un and Hugues's study within the Cambodian state apparatus reveals that positive institutional reform "has not been achieved through combating neo-patrimonialism but by successfully forging an organisational structure in which both sets of values converge (...) in a manner that

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<sup>47</sup> KHMER TIMES (2018) EU initiates process to withdraw Cambodia's trade preferences, op. cit.

<sup>48</sup> THE PHNOM PENH POST (2018), Union group fears for future of EU trade deal, by Yon Sineat, on 17 May 2018. <https://www.phnompenhpost.com/business/union-group-fears-future-eu-trade-deal>

<sup>49</sup> THE PHNOM PENH POST (2018), Union leader warns of protests, by Soth Koemsoeun, on 19 September 2018, <https://www.phnompenhpost.com/national/union-leader-warns-protests>

<sup>50</sup> REUTERS (2018), EU to hit Cambodia with trade sanctions, says Myanmar may follow, by Robin Emmott and Philip Blenkinsop, on 5 October 2018 <https://www.reuters.com/article/us-myanmar-rohingya-eu/eu-sends-mission-to-myanmar-to-consider-trade-sanctions-idUSKCN1MF1BP>

<sup>51</sup> UN OHCHR (2018), EU needs greater focus on human rights impact of sanctions – UN expert, 23 June 2017, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21795&LangID=E>

<sup>52</sup> W. LINDER, A. BACHTINGER (2005), « What drives democratisation in Asia and Africa ? » in European Journal of Political Research, p. 875

<sup>53</sup> Ibid, p. 863

pleases different power-holders, rather than transforming the Cambodian context itself.”

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In Cambodia as in many countries, the EU’s democratisation policy focuses on elections and less on the strengthening of continuous accountability mechanisms. Dr Thum Ping Tjin has cautioned against being "overly reliant" on elections as the ultimate mechanism for political change, emphasising that republican, liberal, democratic ideals did not take strong roots in Southeast Asian cultures. "In order to change the system, there's no point just changing the people at the top, because even if they change, they'll be surrounded by the same incentives structures and levers that create the current leaders and shape them. We have to change things from the ground up. So it is a long-term project to fundamentally change the nature of our politics." <sup>55</sup> To prevent arbitrary detention, emphasis should be put on strengthening accountability mechanisms. Lucy West examines the judiciary in the local Cambodian political context and reveals "major inconsistencies and tensions between constitutional arrangements and Cambodia’s political culture." <sup>56</sup> The EU should support the implementation of important reforms for an independent judiciary by offering to assist with comprehensive training of members of the judiciary on international standards, including the court of appeals in adjudicating cases. <sup>57</sup>

Internationally, the EU should reflect with the UN and other entities towards establishing an appropriate enforcement mechanism to hold states accountable. If the International Court of Justice (ICJ) as the principal judicial organ of the UN can settle legal disputes between member states, it should extend its mandate to enforce international law and sanction human rights abusers without harming populations or third parties that are not responsible for these abuses.

### 3. 2 Incentives and rewards

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<sup>54</sup> HUGUES C. and UN, K (2011) « Cambodia’s economic transformation », Nordic Institute of Asian Studies p 202.

<sup>55</sup> THE ONLINE CITIZEN (2018), "Elections may be free, but not necessarily fair," by Danisha Hakeem, on 7 October 2018 <https://www.theonlinecitizen.com/2018/10/07/elections-may-be-free-but-not-necessarily-fair-singaporean-historian-dr-thum-ping-tjin-cautions-against-being-overly-reliant-on-elections-as-the-sole-legitimate-tool-for-political-change/>

<sup>56</sup> WEST, L (2018), The 'rule of law' as a political weapon in Cambodia, Griffith Asia Institute, on 5 September 2018 <https://blogs.griffith.edu.au/asiainsights/the-rule-of-law-as-a-political-weapon-in-cambodia/>

<sup>57</sup> CHHIN-LAWRENCE A, (2016), Upsurge of political prisoners, University of Texas <https://repositories.lib.utexas.edu/handle/2152/46468>

There is a strong case to be made for the Government of Cambodia to benefit from the Neighbourhood, Development and International Cooperation Instrument (NDICI) of the next EU budget, which covers the majority of spending beyond EU borders.<sup>58</sup> As Denis Halliday, former UN Humanitarian Coordinator in Iraq, said, "positive rather than punitive intervention might be more productive."<sup>59</sup> Running parallel to soft sanctions, a policy of incentives and rewards and an increase of democracy aid offer the Cambodian government the opportunity to restore its relationship with the EU and other international and national actors by engaging in a collaborative effort.

The EU should respond positively to the demand from the Cambodian Government "to coach political leaders."<sup>60</sup> Emphasis should be put on mediation efforts and a trust-building process along with the reinforcement of state institutions in a long term perspective. Professor Sorpong Peou advises to establish a neutral and impartial body that is managed by independent scholars to monitor the process of trust building.<sup>61</sup> Learning from past successful democratic transitions, scholars emphasise compromise and incremental progress over comprehensive solutions.<sup>62</sup> In addition, the EU should multiply education initiatives to support the next generation of leaders through scholarships for students in politics, national and international communications, funding of education/media projects and other means in close collaboration with the Ministry of Education.

## Conclusion

The legitimacy of EU economic sanctions on Cambodia, if they are imposed, is called into question. A withdrawal from the EBA is likely to harm vulnerable groups that are not responsible for the policies and actions leading to the adoption of these sanctions and raise a significant ethical debate. In addition, if European decision makers disrupt the national economy on which ordinary people depend for their health and well-being without knowing how to reach the political goals they desire, they will just inflict

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<sup>58</sup> EUROPEAN PARLIAMENT (2018), A new neighbourhood, development and international cooperation instrument: Proposal for a new regulation, on 5 October 2018

[http://www.europarl.europa.eu/thinktank/fr/document.html?reference=EPRS\\_BRI\(2018\)628251](http://www.europarl.europa.eu/thinktank/fr/document.html?reference=EPRS_BRI(2018)628251)

<sup>59</sup> UN OHCHR (2014), op. cit.

<sup>60</sup> CAMBODIAN GOVERNMENT (2018), document submitted during EIAS event on 28 June 2018

<sup>61</sup> VOA CAMBODIA (2018), Q&A: Cambodian-Canadian Professor Says Lack of Trust is Cambodia's Kryptonite, by Sotheary You <https://www.voacambodia.com/a/interview-cambodian-canadian-professor-says-distrust-is-cambodia-kryptonite/4538152.html>

<sup>62</sup> FOREIGN AFFAIRS (2016), Getting to democracy. Lessons learnt from successful transitions, By Abraham F. Lowenthal and Sergio Bitar, January/February 2016

economic damage and human suffering. "This is deeply unethical and leads to unsound public policy." <sup>63</sup>

Historical experience and statistical evidence suggest that economic sanctions fail between 65-95% of the time in achieving their intended goals. Furthermore, some researchers demonstrate that sanctions can be counterproductive in advancing human rights and democracy, leading to an increased level of repression and creating incentives for the targeted regime to restrict political liberties. Although the Cambodian case demands specific analysis, global quantitative indicators should not be ignored.

Therefore, boundaries and specifications need to be placed on economic sanctions. The EU should opt for short, gradual and partial sanctions and have realistic expectations. Both the EU and the Cambodian Government should hear civil society's calls for an amicable solution with mutual understanding and consider the negative impact of withdrawal from the EBA may have on the employment and livelihoods of some of the most vulnerable segments of the Cambodian society. European and Cambodian leaders should take accountability and answer for the outcomes of their decisions.

The EU, the Cambodian Government and other concerned actors should agree on a democratic model that is consistent with most of the specific structural conditions of Cambodia, in a manner that takes into account political, cultural and economic factors without seeking to alter the Cambodian context itself. If the EU misunderstands or ignores the Cambodian power structures, it may prolong and aggravate democratic dysfunction. Democracy should be regarded as a long-term and non-linear process. There needs to be a tolerance for setbacks, efforts on compromise and incremental progress. A strategic approach should deal with uncertainty and monitor whether what is being tried actually works in Cambodia, and to adapt and adjust accordingly. The EU should not only focus on addressing short-term demands – such as the reinstatement of CNRP - but increase the importance of promoting principles and values for sustainable democracy. Running parallel to soft sanctions, a policy of incentives and rewards should put a greater emphasis on strengthening accountability mechanisms.

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<sup>63</sup> JONES, L. (2015), op. cit.

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