

Jennifer Ragland
Director, International Government Relations and Public Affairs
Coca Cola Company
Via email

November 22, 2013

Dear Ms. Ragland,

We are a coalition of civil society organizations and a national community network that is campaigning to stop land grabbing, environmental damage and human rights abuses caused by the sugar industry in Cambodia, and to bring about justice for communities that have been displaced and dispossessed by this industry.

We applaud Coca-Cola for its recent commitment to zero tolerance for land grabbing in its supply chain and adherence to the principle of Free, Prior and Informed Consent across your operations. This is the most far reaching commitment that any major sugar buyer has made to address the problem of land grabbing, which is rampant in the sugarcane sector.

We note in your statement Coke's disclosure that Mitr Phol is one of your top three suppliers globally. With this letter, we are providing you with detailed information about Mitr Phol's responsibility for grave human rights violations in Cambodia and the devastating impacts its operations have had on local communities. We are also calling upon Coca-Cola to use its leverage and take concerted action to bring about redress for those affected.

The acts and omissions of Mitr Phol's subsidiary companies, in collusion with local police, military and security forces, have resulted in the illegal confiscation of land from local people; the destruction of homes; killing of livestock; arson; looting of crops; illegal logging and trafficking of timber; beatings, threats, intimidation and arbitrary arrests and imprisonment – all of which has led to extreme food insecurity and impoverishment of affected households. We have seen no evidence that Mitr Phol has taken any action to address these human rights violations, despite being presented with evidence of these issues over a period of several years.

As one of its biggest clients, Coca-Cola has a responsibility to use its tremendous leverage to bring about fair and just reparations for the victims of Mitr Phol's abuses in Cambodia. You have recognized this responsibility in your public commitment to work with your suppliers to uphold international standards, take corrective action where those standards have not been met, and terminate the relationship if the suppliers do not cooperate.

We urge you to make this case an urgent priority in implementing your commitment.

We recommend that you take the following steps:

- 1) Conduct a credible and transparent third-party social, environmental and human rights impact assessment of Mitr Phol's operations in Cambodia.
- 2) Work with Mitr Phol to develop a time-bound remedial action plan, based on the findings of this assessment, meaningful consultation with the affected people and in accordance with the IFC's Performance Standard 5.
- 3) Notify Mitr Phol that if it does not cooperate in this process, the supply relationship will be terminated.

We believe that, by taking these actions, the Coca-Cola Company has the ability to compel Mitr Phol to engage with the impacted families and redress the harms it has caused.

We would like to request a meeting to discuss this matter in more detail. We would be available to meet in New York between December 4th – 6th, in Phnom Penh at a later date, or via teleconference.

We look forward to your response.

Sincerely yours,



David Pred
Managing Associate
Inclusive Development International



Eang Vuthy
Executive Director
Equitable Cambodia



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



Seng Sokheng
Coordinator
Community Peace-Building Network

Annexes:

- 1) The Facts About Mitr Phol's Cambodia Operations
- 2) Equitable Cambodia and Inclusive Development International (2013), *Bittersweet Harvest: A Human Rights Impact Assessment of the EU's Everything But Arms Initiative in Cambodia*.
- 3) Amnesty International (2011), *Evictions and Resistance in Cambodia: Five Women Tell Their Story*, pp. 11-19.
- 4) LICADHO (2009), *Briefing Paper: Bos/O' Bat Moan Village in KonKriel Commune, Samroang District, Oddar Meanchey Province, Chronology of a Forced Eviction*.

The Facts About Mitr Phol's Cambodia Operations

Summary of Relevant Facts¹

In January 2008, the Ministry of Agriculture, Forestry and Fisheries (MAFF) granted three 70-year economic land concessions (ELCs) for industrial sugarcane production in the Samrong and Chongkal districts of Oddar Meanchey province. The concessions were granted to three companies directly linked to Mitr Phol: (1) *Angkor Sugar Co. Ltd.*, (2) *Tonle Sugar Cane Co. Ltd.*, and (3) *Cane and Sugar Valley Co. Ltd.*

The three concessions together total more than 19,700 hectares and are all clearly connected. Conscious of the illegality of owning concessions larger than 10,000 hectares, the company issued a statement in 2012, explaining that “Mitr Phol owns one company and is partnering with two other companies not owned by Mitr Phol.”² Nevertheless, all three companies applied for the concessions on the same day, received approval from the Council of Ministers on the same day (and in the same letter), and signed the concession contract on the same day. The directors of each of the three companies are or were all senior figures in Mitr Phol:

- Mr. Buntoeng Vongkusolkit (Managing Director),
- Mr. Krisda Monthienvichienchai (President), and
- Mr. Tat Wanakornkul (Vice-President).

According to a letter issued in 2007 by provincial authorities, 31 villages occupying an area of 4,500 hectares in three communes were located within the boundaries of the proposed concessions. Community representatives report that in May 2007, the land concessions were demarcated and villagers were warned to stop using the land that overlapped with the concessions. In April 2008, the company started clearing the land.

Throughout 2008-2009, more than 700 smallholder families in Kon Kriel commune were forced to give up their land for the Angkor Sugar concession. Affected households lost extensive rice fields, plantation/orchard land, and grazing land as well as the associated crops that sustained their livelihoods. Crops including rice, watermelon, fruit, vegetables, maize, cassava, sweet potatoes, and soybean were lost. Sampled households interviewed by Equitable Cambodia lost five hectares of rice fields on average. Annual market-related losses from rice crops averaged \$1,570 per family. Compensation provided for these losses was generally a plot of inferior land that was much smaller than what they lost and often already owned by others.

Common property resources, including community-managed forests, were also lost or degraded as a result of Mitr Phol's plantation development. The Angkor Sugar concession effectively reduced the size of the pending Ratanak Rukha / Rattanak Sambak Community Forest from 28,772 to 12,872 hectares, affecting the livelihoods of thousands of people in 16 villages. The company has engaged in extensive illegal logging of old growth, high-value timber within the concession.

¹ The information below is based primarily upon empirical research conducted by Equitable Cambodia and Inclusive Development International over the course of 18 months in 2012-2013, which was published in the report, *Bittersweet Harvest: A Human Rights Impact Assessment of the EU's Everything But Arms Initiative in Cambodia* (2013), and an October 2009 Briefing Paper by LICADHO, *Bos/O'Bat Moan Village in KonKriel Commune, Samroang District, Oddar Meanchey Province: Chronology of a Forced Eviction*.

² “Mitr Phol Group response to alleged human rights abuses and seizure of land by sugar companies in Cambodia,” 24 July 2012. Available at: http://www.business-humanrights.org/media/documents/company_responses/mitr-phol-cambodia-response-24-jul-2012.doc

Water has also become less available – and more dangerous to human health – as local water resources have been blocked, polluted, or covered over with earth to meet plantation requirements. Fish are now scarcer and residents can no longer find edible water plants such as morning glory and lily that used to grow locally.

The most grave human rights violations occurred in O’Bat Moan village in Kon Kriel commune, which was entirely destroyed to make way for Mitr Phol’s plantations. In April 2008, 154 homes in the village were forcibly demolished by Angkor Sugar Company staff under the guidance of local authorities. Further evictions occurred in October 2009, when around 100 homes were burned to the ground by approximately 150 police, military police and hired demolition workers. Most affected families lost all of their possessions during the evictions and were left landless and homeless. Even their rice crops, which they were about to harvest, were reportedly looted by company staff and security forces, leaving them without essential food and income in the immediate aftermath of the evictions. These forced evictions were preceded by arrests and an assault on the former village chief. Two community leaders were sentenced to two years in jail on charges of ‘clearing State forest’, while two others were released after serving over six months in pre-trial detention. One was pregnant at the time and gave birth during her eight months of imprisonment.³

Only 14 families from O’Bat Moan village received compensation in the form of a 1 ha plot of forested land in a remote area. The shelters that these families have rebuilt there are rudimentary and do not provide sufficient protection against the elements. They lack access to sanitation and drinking water. Transportation is difficult to arrange, time consuming, and costly due to the remote location and poor conditions of the access road. Thus, access to health care, education and the outside community is severely limited. The closest school, for example, is 10 kilometers away.

Many affected people resorted to illegal migration to Thailand after they lost their land to the sugar concessions. Those who remained have had no choice but to work as day laborers on the sugar plantations, where work is irregular, conditions are poor and pay is generally insufficient to enable households to make ends meet. Child labor has also been reported on the Oddar Meanchey plantations, with children as young as 13 reportedly working in the fields.

The facts indicate that Mitr Phol colluded with Cambodian authorities to breach a host of Cambodian laws and regulations, including the Constitution, Land Law, Forestry Law, Sub-Decree on Economic Land Concessions, Labor Law, Penal Code and Civil Code, as well as Cambodia’s international human rights treaty obligations.

The company’s acts and omissions also violate the UN Guiding Principles on Business and Human Rights, which hold that businesses must respect the Universal Declaration on Human Rights, ensure they are not involved in violations of human rights, and provide an effective remedy to people whose rights have been violated as a result of their business activities. These responsibilities apply to business activities no matter where they occur, and include a responsibility to conduct human rights due diligence, particularly in situations where there is a significant risk of human rights violations, such as involvement in economic land concessions in Cambodia.

³ See Amnesty International (2011), *Evictions and Resistance in Cambodia: Five Women Tell Their Story*, pp. 11-19.

Efforts to Seek a Remedy

The affected communities submitted multiple complaints and requests for intervention to the local and national authorities between 2007-2009. In response, community representatives were met with intimidation, harassment and arrest.

In 2010, after learning of Mitr Phol's ownership of these concessions, Equitable Cambodia and LICADHO wrote to the company's directors detailing the evidence of human rights abuses and violations of Cambodian law. No response was received.

In early 2011, the organizations submitted a complaint together with extensive documentation of abuses to the Better Sugarcane Initiative (now Bonsucro), of which Mitr Phol was a member. Rather than address the complaint, Mitr Phol withdrew its membership from Bonsucro.

In 2012, we sought a response from Mitr Phol through the Business and Human Rights Resource Centre. Mitr Phol issued a statement in response, dated July 24, 2012, which implied that the company should bear no responsibility for any human rights abuses or violations of Cambodian law that may have occurred in relation to its concessions because it relied entirely on Cambodian government assurances of propriety.⁴

In May 2013, Equitable Cambodia and LICADHO submitted a complaint on behalf of 602 families to the Thai National Human Rights Commission. The Commission is currently examining the complaint.

Further information

For more information about Mitr Phol's human rights violations and associated impacts in Cambodia, see the following reports:

Amnesty International (2011), *Evictions and Resistance in Cambodia: Five Women Tell Their Story*, pp. 11-19. Available at: <http://www.amnesty.org/en/news-and-updates/video-and-audio/eviction-and-resistance-cambodia->

Equitable Cambodia and Inclusive Development International (2013), *Bittersweet Harvest: A Human Rights Impact Assessment of the EU's Everything But Arms Initiative in Cambodia*. Available at: http://www.inclusivedevelopment.net/wp-content/uploads/2013/10/Bittersweet_Harvest_web-version.pdf

LICADHO (2009), *Briefing Paper: Bos/O' Bat Moan Village in KonKriel Commune, Samroang District, Oddar Meanchey Province, Chronology of a Forced Eviction*.

⁴ "Mitr Phol Group response to alleged human rights abuses and seizure of land by sugar companies in Cambodia," op cit.