Josep Borrell Fontelles
High Representative of the EU for Foreign Affairs and Security Policy
Vice-President of the European Commission

Dear High Representative Borrell,

Corruption in the Democratic Republic of Congo is still alive and well and brings in its wake violence, impunity and human rights abuses.

Between 2007 and 2020, the European Union (EU) and its member states provided no less than 11.6 billion euros in aid to the DRC, making the country the fifth largest recipient of EU aid in the world. The EU, as a major donor to the DRC, therefore has a crucial role to play in encouraging transparent governance of the country while ensuring that corrupt funds do not enter the European market.

Yet the EU is slow to take action against Dan Gertler, a close friend of former DRC President Joseph Kabila. The Israeli tycoon is said to have amassed a fortune through opaque, corrupt mining and oil operations. Between 2010 and 2012, the DRC reportedly lost at least $ 1.4 billion in revenue due to the undervaluation of mining and oil assets sold to offshore companies linked to Gertler. At that time, this sum was double the national expenditure allocated to health and education, or about 20% of the annual national budget.

In 2017, the US Department of the Treasury fined Dan Gertler for his fraudulent activities in the DRC, aimed at ending a decade of opaque business and siphoned off foreign revenues. But Dan Gertler appears to have managed to circumvent these sanctions by receiving his mining revenues in euros rather than US dollars, but also by incorporating at least one of his holding companies in a EU member state.

Global Witness and PPLAAF report in July 2020, details more precisely how Dan Gertler allegedly escaped US sanctions by using a money laundering network spanning to Europe and relying on the euro .

Thanks to these European financial tools, Dan Gertler was able to continue to benefit from very significant revenues. Thus, despite the American sanctions, he was able to continue to collect around 200,000 euros per day in royalties thanks to mining contracts signed under the former Kabila regime.

Dan Gertler's case is emblematic, because it demonstrates how the EU is becoming, de facto, a safe haven for corrupt funds and demonstrates the urgency to strengthen European measures taken against such individuals. It is imperative that the EU ensure that its institutions as well as the common currency do not allow economic crimes that harm the DRC, by facilitating or contributing to transactions that benefit Dan Gertler and his associates.

As you know, the Sub-Committee on Human Rights has welcomed your initiative on the sanction regime for human rights violations, although it regrets that the Council has not withdrawn the unanimity rule, which could have made this tool more efficient in its decision-making. It also appears that the facts of corruption are not covered by the mechanism even though it is clearly established that corruption contributes directly and indirectly to serious violations of human rights. Although the procedures, which determine the link between

corruption and violation of human rights, might still need to be correctly established, it nevertheless seems essential to us that these phenomena be part of the system.

Therefore, can you tell us how flagrant cases of corruption generating serious human rights violations could be covered by the new sanction regime?

How will this new device cover a case like Dan Gertler's, thus preventing him from using European territory to launder ill-gotten money and generate serious human rights violations?

The United States and Canada have already incorporated corruption into their sanction regimes, while the United Kingdom is committed to doing so. We know that sanctions are more effective when they are multilateral. We therefore believe it is important to put in place a European sanctions regime based on the same model so that the EU does not become a safe haven for corrupt actors.

We would be grateful if you could give us your perspective on these specific points.

Best regards,