

Background Information:

Final Statement of French National Contact Point in the Devcot Case

On Friday, 21 September 2012, the French National Contact Point of the OECD (NCP) produced its final statement in the Devcot Case, related to the use of forced labor of children and adults for harvesting cotton in Uzbekistan. The NCP held that the trade in goods produced from forced child labor constitutes a flagrant violation of the OECD Guidelines for Multinational Enterprises¹ but states that French firm Devcot S.A. does not supply in violation of the OECD Guidelines. While Devcot has not purchased any Uzbek cotton in the last few years, it has committed not to resume its trade in Uzbekistan until child labor has ended.

The NCP also reminded the company of its responsibility for its supply chain and invited Devcot to carry out due diligence and to apply the recommendations of the OECD towards its trade partners.

Background

Between one to two million Uzbek children and their teachers are forced every fall by the state to spend weeks working in precarious conditions to pick cotton – Uzbekistan is ranked the world's third to fifth largest cotton exporter worldwide and cotton generates about 20% of Uzbekistan's state revenue accounting for over one billion US Dollar. Yet, most profits end up in the hands of elites linked to the Uzbek government, which maintains a monopoly on all cotton exports.

The use of forced child labor in the Uzbek cotton harvest constitutes a violation of the United Nations Convention on the Rights of the Child, the International Labor Organization (ILO) Minimum Age Convention (138) and the Convention on the Worst Forms of Child Labor (182). Since 2009 the ILO continuously has called on the Uzbek government to respond to continued reports from workers, employers, and civil society on the systematic and persistent use of forced labor of children and adults in Uzbekistan's cotton fields. Since 2010 the ILO tripartite supervisory body has called on the GOU to invite a high-level tripartite mission to conduct unfettered monitoring during the cotton harvest. Up until this day, the Uzbek government has failed to comply with these requests.

¹ See : <http://www.tresor.economie.gouv.fr/File/375194>

NCP decision expands corporate responsibility under the OECD Guidelines

The Guidelines - although not legally binding for companies - constitute an international standard for responsible corporate behavior among others in the area of human rights and labor and social standards. In case of allegations of violations of the Guidelines, complaints can be filed with the National Contact Points (NCPs) which are structured within the administration of the OECD member states.²

In the past, many NCPs had held that the Guidelines were only applicable to enterprises that violate the Guidelines with own investments, and not to enterprises which are merely trading. However, the British NCP accepted complaints against trading firms and held that mere trade could be in breach of the Guidelines.³ This interpretation of the Guidelines was supported by the revised version of the Guidelines of 2011, which among other issues comprises a new and comprehensive approach to due diligence and responsible supply chain management and with this explicitly mentions relations between suppliers as being subject to the Guidelines.

The statement in question is the first NCP decision upholding the new standard of the revised Guidelines.⁴ This leads to a significant expansion of corporate responsibility. Merchants worldwide will have to check with the greatest attention in the future under which conditions the products they trade in are produced and whether the company has the obligation to cease trade relations or not.

NCP decision strengthens ECCHR's follow up work with cotton merchants

The six other OECD complaints against European cotton dealers all resulted in Joint Statements of the parties⁵ after mediation talks. The companies admitted to directly or indirectly trading Uzbek cotton and agreed to adopt specific measures negotiated in detail with ECCHR in order to have a positive effect on the situation in Uzbekistan. ECCHR is in regular contact with the companies to evaluate the steps carried out. ECCHR is planning follow-up meetings with these traders one year after the publishing of the agreements in order to identify to what extent the measures taken were effective. ECCHR reserved the right to file new OECD complaints in case it does not find the traders' measures to have been effective.

The French NCP decision - including Devcot's commitment not to resume its trade in Uzbekistan until child labor has ended - emphasizes ECCHR's request to cease trade relations with the Uzbek selling organizations.

² The recommendations are mandatory for the 34 member states of the OECD as well as eight further states that have become members of the Guidelines.

³ 2008 Global Witness/Afrimex, compare <http://www.bis.gov.uk/policies/business-sectors/green-economy/sustainable-development/corporate-responsibility/uk-ncp-oecd-guidelines/cases/final-statements>.)

⁴ Although the filing dates of the OECD complaints were prior to the formal application date of the revised version, the French NCP has taken into account the new version in its discussions lead on the issue.

⁵ <http://www.bis.gov.uk/assets/biscore/business-sectors/docs/f/11-1076-final-statement-ncp-ecchr-ict-cotton.pdf>
<http://www.bis.gov.uk/assets/biscore/business-sectors/docs/f/11-1075-final-statement-ncp-ecchr-cargill-cotton.pdf>
<http://www.seco.admin.ch/themen/00513/00527/02584/02586/index.html?lang=de>
<http://www.bmwi.de/BMWi/Redaktion/PDF/E/erklaerung-ecchr-gegen-otto-stadtlander,property=pdf,bereich=bmwi,sprache=de,rwb=true.pdf>



For background information on the situation in Uzbekistan and the international campaign against forced child labor:

<http://www.ecchr.eu/index.php/usbekistan.html>

<http://www.cottoncampaign.org/>